

Sixty-fourth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2020

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water  
2 commission; to provide exemptions; to amend and reenact section 54-35-02.7 of the North  
3 Dakota Century Code, relating to the water topics overview committee; to repeal section  
4 61-02-78 of the North Dakota Century Code, relating to the infrastructure revolving loan fund; to  
5 provide legislative intent; to provide for legislative management reports; and to provide for a  
6 legislative management study.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
9 as may be necessary, are appropriated from special funds derived from federal funds and other  
10 income, to the state water commission for the purpose of defraying the expenses of the state  
11 water commission, for the biennium beginning July 1, 2015, and ending June 30, 2017, as  
12 follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
15 Accrued leave payments	\$325,774	(\$325,774)	\$0
16 Administrative and support services	4,716,665	(208,991)	4,507,674
17 Water and atmospheric resources	<u>822,365,166</u>	<u>166,853,582</u>	<u>989,218,748</u>
18 Total all funds	\$827,407,605	\$166,318,817	\$993,726,422
19 Less estimated income	<u>827,407,605</u>	<u>141,333,658</u>	<u>968,741,263</u>
20 Total general fund	\$0	\$24,985,159	\$24,985,159
21 Full-time equivalent positions	90.00	8.00	98.00

22 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

23 **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
24 items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Excavator	\$243,200	\$0
Southwest water pipeline project	21,000,000	0
Grants for water	10,350,000	0
Office space renovation	<u>45,000</u>	<u>0</u>
Total all funds	\$31,638,200	\$0
Total special funds	<u>31,638,200</u>	<u>0</u>
Total general fund	\$0	\$0

**SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and support services line item in section 1 of this Act includes \$135,000 from the resources trust fund the state water commission shall provide as a grant to the game and fish department for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

**SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts included in the estimated income line item in section 1 of this Act, any additional amounts in the resources trust fund and water development trust fund which become available are appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017.

**SECTION 5. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.** Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the water and atmospheric resources line item in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2017. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.

**SECTION 6. FARGO FLOOD CONTROL PROJECT FUNDING.** Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, the sixty-third legislative assembly, and the sixty-fourth legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project

1 construction, and the budget for the Fargo flood control project is approved by the state water  
2 commission.

3 **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.** Prior to the  
4 state water commission expending any state cost-sharing funds, an advance funding  
5 agreement between the United States army corps of engineers and the local Fargo flood control  
6 sponsor must precede any state funding used to advance construction work considered to be a  
7 federal responsibility.

8 **SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It  
9 is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local  
10 cost-share of constructing a federally authorized Fargo flood control project and that total Fargo  
11 flood control project funding to be provided by the state not exceed \$450,000,000. It is further  
12 the intent of the sixty-fourth legislative assembly that the \$206,000,000 yet to be designated by  
13 the state for the Fargo flood control project be made available in equal installments over the  
14 next three bienniums.

15 **SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the  
16 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,  
17 \$69,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2015, and  
18 ending June 30, 2017. Any funds not spent by June 30, 2017, are not subject to  
19 section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be  
20 expended only for Fargo flood control projects, including levees and dikes. Except as otherwise  
21 provided, these funds may be used only for land purchases and construction, including  
22 right-of-way acquisition costs and may not be used for the purchase of dwellings. No more than  
23 ten percent of these funds may be used for engineering, legal, planning, or other similar  
24 purposes. The city of Fargo, Cass County, and the Cass County joint water resource district  
25 must approve any expenditures made under this section. Costs incurred by nonstate entities for  
26 dwellings or other real property which are not paid by state funds are eligible for application by  
27 the nonstate entity for cost-sharing with the state.

28 **SECTION 10. GRANTS - WESTERN AREA WATER SUPPLY - INCREMENTAL FUNDING**  
29 **AND RESTRICTIONS.** Funds specified for western area water supply authority projects in the  
30 water and atmospheric resources line item in section 1 of this Act must be distributed as grants  
31 from the resources trust fund. The funds must be awarded in increments of up to \$10,000,000

1 upon determination by the state water commission that sufficient domestic demand has been  
2 demonstrated for the project for which the funds are requested. Funds may not be used solely  
3 to construct industrial water infrastructure or to provide industrial water for exploration or  
4 development of the oil and gas industry. The western area water supply authority may request  
5 funds, in increments of up to \$10,000,000, through individual applications to the commission up  
6 to the amount specified in this Act for the western area water supply authority.

7 **SECTION 11. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO**  
8 **THE WATER TOPICS OVERVIEW COMMITTEE.** The state water commission shall report to  
9 the legislative management's water topics overview committee every six months during the  
10 2015-16 interim regarding any changes made to the state water commission priority projects list  
11 presented to the sixty-fourth legislative assembly for the biennium beginning July 1, 2015, and  
12 ending June 30, 2017.

13 **SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE WATER TOPICS**  
14 **OVERVIEW COMMITTEE.** During the 2015-16 interim, the F-M area diversion authority board  
15 shall report to the legislative management's water topics overview committee biannually  
16 regarding an update on congressional authorization of the diversion project and the status of  
17 the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and  
18 the project budget. The MNDak upstream coalition shall report to the budget section biannually  
19 regarding an update on the impacts of the Fargo flood control project and mitigation efforts,  
20 alternatives, and costs.

21 **SECTION 13. STATE WATER COMMISSION STUDY OF FARGO DIVERSION PROJECT.**  
22 The state water commission shall contract with North Dakota state university to expand the  
23 scope of the current agricultural impacts study of the F-M area diversion project at a cost that  
24 may not exceed \$80,000. The expanded study is contingent upon hydraulic modeling performed  
25 by the diversion authority and supplied to the state water commission and North Dakota state  
26 university research team. The hydraulic modeling performed by the diversion authority is eligible  
27 for cost share by the state water commission. The expanded study must focus on:

28 1. The impacts in the area outside the area recognized by the United States army corps  
29 of engineers for which mitigation is required and must address impacts from greater  
30 than six inches of additional water, which is consistent with preliminary indications  
31 from the federal emergency management agency.

1           2.   Agricultural production income impacts due to operation of the diversion project.

2           3.   Agricultural production income losses resulting from a ten-year, twenty-five-year,  
3           fifty-year, one hundred-year, and five hundred-year flood event.

4           **SECTION 14. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **54-35-02.7. Water topics overview committee - Duties.**

7           The legislative management, during each interim, shall appoint a water topics overview  
8 committee in the same manner as the legislative management appoints other interim  
9 committees. The committee must meet quarterly and is responsible for legislative overview of  
10 water topics and related matters, the Garrison diversion project, and for any necessary  
11 discussions with adjacent states on water topics. The committee shall work collaboratively with  
12 the state water commission to develop policies to further define the state role in major flood  
13 control projects. The committee shall prepare a schedule of priorities with respect to water  
14 projects. The state water commission and state engineer shall assist the committee in  
15 developing the schedule of priorities, and the committee may seek input from stakeholders  
16 within the state regarding water project priorities. The committee shall report on the committee's  
17 project prioritization process, provide updates on allocated program expenditures, and report on  
18 the fund balances of projects, grants, and contracts. The committee also shall study policies  
19 regarding the development and financing of municipal projects, including water treatment  
20 plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis  
21 of future project development, and ongoing maintenance cost of current and future projects; and  
22 technology, including the use of technology for permitting and electronic metering. ~~During the~~  
23 ~~2013-14 interim, the committee shall review water supply routes and alternatives for the Red-~~  
24 ~~River valley water supply project.~~ The legislative management shall designate the chairman of  
25 the committee. The committee shall operate according to the statutes and procedure governing  
26 the operation of other legislative management interim committees.

27           **SECTION 15. REPEAL.** Section 61-02-78 of the North Dakota Century Code is repealed.