

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1496-1498 of the Senate Journal and pages 1639-1641 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after "reenact" insert "subsection 3 of section 61-02-78 and"

Page 1, line 3, after the first "to" insert "the infrastructure revolving loan fund and"

Page 1, line 5, replace "and" with "to provide conditions on appropriations;"

Page 1, line 5, after "intent" insert "; to provide for a pilot project; and to declare an emergency"

Page 1, line 10, replace "biennium" with "period"

Page 1, line 10, replace "July 1, 2019" with "with the effective date of this Act"

Page 1, replace lines 14 through 24 with:

"Salaries and wages	\$19,659,298	\$172,688	\$19,831,986
Operating expenses	58,044,691	11,711,062	69,755,753
Capital assets	124,819,442	56,119,316	180,938,758
Project carryover	274,867,897	33,465,921	308,333,818
New projects	169,782,147	(169,782,147)	0
Water supply - grants	0	128,000,000	128,000,000
Rural water supply - grants	0	37,200,000	37,200,000
Fargo area flood control including the Fargo Moorhead diversion	0	66,500,000	66,500,000
Mouse River flood control	0	82,500,000	82,500,000
Flood control projects other than Fargo area flood control including the Fargo Moorhead diversion	0	48,000,000	48,000,000
General water - grants	<u>0</u>	<u>27,093,776</u>	<u>27,093,776</u>
Total special funds	\$647,173,475	\$320,980,616	\$968,154,091
Full-time equivalent positions	93.00	(3.00)	90.00"

Page 2, replace lines 6 and 7 with:

"Line of credit - Bank of North Dakota	\$75,000,000	\$75,000,000
Payoff of outstanding debt	<u>0</u>	<u>25,900,000</u>
Total special funds	\$75,000,000	\$100,900,000"

Page 2, line 11, replace "biennium" with "period"

Page 2, line 11, replace "July 1, 2019" with "with the effective date of this Act"

Page 2, line 14, replace "and new projects" with ", water supply - grants, rural water supply - grants, Fargo area flood control including the Fargo Moorhead diversion, Mouse River flood control, flood control projects other than Fargo area flood control including the Fargo Moorhead diversion, and general water - grants"

Page 2, after line 29, insert:

**"SECTION 5. CONDITION ON FARGO AREA FLOOD CONTROL LINE ITEM.**

The \$66,500,000 appropriated to the state water commission for Fargo area flood control including the Fargo Moorhead diversion in section 1 of this Act for the period beginning with the effective date of this Act, and ending June 30, 2021, may be used only for Fargo area flood control projects including the Fargo Moorhead diversion, and the appropriation of those funds is conditioned on having no other funds appropriated in section 1 being expended on Fargo area flood control including the Fargo Moorhead diversion. This condition does not prohibit the use of funds appropriated for project carryover in section 1 of this Act for Fargo area flood control projects, subject to section 7 of this Act.

**SECTION 6. CONDITION ON OTHER SECTION 1 LINE ITEMS.**

The \$593,320,273 appropriated to the state water commission for salaries and wages, operating expenses, capital assets, water supply - grants, rural water supply - grants, Mouse River flood control, flood control projects other than Fargo area flood control including the Fargo Moorhead diversion, and general water - grants in section 1 of this Act for the period beginning with the effective date of this Act, and ending June 30, 2021, may be used only for salaries and wages, operating expenses, capital assets, water supply - grants, rural water supply - grants, Mouse River flood control, flood control projects other than Fargo area flood control including the Fargo Moorhead diversion, and general water - grants, respectively, and the appropriation of those funds is conditioned on the funds not being expended on Fargo area flood control projects including the Fargo Moorhead diversion.

**SECTION 7. CONDITION ON PROJECT CARRYOVER FUNDS.**

The \$308,333,818 appropriated to the state water commission for project carryover in section 1 of this Act for the period beginning with the effective date of this Act, and ending June 30, 2021, may be used only for project carryover, and the appropriation of those funds is conditioned on having no more than the amount the state water commission approved for Fargo area flood control including the Fargo Moorhead diversion by April 1, 2019, expended from the project carryover funds on Fargo area flood control including the Fargo Moorhead diversion.

**SECTION 8. CONDITION ON APPROPRIATIONS.**

The \$66,500,000 appropriated to the state water commission for Fargo area flood control including the Fargo Moorhead diversion in section 1 of this Act and the amount the state water commission approved for Fargo area flood control including the Fargo Moorhead diversion by April 1, 2019, which amount is included in project carryover funds appropriated in section 1 of this Act, may not be used for any work under plan B for the Fargo Moorhead diversion project; except for constructing or repairing levees and dikes and purchasing land, easements, and options or rights of first refusal to purchase land, necessary for flood control; until:

1. The federal court injunction on plan B is modified to allow construction of plan B to continue;
2. The Congress of the United States appropriates federal funds for construction of plan B;
3. The state engineer approves the mitigation plan for plan B;
4. The office of state engineer issues all necessary permits the state engineer requires for plan B; and

5. The Minnesota state legislature appropriates funds for construction of plan B."

Page 3, line 3, replace "\$703,000,000" with "\$750,000,000"

Page 3, line 4, replace "\$332,500,000" with "\$379,500,000"

Page 3, line 5, remove "equal"

Page 3, line 6, replace "installments over the next five bienniums, beginning July 1, 2019" with "installments as follows: \$66,500,000 during the 2019-21, 2021-23, 2023-25, 2025-27, and 2027-29 bienniums, and \$47,000,000 during the 2029-31 biennium."

Page 3, replace lines 7 through 16 with:

**"SECTION 10. FARGO FLOOD CONTROL PROJECT DOWNSTREAM IMPACT MITIGATION.** The Fargo Moorhead metropolitan flood risk management project operations may not cause a downstream federal emergency management agency accredited flood protection system in North Dakota to lose its accreditation. The metropolitan flood diversion authority shall take reasonable measures to mitigate downstream impacts to accredited flood protection systems, existing as of April 1, 2019, located in North Dakota bordering the Red River resulting from the operations of the Fargo Moorhead diversion. For purposes of this section, negative downstream impacts to accredited flood protection systems are caused when the water surface profile passing through such systems is raised by more than one-tenth of one foot for the one hundred-year event or when the ability of the accredited flood protection system to protect against a two hundred-year or five hundred-year event is compromised. The metropolitan flood diversion authority shall collaborate with the state engineer and accredited flood protection systems in North Dakota to implement this requirement.

**SECTION 11. LEGISLATIVE INTENT - MOUSE RIVER FLOOD CONTROL PROJECT FUNDING.** Except for funding provided during bienniums prior to the 2017-19 biennium, it is the intent of the sixty-sixth legislative assembly that the state provide no more than \$193,000,000 of state funding for Mouse River flood control projects within the city limits of Minot. It is the intent of the sixty-sixth legislative assembly that the \$193,000,000 be made available during the 2017-19, 2019-21, 2021-23, and 2023-25 bienniums. It is the intent of the sixty-sixth legislative assembly that of the \$193,000,000, the state provide \$57,713,284 during the 2017-19 biennium and that the \$135,286,716 yet to be designated by the state for the Mouse River flood control projects, within the city limits of Minot, be provided during the 2019-21, 2021-23, and 2023-25 bienniums.

**SECTION 12. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY PROJECT - REPORT TO LEGISLATIVE MANAGEMENT - APPLICATION.** It is the intent of the sixty-sixth legislative assembly that the state water commission provide, in the form of a grant, up to \$13,000,000, to the Garrison Diversion Conservancy District for the Red River valley water supply project, to initiate construction of phase one prioritized project features identified in accordance with subsections 2 and 3 of section 14 of this Act, for the period beginning with the effective date of this Act, and ending June 30, 2021. The Garrison Diversion Conservancy District shall report on a regular basis to the legislative management's water topics overview committee during the 2019-20 interim regarding the progress of the Red River valley water supply project. The provisions of section 13 of this Act do not apply to the funding referenced in this section.

**SECTION 13. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY PROJECT.** It is the intent of the sixty-sixth legislative assembly that the state water commission provide no more than \$30,000,000 to the Garrison Diversion Conservancy District for the Red River valley water supply project during the 2019-21 biennium and 2021-23 biennium and that the state funding be provided at a seventy-five percent state cost-share."

Page 4, after line 16, insert:

**"SECTION 15. PILOT PROJECT - IMPLEMENTATION OF A BASINWIDE PLAN - REPORT TO THE LEGISLATIVE MANAGEMENT.** Up to \$1,000,000 of the \$48,000,000 appropriated to the state water commission for flood control projects other than Fargo area flood control including the Fargo Moorhead diversion in section 1 of this Act for the period beginning with the effective date of this Act, and ending June 30, 2021, may be used to provide grants under the pilot project in this section.

1. If all the water resource districts and joint water resource districts in a basin develop a basinwide water plan identifying water conveyance, flood control, and other water projects to be undertaken in the basin, the districts jointly may apply to the state water commission for a grant of up to \$1,000,000 for implementation of the plan. The state water commission may select a basinwide plan submitted under this subsection for funding and enter into one cooperative agreement with the water resource districts and joint water resource districts that submitted the plan.
2. The cooperative agreement must include the amount of funding the state water commission will provide, the applicable cost-share requirements, a prohibition on using funds provided under the agreement for planning or any purpose other than implementation of the basinwide plan, and the obligations of the state water commission and each water resource district and joint water resource district in the basin in implementing the basinwide plan. The agreement also must provide for monitoring and oversight of the basinwide plan's implementation.
3. The state water commission shall report to the legislative management on the results of this pilot project no later than August 1, 2020."

**SECTION 16. AMENDMENT.** Subsection 3 of section 61-02-78 of the North Dakota Century Code is amended and reenacted as follows:

3. The commission shall approve projects and loans from the infrastructure loan fund, and the Bank of North Dakota shall manage and administer loans from the infrastructure loan fund and individual accounts in the fund. The commission may adopt policies for the review and approval of loans under this section. Loans made under this section must be made at an interest rate of one and one-half percent at the same interest rate as the revolving loan fund established under chapters 61-28.1 and 61-28.2."

Page 4, after line 27, insert:

**"SECTION 18. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

	<b>Base Budget</b>	<b>Senate Version</b>	<b>Conference Committee Changes</b>	<b>Conference Committee Version</b>	<b>House Version</b>	<b>Comparison to House</b>
Salaries and wages	\$19,659,298	\$19,833,131	(\$1,145)	\$19,831,986	\$19,831,986	
Operating expenses	58,044,691	43,855,753	25,900,000	69,755,753	69,755,753	
Capital assets	124,819,442	147,938,758	33,000,000	180,938,758	180,938,758	
Project carryover	274,867,897	308,333,818		308,333,818	308,333,818	
New projects	169,782,147					
Flood control - Grants		145,000,000	(145,000,000)			
General water - Grants		35,255,000	(8,161,224)	27,093,776	27,093,776	
Rural water supply - Grants		30,000,000	7,200,000	37,200,000	37,200,000	
Water supply - Grants		115,000,000	13,000,000	128,000,000	128,000,000	
Fargo area flood control			66,500,000	66,500,000	66,500,000	
Mouse River flood control			82,500,000	82,500,000	82,500,000	
Other flood control projects			48,000,000	48,000,000	48,000,000	
<b>Total all funds</b>	<b>\$647,173,475</b>	<b>\$845,216,460</b>	<b>\$122,937,631</b>	<b>\$968,154,091</b>	<b>\$968,154,091</b>	<b>\$0</b>
Less estimated income	647,173,475	845,216,460	122,937,631	968,154,091	968,154,091	0
General fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>FTE</b>	<b>93.00</b>	<b>90.00</b>	<b>0.00</b>	<b>90.00</b>	<b>90.00</b>	<b>0.00</b>

**Department 770 - State Water Commission - Detail of Conference Committee Changes**

	<b>Adjusts Funding for Salary Increases<sup>1</sup></b>	<b>Adds Funding for Capital Assets<sup>2</sup></b>	<b>Adds Funding for Water Supply - Grants<sup>3</sup></b>	<b>Adds Funding for Rural Water Supply - Grants<sup>4</sup></b>	<b>Removes Flood Control - Grants Line Item<sup>5</sup></b>	<b>Adds Funding for Fargo Area Flood Control Including the Fargo Moorhead Diversion<sup>6</sup></b>
Salaries and wages	(\$1,145)					
Operating expenses						
Capital assets		\$33,000,000				
Project carryover						
New projects						
Flood control - Grants					(\$145,000,000)	
General water - Grants						
Rural water supply - Grants				\$7,200,000		
Water supply - Grants			\$13,000,000			
Fargo area flood control						\$66,500,000
Mouse River flood control						
Other flood control projects						
<b>Total all funds</b>	<b>(\$1,145)</b>	<b>\$33,000,000</b>	<b>\$13,000,000</b>	<b>\$7,200,000</b>	<b>(\$145,000,000)</b>	<b>\$66,500,000</b>
Less estimated income	(1,145)	33,000,000	13,000,000	7,200,000	(145,000,000)	66,500,000
General fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>FTE</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

	Adds Funding for Mouse River Flood Control <sup>7</sup>	Adds Funding for Other Flood Control Projects <sup>8</sup>	Reduces Funding for General Water - Grants <sup>9</sup>	Adds Funding to Payoff Outstanding Debt <sup>10</sup>	Total Conference Committee Changes
Salaries and wages					(\$1,145)
Operating expenses				\$25,900,000	25,900,000
Capital assets					33,000,000
Project carryover					
New projects					
Flood control - Grants					(145,000,000)
General water - Grants			(\$8,161,224)		(8,161,224)
Rural water supply - Grants					7,200,000
Water supply - Grants					13,000,000
Fargo area flood control					66,500,000
Mouse River flood control	\$82,500,000				82,500,000
Other flood control projects		\$48,000,000			48,000,000
Total all funds	\$82,500,000	\$48,000,000	(\$8,161,224)	\$25,900,000	\$122,937,631
Less estimated income	82,500,000	48,000,000	(8,161,224)	25,900,000	122,937,631
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> Funding is added to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

<sup>2</sup> Capital assets is increased by \$33 million to provide additional funding for state-owned water projects within the capital assets line item to provide total capital assets funding of \$180,938,758, the same as the House version. The Senate version included capital assets of \$147,938,758.

<sup>3</sup> Water supply - grants is increased by \$13 million to provide additional funding for municipal water supply projects to provide a total of \$128 million in the water supply - grants line item, the same as the House version. The Senate version included capital assets of \$115 million.

<sup>4</sup> Rural water supply - grants is increased by \$7.2 million to provide additional funding for rural water supply projects to provide a total of \$37.2 million in the rural water supply - grants line item, the same as the House version. The Senate version included capital assets of \$30 million.

<sup>5</sup> The flood control - grants line item is removed to specifically identify funding for flood control projects, the same as the House version. The Senate version included \$145 million in the flood control - grants line item.

<sup>6</sup> Funding of \$66.5 million is provided for Fargo area flood control, including the Fargo Moorhead diversion, the same as the House version. The Senate version included funding for Fargo area flood control in the flood control - grants line item.

<sup>7</sup> Funding of \$82.5 million is provided for the Mouse River flood control project, the same as the House version. The Senate version included funding for Mouse River flood control in the flood control - grants line item.

<sup>8</sup> Funding of \$48 million is provided for flood control projects other than Fargo area flood control, including the Fargo Moorhead diversion, the same as the House version. The Senate version included funding for other flood control projects in the flood control - grants line item.

<sup>9</sup> Funding of \$27,093,776 is provided for general water projects, the same as the House version. The Senate version included \$35,255,000 of funding for the general water - grants line item.

<sup>10</sup> One-time funding of \$25.9 million is provided in the operating expenses line item to pay off outstanding debt of the State Water Commission, the same as the House version. The Senate version did not include this item.

This amendment also:

- Applies conditions on the Fargo area flood control, including the Fargo Moorhead diversion line item, to identify the \$66.5 million appropriated to the State Water Commission in the Fargo area flood control, including the Fargo Moorhead diversion line item of the bill, is to be used only for Fargo area flood control, including the Fargo Moorhead diversion, and the appropriation of those funds is conditioned on having no other funds appropriated in Section 1 of the bill being expended on Fargo area flood control, including the Fargo Moorhead diversion. The condition does not prohibit the use of funds appropriated for project carryover for Fargo area

flood control projects. The House also included this section.

- Applies conditions on other Section 1 line items to identify \$593,320,273 appropriated to the State Water Commission for salaries and wages, operating expenses, capital assets, water supply - grants, rural water supply - grants, Mouse River flood control, flood control projects other than Fargo area flood control, including the Fargo Moorhead diversion, and general water - grants, may be used only for these purposes, and the appropriation of these funds are conditioned on the funds not being expended on Fargo area flood control projects, including the Fargo Moorhead diversion. The House version also included this section.
- Applies conditions on project carryover funds to identify \$308,333,818 appropriated to the State Water Commission for project carryover and provides that the funds may be used only for project carryover. The appropriation of these funds is conditioned on having no more than the amount the State Water Commission approved for Fargo area flood control, including the Fargo Moorhead diversion by April 1, 2019, expended from the project carryover funds on Fargo area flood control, including the Fargo Moorhead diversion. The House also included this section.
- Applies conditions on the Fargo area flood control, including the Fargo Moorhead diversion line item and funds within the project carryover line item, to limit the use of funds allocated to the Fargo Moorhead flood control project until the project has received a federal appropriation, an appropriation from the state of Minnesota, necessary permits from the State Engineer's office, and federal courts have approved construction on plan B of the project. The House also included this section.
- Provides legislative intent that the state provide a portion of the local cost-share of the Fargo flood control project not to exceed \$750 million and that the \$379.5 million yet to be designated by the state be provided as follows: \$66.5 million during the 2019-21, 2021-23, 2023-25, 2025-27, and 2027-29 bienniums, and \$47 million during the 2029-31 biennium. The House and the Senate versions included legislative intent of \$703 million.
- Provides that the Fargo flood control project must not cause a downstream Federal Emergency Management Agency certified flood protection system in North Dakota to lose certification and requires the Fargo Moorhead Diversion Authority to take reasonable measures to mitigate downstream impacts to currently certified flood protection systems in North Dakota bordering the Red River resulting from the operations of the Fargo flood control project. The House also included this section.
- Provides legislative intent that the state provide no more than \$193 million of state funding for Mouse River flood control projects within the city limits of Minot during the 2017-19, 2019-21, 2021-23, and 2023-25 bienniums and that the state provided \$57,713,284 during the 2017-19 biennium, and the remaining to be designated over the 2019-21, 2021-23, and 2023-25 bienniums. The House also included this section.
- Provides legislative intent that the State Water Commission provide, in the form of a grant, up to \$13 million to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project, to initiate construction of Phase 1 prioritized project features, to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project during the 2019-21 biennium. The House also included this section.
- Provides legislative intent that the State Water Commission provide, in the form of a grant, up to \$30 million to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project during the 2019-21 and 2021-23 bienniums and that the State Water Commission provide state funding at a 75 percent state cost-share after June 30, 2021. The House version provided for a grant up to \$30 million for the Red River Valley Water Supply Project and that the state funding be at a 60 percent state cost-share after June 30, 2021. The Senate provided for a grant up to \$50 million for the Red River Valley Water Supply Project and that the state funding be at an 80 percent state cost-share after June 30, 2021.
- Provides the State Water Commission may provide up to \$1 million in grants to water resource districts to develop basinwide water plans. Neither the House nor the Senate version included this section.
- Amends North Dakota Century Code Section 61-02-78(3) to require the interest rate on loans made from the infrastructure loan fund to be the same rate as the safe drinking and water pollution control revolving loan funds. Neither the House nor the Senate included this section.
- Declares the bill to be an emergency measure, the same as the House version. The Senate did not include this section.