

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1020

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 provide legislative intent; ~~to create and enact a new~~  
3 ~~section to chapter 61-02 of the North Dakota Century Code, relating to the development of~~  
4 ~~policies and procedures of the state water commission;~~ to amend and reenact sections~~section~~  
5 ~~6-09.5-03 and 54-35-02.37~~ of the North Dakota Century Code ~~and sections 6 and 7 of~~  
6 ~~chapter 46 of the 2011 Session Laws~~, relating to the community water facility loan fund, ~~the~~  
7 ~~water-related topics overview committee, and Fargo flood control project funding~~; to provide for  
8 legislative management reports; to provide for a loan from the Bank of North Dakota; and to  
9 declare an emergency.

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

11 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
12 as may be necessary, are appropriated from special funds derived from federal funds and other  
13 income, to the state water commission for the purpose of defraying the expenses of the state  
14 water commission, for the biennium beginning July 1, 2013, and ending June 30, 2015, as  
15 follows:

	Base Level	Adjustments or Enhancements	Appropriation
18 <del>Administrative and support services</del>	<del>\$3,229,873</del>	<del>\$679,627</del>	<del>\$3,909,500</del>
19 <del>Water and atmospheric resources</del>	<del>498,413,774</del>	<del>323,925,584</del>	<del>822,339,358</del>
20 <del>Accrued leave payments</del>	<del>0</del>	<del>325,774</del>	<del>325,774</del>
21 <del>Total all funds</del>	<del>\$501,643,647</del>	<del>\$324,930,985</del>	<del>\$826,574,632</del>
22 <del>Less estimated income</del>	<del>486,648,448</del>	<del>339,926,184</del>	<del>826,574,632</del>
23 <del>Total general fund</del>	<del>\$14,995,199</del>	<del>(\$14,995,199)</del>	<del>\$0</del>
24 <u>Administrative and support services</u>	<u>\$3,229,873</u>	<u>\$1,620,136</u>	<u>\$4,850,009</u>

1	<u>Water and atmospheric resources</u>	498,413,774	324,694,788	823,108,562
2	<u>Total all funds</u>	\$501,643,647	\$326,314,924	\$827,958,571
3	<u>Less estimated income</u>	486,648,448	341,310,123	827,958,571
4	<u>Total general fund</u>	\$14,995,199	(\$14,995,199)	\$0
5	Full-time equivalent positions	87.00	3.00	90.00

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

7 **SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time  
8 funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and  
9 the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

10	<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
11	Federal stimulus funds	\$7,271,773	\$0
12	Ray/Tioga, Burke/Divide/Williams, Wildrose and	500,000	0
13	Stanley water projects		
14	Excavator	0	243,200
15	Office space renovation	0	45,000
16	Total all funds	\$7,771,773	\$288,200
17	Total special funds	<u>7,771,773</u>	<u>288,200</u>
18	Total general fund	\$0	\$0

19 The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17  
20 biennium. The state water commission shall report to the appropriations committees of the  
21 sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning  
22 July 1, 2013, and ending June 30, 2015.

23 **SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and  
24 support services line item in section 1 of this Act includes \$135,000 from the resources trust  
25 fund that the state water commission shall provide as a grant to the game and fish department  
26 for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1,  
27 2013, and ending June 30, 2015.

28 **SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts  
29 included in the estimated income line item in section 1 of this Act, any additional amounts in the  
30 resources trust fund and water development trust fund that become available are appropriated,  
31 ~~subject to budget section approval,~~ to the state water commission for the purpose of defraying

1 the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30,  
2 2015.

3 **SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY**

4 **AUTHORITY.** The Bank of North Dakota shall provide a loan of \$40,000,000 to the western  
5 area water supply authority for construction of the project. The terms and conditions of the loan  
6 must be negotiated by the western area water supply authority and the Bank of North Dakota  
7 and any previous loans may be added to and merged into this loan as agreed by the authority  
8 and the Bank of North Dakota. The authority may repay the loan from income from specific  
9 project features. If the authority is in default in the payment of the principal of or interest on the  
10 obligation to the Bank of North Dakota for the loan, the authority is subject to the default  
11 provisions under section 61-40-09.

12 **SECTION 6. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.**

13 Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the  
14 water and atmospheric resources line item in section 1 of this Act. However, this exclusion is  
15 only in effect for two years after June 30, 2015. Any unexpended funds appropriated from the  
16 resources trust fund after that period has expired must be transferred to the resources trust fund  
17 and any unexpended funds appropriated from the water development trust fund after that period  
18 has expired must be transferred to the water development trust fund.

19 ~~— **SECTION 7. AMENDMENT.** Section 6 of chapter 46 of the 2011 Session Laws is amended  
20 and reenacted as follows:~~

21 ~~— **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.**~~

22 ~~Of the funds appropriated in the water and atmospheric resources line item in~~  
23 ~~section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium~~  
24 ~~beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30,~~  
25 ~~2011, are not subject to section 54-44.1-11 and must be continued into the next or~~  
26 ~~subsequent bienniums and may be expended only for Fargo flood control projects.~~  
27 ~~These~~~~Except as otherwise provided, these funds may be used only for land purchases~~  
28 ~~and construction, including right of way acquisition costs and may not be used for the~~  
29 ~~purchase of dwellings or for a river diversion project. Notwithstanding any other~~  
30 ~~provision of law, including a political subdivision home rule charter, no public funds~~  
31 ~~may be used for the construction of ring dikes or water retention structures associated~~

1 ~~with the Fargo flood control project. No more than ten percent of these funds may not~~  
2 ~~be used for administration, engineering, legal, planning, or other similar purposes; and~~  
3 ~~are not subject to the sixty-five percent funding requirement contained in Senate Bill~~  
4 ~~No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water~~  
5 ~~resource district must approve any expenditures made under this section. Costs~~  
6 ~~incurred by nonstate entities for dwellings or other real property that are not paid by~~  
7 ~~state funds are eligible for application by the nonstate entity for cost sharing with the~~  
8 ~~state.~~

9 ~~— SECTION 8. AMENDMENT. Section 7 of chapter 46 of the 2011 Session Laws is amended~~  
10 ~~and reenacted as follows:~~

11 ~~— SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING – EXEMPTION.~~  
12 ~~Of the funds appropriated in the water and atmospheric resources line item in~~  
13 ~~section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium~~  
14 ~~beginning July 1, 2011, and ending June 30, 2013. Any funds not spent by June 30,~~  
15 ~~2013, are not subject to section 54-44.1-11 and must be continued into the next or~~  
16 ~~subsequent bienniums and may be expended only for Fargo flood control projects.~~  
17 ~~Except as otherwise provided, these funds may be used only for land purchases and~~  
18 ~~construction, including right of way acquisition costs and may not be used for the~~  
19 ~~purchase of dwellings or for a river diversion project. Notwithstanding any other~~  
20 ~~provision of law, including a political subdivision home rule charter, no public funds~~  
21 ~~may be used for the construction of ring dikes or water retention structures associated~~  
22 ~~with the Fargo flood control project. No more than ten percent of these funds may be~~  
23 ~~used for engineering, legal, planning, or other similar purposes. The city of Fargo,~~  
24 ~~Cass County, and the Cass County joint water resource district must approve any~~  
25 ~~expenditures made under this section. Costs incurred by nonstate entities for~~  
26 ~~dwellings or other real property that are not paid by state funds are eligible for~~  
27 ~~application by the nonstate entity for cost sharing with the state.~~

28 **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING.** Funds designated by the  
29 sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third  
30 legislative assembly for Fargo flood control are available only for levee and dike protection until  
31 the Fargo flood control project receives federal authorization, a project partnership agreement is

1 executed, a federal appropriation is provided for project construction, and the budget for the  
2 Fargo flood control project is approved by the state water commission.

3 **SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It  
4 is the intent of the sixty-third legislative assembly that the state provide one-half of the local  
5 cost-share of constructing a federally authorized Fargo flood control project and that total Fargo  
6 flood control project funding to be provided by the state not exceed \$450,000,000.

7 **SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the  
8 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,  
9 \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and  
10 ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section  
11 54-44.1-11 and must be continued into the next or subsequent bienniums and may be  
12 expended only for Fargo flood control projects, including levees and dikes. Except as otherwise  
13 provided, these funds may be used only for land purchases and construction, including  
14 right-of-way acquisition costs and may not be used for the purchase of dwellings ~~or for a river-~~  
15 ~~diversion project. Notwithstanding any other provision of law, including a political subdivision-~~  
16 ~~home rule charter, no public funds may be used for the construction of ring dikes or water-~~  
17 ~~retention structures associated with the Fargo flood control project.~~ No more than ten percent of  
18 these funds may be used for engineering, legal, planning, or other similar purposes. The city of  
19 Fargo, Cass County, and the Cass County joint water resource district must approve any  
20 expenditures made under this section. Costs incurred by nonstate entities for dwellings or other  
21 real property which are not paid by state funds are eligible for application by the nonstate entity  
22 for cost-sharing with the state.

23 ~~—SECTION 12. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.—~~  
24 ~~It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding-~~  
25 ~~to be provided by the state not exceed \$325,000,000 to provide flood protection for the city of-~~  
26 ~~Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood-~~  
27 ~~protection for areas along the Red River north and south of Fargo. It is further the intent of the-~~  
28 ~~legislative assembly that funds appropriated by the legislative assembly for Fargo flood control-~~  
29 ~~not be used for a river diversion flood control project.~~

30 **SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY.** Of the  
31 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,

1 \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1,  
2 2013, and ending June 30, 2015.

3 **SECTION 11. LEGISLATIVE INTENT - BOND PAYMENTS.** Of the funds appropriated in  
4 section 1 of this Act, \$60,000,000 in the water and atmospheric resources line item is from the  
5 resources trust fund for the purposes of paying off or defeasing outstanding bond issues. The  
6 state water commission may expend funds for this purpose only if available funding from the  
7 resources trust fund for water projects for the biennium beginning July 1, 2013, and ending  
8 June 30, 2015, has exceeded ~~\$515,000,000~~\$287,000,000.

9 ~~SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL.~~

10 ~~During the 2013-14 interim, the state water commission shall study the use of ring dikes as part~~  
11 ~~of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in~~  
12 ~~the Fargo area on flood protection for areas north and south of Fargo. The state water~~  
13 ~~commission shall provide periodic reports to the legislative management on the findings~~  
14 ~~resulting from the study.~~

15 ~~SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER~~

16 ~~SUPPLY.~~ During the 2013-14 interim, the state water commission shall study water supply  
17 needs in the Red River valley, including projected costs of projects to meet water supply needs  
18 and the potential state commitment to supply water to the Red River valley. The state water  
19 commission shall provide periodic reports to the legislative management on the findings  
20 resulting from the study.

21 ~~SECTION 14. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE~~

22 ~~DATA CENTER.~~ The state water commission shall transfer all appropriate information  
23 technology hardware to the information technology department secure data center during the  
24 biennium beginning July 1, 2013, and ending June 30, 2015.

25 ~~SECTION 15. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO~~

26 ~~THE BUDGET SECTION.~~ The state water commission shall report to the budget section any  
27 changes made to the state water commission priority projects list presented to the sixty third  
28 legislative assembly within ninety days of the state water commission approving the change for  
29 the biennium beginning July 1, 2013, and ending June 30, 2015.

30 **SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION.** The  
31 Fargo-Moorhead area diversion authority board shall report to the budget section prior to

1 December 2013 and prior to October 2014 regarding an update on congressional authorization  
2 of the diversion project and the status of the self-insured crop insurance pool, mitigation efforts,  
3 easements, and the project budget.

4 **SECTION 13. AMENDMENT.** Section 6-09.5-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **6-09.5-03. Transfer of funds - Revolving fund.**

7 A community water facility loan fund with an authorized ceiling of ~~twenty-five~~ twenty-five million  
8 dollars is hereby established from the future undivided profits of the Bank of North Dakota or  
9 other state funds. This is a revolving fund, and all moneys transferred into the fund, interest  
10 upon fund moneys, and collections of interest and principal on fund loans must be used for the  
11 purposes of this chapter.

12 ~~**SECTION 17. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is~~  
13 ~~amended and reenacted as follows:~~

14 ~~**54-35-02.7. (Effective through November 30, 20132014) Water-related topics overview**~~  
15 ~~**committee -- Duties.**~~

16 ~~— The legislative management, during each interim, shall appoint a water-related topics~~  
17 ~~overview committee in the same manner as the legislative management appoints other interim~~  
18 ~~committees. The committee must meet quarterly and is responsible for legislative overview of~~  
19 ~~water-related topics and related matters and for any necessary discussions with adjacent states~~  
20 ~~on water-related topics. During the 2011-12 interim, the~~The ~~committee shall review the state's~~  
21 ~~irrigation laws and rules and evaluate the process of the prioritization of water projects and~~  
22 ~~prepare a schedule of priorities with respect to water projects. The state water commission and~~  
23 ~~state engineer shall assist the committee in developing the schedule of priorities. The~~  
24 ~~committee consists of thirteenseventeen members and the legislative management shall~~  
25 ~~designate the chairman of the committee. The committee shall operate according to the statutes~~  
26 ~~and procedure governing the operation of other legislative management interim committees and~~  
27 ~~include the schedule of priorities with its final report to the legislative management.~~

28 ~~**(Effective after November 30, 20132014) Garrison diversion overview.** The legislative~~  
29 ~~management is responsible for legislative overview of the Garrison diversion project and related~~  
30 ~~matters and for any necessary discussions with adjacent states on water-related topics.~~



1 — ~~**SECTION 18.** A new section to chapter 61-02 of the North Dakota Century Code is created~~  
2 ~~and enacted as follows:~~

3 — ~~**State water commission – Project development and financing.**~~

4 — ~~The state water commission shall adopt policies regarding the development and financing~~  
5 ~~of projects as follows:~~

6 — ~~1. Municipal project funding and financing, including water treatment plants. The state~~  
7 ~~water commission shall develop and adopt policies relating to the circumstances under~~  
8 ~~which a project qualifies for a grant and when the project qualifies for a loan.~~

9 — ~~2. Pipelines. The state water commission shall develop and adopt policies relating to:~~

10 — ~~a. Pipeline expansion;~~

11 — ~~b. Public and industrial use of water;~~

12 — ~~c. Cost analyses of future project development; and~~

13 — ~~d. Ongoing maintenance cost of current and future projects.~~

14 — ~~3. Technology. The state water commission shall develop and adopt policies relating~~  
15 ~~to the use of technology, including the use of technology for permitting and electronic~~  
16 ~~metering.~~

17 **SECTION 14. EMERGENCY.** The water and atmospheric resources line item in section 1 of  
18 this Act and section 5 of this Act ~~is~~are declared to be an emergency measure.