

PROPOSED AMENDMENTS TO SENATE BILL NO. 2020

Page 1, line 2, remove "and"

Page 1, line 2, replace "an exemption" with "exemptions; to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the water topics overview committee; to repeal section 61-02-78, relating to the infrastructure revolving loan fund; to provide legislative intent; to provide for legislative management reports; and to provide for a legislative management study"

Page 1, replace lines 11 through 15 with:

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

Page 2, after line 19, insert:

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

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

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

**SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$69,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2015, and ending June 30, 2017. Any funds not spent by June 30, 2017, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects, including levees and dikes. Except as otherwise provided, these funds may be used only for land

purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

**SECTION 10. GRANTS - WESTERN AREA WATER SUPPLY - INCREMENTAL FUNDING AND RESTRICTIONS.** Funds specified for western area water supply authority projects in the water and atmospheric resources line item in section 1 of this Act must be distributed as grants from the resources trust fund. The funds must be awarded in increments of up to \$10,000,000 upon determination by the state water commission that sufficient domestic demand has been demonstrated for the project for which the funds are requested. Funds may not be used solely to construct industrial water infrastructure or to provide industrial water for exploration or development of the oil and gas industry. The western area water supply authority may request funds, in increments of up to \$10,000,000, through individual applications to the commission up to the amount specified in this Act for the western area water supply authority.

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

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

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

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

2. Agricultural production income impacts due to operation of the diversion project.
3. Agricultural production income losses resulting from a ten-year, twenty-five-year, fifty-year, one hundred-year, and five hundred-year flood event.

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

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

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

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

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	<b>Base Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Administrative and support services	\$4,716,665	(\$208,991)	\$4,507,674
Water and atmospheric resources	822,365,166	166,853,582	989,218,748
Accrued leave payments	325,774	(325,774)	
Total all funds	\$827,407,605	\$166,318,817	\$993,726,422
Less estimated income	827,407,605	141,333,658	968,741,263
General fund	\$0	\$24,985,159	\$24,985,159
FTE	90.00	8.00	98.00

**Department No. 770 - State Water Commission - Detail of Senate Changes**

	Changes Funding Source for Administrative Costs <sup>1</sup>	Adds Funding for Base Payroll Changes <sup>2</sup>	Adds Funding for Salary and Benefit Increases <sup>3</sup>	Adds Funding for New Water Permitting Positions <sup>4</sup>	Adds Funding for New Regulatory Director Position <sup>5</sup>	Adds Funding for New Water Supply Project Manager Position <sup>6</sup>
Administrative and support services		\$147,600	\$159,087			
Water and atmospheric resources		690,132	979,117	979,015	273,871	229,840
Accrued leave payments		(325,774)				
Total all funds	\$0	\$511,958	\$1,138,204	\$979,015	\$273,871	\$229,840
Less estimated income	(21,789,687)	0	130,200	0	0	0
General fund	\$21,789,687	\$511,958	\$1,008,004	\$979,015	\$273,871	\$229,840
FTE	0.00	0.00	0.00	5.00	1.00	1.00

  

	Adds Funding for New Sovereign Lands Position <sup>7</sup>	Adjusts Water Projects Funding <sup>8</sup>	Adjusts Base Level Funding <sup>9</sup>	Total Senate Changes
Administrative and support services			(\$515,678)	(\$208,991)
Water and atmospheric resources	192,784	152,132,255	11,376,568	166,853,582
Accrued leave payments				(325,774)
Total all funds	\$192,784	\$152,132,255	\$10,860,890	\$166,318,817
Less estimated income	0	152,132,255	10,860,890	141,333,658
General fund	\$192,784	\$0	\$0	\$24,985,159
FTE	1.00	0.00	0.00	8.00

<sup>1</sup> The funding source for administrative, salaries and benefits, and operating costs is changed from the resources trust fund to the general fund. The amounts shown reflects the following base level operating cost reductions as a result of becoming a general fund supported agency:

	General Fund	Other Funds	Total
Rent		(\$315,000)	(\$315,000)
Statewide cost allocation		(235,000)	(235,000)
Legal fees		(488,000)	(488,000)
Total	\$0	(\$1,038,000)	(\$1,038,000)

<sup>2</sup> Funding is added for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.

<sup>3</sup> The following funding is added for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year and increases in monthly health insurance premiums:

	General Fund	Other Funds	Total
Salary increase - Performance	\$634,518	\$80,543	\$715,061
Health insurance increase	373,486	49,657	423,143
Total	\$1,008,004	\$130,200	\$1,138,204

<sup>4</sup> Funding is added from the general fund for 5 new water permitting FTE positions (\$979,015) that were approved by the Emergency Commission during the 2013-14 interim.

<sup>5</sup> Funding is added from the general fund for a new regulatory director FTE position (\$273,871).

<sup>6</sup> Funding is added from the general fund for a new water supply project manager FTE position (\$229,840).

<sup>7</sup> Funding is added from the general fund for a new sovereign lands FTE position (\$192,784).

<sup>8</sup> Water projects funding is adjusted to provide a total of \$500 million for new water projects in the 2015-17 biennium.

<sup>9</sup> Base level funding is adjusted as follows:

	General Fund	Other Funds	Total
Consultant engineering and attorney's fees increase		\$10,727,828	\$10,727,828
Operating costs adjustment		133,062	133,062
Total	\$0	\$10,860,890	\$10,860,890

In addition, this amendment:

- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission.
- Adds a section to require an advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor prior to any state funding being used to advance construction work considered to be a federal responsibility.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project, total Fargo flood control project funding not exceed \$450 million, and that the \$206 million yet to be designated for Fargo flood control is to be made available in equal installments over the next three bienniums.
- Adds a section providing funds appropriated for Fargo flood control are exempt from Section 54-44.1-11 and must be continued into the next or subsequent biennium.
- Adds a section directing funds appropriated for Western Area Water Supply Authority projects in the water and atmospheric resources line item to be distributed in the form of grants from the resources trust fund in increments of \$10 million upon the satisfaction of the State Water Commission that sufficient domestic demand has been demonstrated, restricts the funds from being used to construct industrial water infrastructure or to provide industrial water for exploration of development of the oil and gas industry and requires the Western Area Water Supply Authority to submit an application to the State Water Commission in increments of \$10 million up to the amount specified for Western Area Water Supply Authority projects.
- Adds a section requiring the State Water Commission to report to the Legislative Management's Water Topics Overview Committee every six months during the 2015-16 interim regarding any changes made to the State Water Commission priority projects list presented to the 64th Legislative Assembly.
- Adds a section requiring the F-M Area Diversion Authority Board and the MNDak Upstream Coalition to report to the Legislative Management's Water Topics Overview Committee.
- Amends Section 54-35-02.7 regarding the Water Topics Overview Committee to require a report on the committee's project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants, and contracts.
- Repeals Section 61-02-78 regarding the infrastructure revolving loan fund.
- Adds a section requiring the State Water Commission to contract with North Dakota State University to study the Fargo diversion project.