

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

Page 1, line 2, after the second semicolon insert "to create and enact three new sections to chapter 61-02 of the North Dakota Century Code, relating to a Bank of North Dakota line of credit, to the state water commission cost-share policy, and to North Dakota outdoor heritage fund grants and cost-share;"

Page 1, line 3, remove "to repeal section"

Page 1, line 4, remove "61-02-78 of the North Dakota Century Code, relating to the infrastructure revolving loan fund;"

Page 1, line 5, after the semicolon insert "to allocate funding; to provide contingent allocations; to provide for reports to the legislative assembly;"

Page 1, line 5, remove "and"

Page 1, line 6, replace "legislative management" with "state water commission"

Page 1, line 6, after "study" insert "; and to declare an emergency"

Page 1, line 11, replace "biennium" with "period"

Page 1, line 11, replace "July 1, 2015" with "with the effective date of this Act"

Page 1, replace lines 15 through 21 with:

"Accrued leave payments	\$325,774	(\$325,774)	\$0
Administrative and support services	4,716,665	818,953	5,535,618
Water and atmospheric resources	<u>822,365,166</u>	<u>296,834,597</u>	<u>1,119,199,763</u>
Total all funds	\$827,407,605	\$297,327,776	\$1,124,735,381
Full-time equivalent positions	90.00	6.00	96.00"

Page 2, after line 13, insert:

**"SECTION 4. SOVEREIGN LANDS RECREATION USE GRANT.** The water and atmospheric resources line item in section 1 of this Act includes \$1,000,000 from the resources trust fund which the state water commission shall provide as a grant to the parks and recreation department for developing recreation opportunities on sovereign lands in the state, for the biennium beginning July 1, 2015, and ending June 30, 2017."

Page 2, line 14, after "**APPROPRIATION**" insert "- **BUDGET SECTION APPROVAL**"

Page 2, line 17, after "appropriated" insert ", subject to budget section approval,"

Page 2, after line 25, insert:

**"SECTION 7. BANK OF NORTH DAKOTA LOAN - BOND PAYMENTS.** The state water commission shall obtain a loan from the Bank of North Dakota in an amount that may not exceed \$56,000,000 for the purpose of paying off or defeasing outstanding bond issues, for the period beginning with the effective date of this Act, and ending June 30, 2017."

Page 3, line 11, after the period insert "It is further the intent of the sixty-fourth legislative assembly that state funding of \$120,000,000 be provided for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017, require fifty percent matching funds from the Fargo flood authority."

Page 3, line 12, replace "\$206,000,000" with "\$266,000,000"

Page 3, line 13, replace "project" with "projects"

Page 3, removes lines 28 through 31

Page 4, replace lines 1 through 6 with:

**"SECTION 11. APPROPRIATION - FARGO INTERIOR FLOOD PROTECTION - STATE DISASTER RELIEF FUND - FUNDING REQUIREMENTS.** There is appropriated out of any moneys in the state disaster relief fund in the state treasury, the sum of \$30,000,000, or so much of the sum as may be necessary, for the purpose of providing funding for flood protection projects within city limits of Fargo for the period beginning with the effective date of this Act and ending June 30, 2017. The city of Fargo must apply for flood protection funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project."

Page 3, after line 27, insert:

**"SECTION 13. RED RIVER VALLEY WATER SUPPLY PROJECT FUNDING.** The 2013-15 unobligated funding of \$7,359,000 designated by the state water commission for the Red River valley water supply project in the water and atmospheric resources line item in section 1 of this Act and an additional \$5,000,000 in the water and atmospheric resources line item in section 1 of this Act is designated for a grant to the Garrison diversion conservancy district to plan and design the Red River valley water supply project for the biennium beginning July 1, 2015, and ending June 30, 2017. The Garrison diversion conservancy district shall report on a regular basis to the legislative management's water topics overview committee to review its progress in planning and designing the Red River valley water supply project.

**SECTION 14. APPROPRIATION - MISSOURI RIVER CORRECTIONAL CENTER LEVEE - FOX ISLAND LEVEE - STATE DISASTER RELIEF FUND.** There is appropriated out of any moneys in the state disaster relief fund in the state treasury, the sum of \$5,000,000, or so much of the sum as may be necessary, to the state water commission, for the purpose of providing funding for levee projects for the biennium beginning July 1, 2015, and ending June 30, 2017. Of the funds the state water commission shall make available \$1,700,000 for a levee for the Missouri River correctional center, and \$3,300,000, for a levee for Lincoln township's Fox Island area.

**SECTION 15. 2013-15 BIENNIUM CARRYOVER FUNDING - FLOOD CONTROL PROJECT FUNDING.** The 2013-15 unobligated funding of \$4,543,679 designated by the state water commission for the irrigation development and 2013-15

unobligated funding of \$5,198,663 designated by the state water commission for general water management in the water and atmospheric resources line item in section 1 of this Act is designated for providing \$9,742,342 for grants to flood control projects that pose an imminent threat to loss of life and property for the biennium beginning July 1, 2015, and ending June 30, 2017.

**SECTION 16. FUNDING DESIGNATION - REIMBURSEMENTS FOR 2013-15 BIENNIUM RURAL AND MUNICIPAL WATER SYSTEMS AFFECTED BY LOCAL COST-SHARE CHANGE.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission shall make available \$8,000,000 from funds available from the line of credit for reimbursing rural and municipal water systems affected by local cost-share changes during the 2013-15 biennium. Rural and municipal water systems must be reimbursed up to an amount, which makes the state share 65 percent in lieu of the 75 percent which was approved by the state water commission.

**SECTION 17. STATE WATER COMMISSION PROJECT FUNDING DESIGNATIONS.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act from funds available in the resources trust fund, water development trust fund, and the line of credit available from the Bank of North Dakota, \$501,000,000 is designated as follows:

1. \$69,000,000 for a grant for Fargo flood control project;
2. \$40,000,000 for a grant for Minot flood control project;
3. \$10,000,000 for a grant for northwest area water supply project;
4. \$3,000,000 for reimbursing rural and municipal water systems affected by local cost-share changes during the 2013-15 biennium;
5. \$11,000,000 for a grant for operation of the Devils Lake outlet;
6. \$30,000,000 for a grant for Sheyenne River flood control;
7. \$40,000,000 capital repayment loan for southwest pipeline project;
8. \$7,000,000 for a grant for Williston flood control project;
9. \$20,000,000 for a grant for Grafton flood control project;
10. \$20,000,000 for a grant and \$40,000,000 for a loan for western area water supply authority projects;
11. \$30,000,000 for a grant for Grand Forks water treatment plant;
12. \$30,000,000 for a grant for Fargo interior flood control;
13. \$40,000,000 for providing grants and \$11,000,000 for providing loans from the infrastructure revolving loan fund for general water management;
14. \$50,000,000 for the purpose of providing grants for rural water supply projects for all project costs;

15. \$25,000,000 for the purpose of providing grants for municipal water supply projects for all project costs;
16. \$25,000,000 for providing loans from the infrastructure revolving loan fund for the purposes identified in subsections 14 and 15.

**SECTION 18. FUNDING DESIGNATIONS - TRANSFERS - BUDGET**

**SECTION APPROVAL.** The funding designated for the items in section 15 of this Act and subsections 14, 15, and 16 of section 17 of this Act, are designated for the specific purposes identified; however, the state water commission may transfer funding among these items, subject to budget section approval.

**SECTION 19. CENTRAL DAKOTA WATER SUPPLY STUDY.** The state water commission shall conduct a study on the feasibility and desirability of the central Dakota water supply project for the biennium beginning July 1, 2015, and ending June 30, 2017. The study must include a cost-benefit analysis as well as a detailed business plan for the project, including projected operational costs and projected water supply needs for the area to be served.

**SECTION 20. CONTINGENT ALLOCATION - WATER AND ATMOSPHERIC RESOURCES.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$70,000,000, is designated as follows, contingent on the state water commission entering into a written agreement that a fertilizer or chemical processing facility will be constructed in Stutsman County:

1. \$10,000,000 for a grant and \$40,000,000 for a loan for a water reuse facility;
2. \$20,000,000 for the central Dakota water supply project.

**SECTION 21. STUTSMAN COUNTY WATER REUSE FACILITY -**

**EXEMPTION.** For purposes of a project for a water reuse facility the Stutsman rural water district is granted an exemption from the aggregate total outstanding limit of \$50,000,000 of revenue bonds under section 61-35-15 and is instead limited to an aggregate total outstanding limit of \$100,000,000 of revenue bonds for purposes of section 61-35-15.

**SECTION 22. STUTSMAN COUNTY WATER REUSE FACILITY PROJECT -**

**USER BONDING.** Any agreement entered into by the state water commission relating to the Stutsman County water reuse facility project must include requirements that the users of the water from the plant are responsible for repayment of the loans or revenue bonds authorized by the sixty-fourth legislative assembly for the Stutsman County water reuse facility and the users must be bonded in an amount equal to each user's proportionate share of any outstanding debt of the project.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY.**

During the 2015-16 interim, the legislative management shall study options available for providing a sustainable water supply to central and eastern North Dakota. The study must compile and review studies that have been completed relating to the project options and prepare a report that evaluates each option's ability to meet projected water demands to central North Dakota as well as eastern North Dakota. The report must also include a cost-benefit analysis, and a feasibility analysis of the options as well as a detailed business plan for the project, including projected operational costs, and projected water costs to the end users. The legislative management shall report its findings and

recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

**SECTION 24. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY PROJECT.** It is the intent of the sixty-fourth legislative assembly that the state, over the next four bienniums, provide \$150,000,000 per biennium of state funds to implement the selected alternative for the Red River valley water supply project.

**SECTION 25. LEGISLATIVE INTENT - LOWER HEART RIVER, MORTON COUNTY, ENHANCED FLOOD CONTROL PROJECT.** It is the intent of the sixty-fourth legislative assembly that state funding be provided for a share of the nonfederal or local cost for construction of the lower Heart River, Morton County, flood control project.

**SECTION 26. WESTERN AREA WATER SUPPLY AUTHORITY MEMBER ENTITIES - DEBT.** A western area water supply authority member entity may incur debt as authorized by law, except that an entity may not use any income from industrial water sales relating to oil and gas exploration or production to repay any debt or as collateral to secure debt beginning July 1, 2015."

Page 4, line 18, replace "budget section" with "legislative management's water topics overview committee"

Page 4, after line 20, insert:

**"SECTION 29. INDEPENDENT WATER PROVIDERS AND WESTERN AREA WATER SUPPLY AUTHORITY - REPORT TO THE WATER TOPICS OVERVIEW COMMITTEE.** During the 2015-16 interim, the independent water providers and the western area water supply authority shall report to the legislative management's water topics overview committee on a regular basis and collaborate with the committee and the state water commission to monitor water usage, rates, engineering contract procedures, and market share. The water topics overview committee shall report to the legislative management with recommendations to ensure western area water supply authority's ability to maintain its payment schedule of the state's loan.

**SECTION 30. REPORT TO LEGISLATIVE ASSEMBLY - SOUTHWEST PIPELINE PROJECT.** The state water commission and the southwest water authority shall continue the process of reviewing capital repayment and revenues being returned to the resources trust fund; payments necessary to meet obligations of existing bonds and other loans; ownership of land and associated facilities; existing construction documents; liabilities; contracts with cities, bulk users, companies, and other users; and other items; and shall report to the sixty-fifth legislative assembly on the actions necessary for the transfer of ownership and responsibility of the southwest pipeline project from the state water commission to the southwest water authority."

Page 4, line 28, remove "The impacts in the area outside the area recognized by the United States army corps"

Page 4, replace lines 29 through 31 with "The area determined by hydrology modeling to be affected by project conditions in excess of six inches, and outside the area recognized by the army corps of engineers for which mitigation is required upstream of the proposed dam, which is consistent with current floodplain designation by the federal emergency management agency for the studied flood event."

Page 5, line 1, replace "Agricultural production income impacts due to operation of the diversion project." with "The impacts on agricultural production income due to operation of the diversion project."

Page 5, replace lines 2 and 3 with "The study must be completed by September 1, 2016."

Page 5, line 12, after "develop" insert "and review"

Page 5, line 12, after "policies" insert "and update as necessary"

Page 5, after line 26, insert:

**"SECTION 33.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**Bank of North Dakota - Line of credit.**

The Bank of North Dakota shall extend a line of credit not to exceed two hundred million dollars at a rate that may not exceed one and three-quarters percent to the state water commission. The state water commission shall repay the line of credit from funds available in the resources trust fund, water development trust fund, or other funds, as appropriated by the legislative assembly. The state water commission may access the line of credit, as necessary, to provide funding as authorized by the legislative assembly up to the amounts designated for the following projects:

1. Sixty-nine million dollars for Fargo flood control;
2. Forty million dollars for Minot flood control;
3. Ten million dollars for northwest area water supply;
4. Three million dollars for Rice Lake flood control;
5. Fifty million dollars for a water reuse facility in Stutsman County;
6. Twenty million dollars for central Dakota water supply;
7. Eight million dollars for reimbursement for 2013-15 biennium rural and municipal water systems affected by the local cost-share change.

**SECTION 34.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**State water commission cost-share policy.**

The state water commission shall adopt a cost-share policy for the financing of water projects. The policy:

1. Must provide a water supply project is eligible for grants up to seventy-five percent of the total project cost with the remaining cost of the project financed through loans. The commission shall set the terms of the loan at one and one-half percent interest per year for up to forty years.
2. May not prioritize water supply projects based on population growth factor.
3. Must provide all project costs are eligible for reimbursement except the commission may exclude operations expense and regular maintenance.

The commission may require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.

4. May not use affordability in a service area as a factor in determining the priority of a project or a loan amount. However, affordability may be used as a factor in determining the amount of a grant.

**SECTION 35.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**North Dakota outdoor heritage fund grants - Effect on local cost-share.**

For projects involving the repair of an existing flood control or recreation structure, the state water commission may not deduct North Dakota outdoor heritage fund moneys provided from the cost of the project before determining the local cost-share. The state water commission shall include those provided moneys as part of the local cost-share, however, the local entity may not receive funding in excess of the total project cost."

Page 5, replace line 27 with:

**"SECTION 36. EMERGENCY.** Sections 1, 7, 11, and 17 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	Senate Version	House Changes	House Version
Administrative and support services	\$4,716,665	\$4,507,674	\$1,027,944	\$5,535,618
Water and atmospheric resources	822,365,166	989,218,748	129,981,015	1,119,199,763
Accrued leave payments	325,774			
Fargo interior flood protection			30,000,000	30,000,000
Levees in Burleigh County			5,000,000	5,000,000
Total all funds	\$827,407,605	\$993,726,422	\$166,008,959	\$1,159,735,381
Less estimated income	827,407,605	968,741,263	190,994,118	1,159,735,381
General fund	\$0	\$24,985,159	(\$24,985,159)	\$0
FTE	90.00	98.00	(2.00)	96.00

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

	Changes Funding Source for Administrative Costs <sup>1</sup>	Adds Funding for Costs Associated to Funding Source Change <sup>2</sup>	Adjusts Funding for Health Insurance Premium Increases <sup>3</sup>	Removes Funding for New Water Permitting Position <sup>4</sup>	Removes Funding for New Sovereign Lands Position <sup>5</sup>	Adds Funding From a Line of Credit for Water Projects <sup>6</sup>
Administrative and support services		\$1,038,000	(\$10,056)			
Water and atmospheric resources			(70,851)	(218,640)	(200,455)	200,000,000
Accrued leave payments						
Fargo interior flood protection						

Levees in Burleigh County						
Total all funds	\$0	\$1,038,000	(\$80,907)	(\$218,640)	(\$200,455)	\$200,000,000
Less estimated income	24,985,159	1,038,000	(80,907)	(218,640)	(200,455)	200,000,000
General fund	(\$24,985,159)	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	(1.00)	(1.00)	0.00

	Adds Funding From Bank of North Dakota Bond Refinancing Loan <sup>7</sup>	Adds Funding for 2015-17 Biennium Payment on Refinanced Bonds <sup>8</sup>	Removes Carryover Funding for Water Projects <sup>9</sup>	Adjusts Water Projects Funding <sup>10</sup>	Adds One-Time Funding for Fargo Interior Flood Protection <sup>11</sup>	Adds One-Time Funding for Levees <sup>12</sup>
Administrative and support services						
Water and atmospheric resources	56,000,000	7,000,000	(16,529,039)	(116,000,000)		
Accrued leave payments						
Fargo interior flood protection					30,000,000	
Levees in Burleigh County						5,000,000
Total all funds	\$56,000,000	\$7,000,000	(\$16,529,039)	(\$116,000,000)	\$30,000,000	\$5,000,000
Less estimated income	56,000,000	7,000,000	(16,529,039)	(116,000,000)	30,000,000	5,000,000
General fund	\$0	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	Total House Changes
Administrative and support services	\$1,027,944
Water and atmospheric resources	129,981,015
Accrued leave payments	
Fargo interior flood protection	30,000,000
Levees in Burleigh County	5,000,000
Total all funds	\$166,008,959
Less estimated income	190,994,118
General fund	(\$24,985,159)
FTE	(2.00)

<sup>1</sup> The funding source for administrative, salaries and benefits, and operating costs is changed from the general fund to the resources trust fund.

<sup>2</sup> The following funding is added for additional base level operating costs as a result of being a special funded 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>3</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>4</sup> Funding is removed for a new water permitting FTE position (\$210,184) and related salary increase (\$8,456).

<sup>5</sup> Funding is removed for a new sovereign lands FTE position (\$192,784) and related salary increase (\$7,671).

<sup>6</sup> Funding from a \$200 million line of credit from the Bank of North Dakota is added for the following projects:

	Grants	Loans	Line of Credit Total
Fargo flood control project	\$69,000,000		\$69,000,000
Minot flood control project	40,000,000		40,000,000
Stutsman County water reuse facility	10,000,000	40,000,000	50,000,000
Central Dakota water supply project (Contingent)	20,000,000		20,000,000
Northwest Area Water Supply Project (Contingent)	10,000,000		10,000,000
Rice Lake flood control project	3,000,000		3,000,000
2013-15 biennium cost-share reimbursements	8,000,000		8,000,000
Line of credit total	\$160,000,000	\$40,000,000	\$200,000,000

<sup>7</sup> Funding is added from loan proceeds from the Bank of North Dakota to pay off or defease the remaining outstanding bonds issues of the State Water Commission.

<sup>8</sup> Funding is added from the water development trust fund for repayment to the Bank of North Dakota, relating to the loan to refinance the existing outstanding bonds of the State Water Commission.

<sup>9</sup> Carryover funding from the resources trust fund has been removed for the following projects:

	General Fund	Other Funds	Total
Devils Lake gravity outflow channel		(\$13,686,839)	(\$13,686,839)
Rice Lake recreation district		(2,842,200)	(2,842,200)
Total	\$0	(\$16,529,039)	(\$16,529,039)

<sup>10</sup> Water projects funding is adjusted to provide a total of \$381 million for new water projects in the 2015-17 biennium from the resources trust fund and water development trust fund.

<sup>11</sup> One-time funding from the state disaster relief fund is added for the Fargo interior flood protection project along with a section regarding funding requirements.

<sup>12</sup> One-time funding from the state disaster relief fund is added for the following levees in Burleigh County:

	General Fund	Other Funds	Total
Missouri River Correctional Center levee		\$1,700,000	\$1,700,000
Fox Island levee		3,300,000	3,300,000
Total	\$0	\$5,000,000	\$5,000,000

This amendment also:

- Adds a section granting \$1 million to the Parks and Recreation Department for developing recreation opportunities on sovereign lands in the state.
- Adds a section requiring the State Water Commission to obtain a loan from the Bank of North Dakota to pay off or defease the Commission's outstanding bond issues.
- Amends Section 10, indicating that the Legislative Assembly intends to provide \$120 million for Fargo interior flood control projects.
- Adds a section designating funding from the water and atmospheric resources line item in Section 1 to the Garrison Diversion Conservancy District for planning and designing the Red River Valley Water Supply Project.
- Adds a section designating funding from the water and atmospheric resources line item in Section 1 for grants for flood control projects that pose an imminent threat to loss of life and property.
- Adds a section designating funding made available from the line of credit for reimbursing rural water systems affected by local cost-share changes during the 2013-15 biennium.
- Adds a section designating funding from the water and atmospheric resources line item in Section 1 to various projects.
- Adds a section allowing funding transfers between specific items identified in Section 15 and Section 17, subject to Budget Section approval.
- Adds a section regarding a central North Dakota water supply study.
- Adds a section providing a contingent allocation from the water and atmospheric resources line item in Section 1 for various projects.
- Adds a section increasing Stutsman rural water districts aggregated total outstanding limit from \$50 million to \$100 million of revenue bonds.
- Adds a section requiring any agreement entered into by the State Water Commission for the

Stutsman County water reuse facility project to include requirements that the users be bonded in proportion to their share of any project debt.

- Adds a Legislative Management study of the options available for providing a sustainable water supply to central and eastern North Dakota.
- Adds a section that provides the legislative intent that over the next four bienniums, \$150 million per biennium be provided for the implementation of the option identified in the Legislative Management study indicated in the preceding section.
- Removes Section 14 relating to incremental funding for the Western Area Water Supply Authority.
- Adds a section providing legislative intent that state funding be provided for a share of the nonfederal or local cost for construction of the lower Heart River, Morton County, flood control project.
- Adds a section restricting Western Area Water Supply Authority member entities from using industrial water sales relating to oil and gas exploration or production to repay debt or as collateral to secure debt.
- Adds a section requiring independent water providers and the Western Area Water Supply Authority to report to the Legislative Management's Water Topics Overview Committee.
- Adds a section requiring Southwest Pipeline Authority to report to the 65th Legislative Assembly.
- Amends Section 25 relating to a State Water Commission study.
- Creates a new section to North Dakota Century Code Chapter 61-02 relating to the Bank of North Dakota extending a line of credit to the State Water Commission for designated projects.
- Creates a new section to Chapter 61-02 relating to North Dakota outdoor heritage fund grants and their effect on local cost-share.
- Adds an emergency clause.