

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 1, after "Act" insert "to create and enact two new sections to chapter 61-02 of the North Dakota Century Code, relating to industrial use of fresh water dispensed for oil and gas industry users; to amend and reenact subsection 1 of section 57-51.1-07, section 61-02-02, subsection 1 of section 61-02-78, and sections 61-02-79 and 61-40-11 of the North Dakota Century Code, relating to the allocation of moneys in the oil extraction tax development fund, definitions, the infrastructure revolving loan fund, a Bank of North Dakota line of credit, and water rates of the western area water supply authority; to provide for a legislative management study; to provide for a state engineer study; to provide for a report to the legislative management; to provide legislative intent; to designate funding;"

Page 1, replace lines 11 through 14 with:

"Administrative and support services	\$5,535,618	\$100,154	\$5,635,772
Water and atmospheric resources	863,400,218	(127,322,401)	736,077,817
Total all funds	\$868,935,836	(\$127,222,247)	\$741,713,589
Full-time equivalent positions	97.00	(4.00)	93.00

SECTION 2. HEALTH INSURANCE INCREASE. The appropriation in section 1 of this Act includes the sum of \$277,612 of other funds, for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Page 2, after line 2, insert:

"SECTION 5. OIL AND GAS INDUSTRY FRESH WATER ROYALTY INCOME - APPROPRIATION - REPORT. In addition to the amounts appropriated in section 1 of this Act, there is appropriated from oil and gas industry fresh water royalty income deposited in the resources trust fund, the sum of \$8,300,000, or so much of the sum as may be necessary, to the state water commission for the purpose of repaying state-guaranteed loans, which were made to entities that sell fresh water to oil and gas industry users, for the biennium beginning July 1, 2017, and ending June 30, 2019. The state water commission shall notify the legislative management's water topics overview committee of any funding made available and payments made pursuant to this section."

Page 2, after line 9, insert:

"SECTION 7. STATE WATER COMMISSION PROJECT FUNDING DESIGNATIONS - TRANSFERS - BUDGET SECTION APPROVAL.

1. 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 and water development trust fund, \$299,875,000 is designated as follows:
 - a. \$30,000,000 for rural water supply projects;
 - b. \$44,125,000 for municipal water supply projects;
 - c. \$58,000,000 for regional water supply projects;

- d. \$1,000,000 for water conveyance projects;
 - e. \$150,000,000 for flood control or protection projects;
 - f. \$750,000 for irrigation projects; and
 - g. \$16,000,000 for general water management.
2. The funding designated in this section is for the specific purposes identified; however, the state water commission may transfer funding among these items, subject to budget section approval and upon notification to the legislative management's water topics overview committee.

SECTION 8. NORTHWEST AREA WATER SUPPLY PROJECT FUNDING. Any funding provided by the state water commission for the northwest area water supply project must be from funds made available through the line of credit authorized in section 18 of this Act before any other funds may be provided by the state water commission for the project during the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 9. LOAN AUTHORIZATION - APPROPRIATION - MINOT FLOOD CONTROL PROJECT FUNDING. The state water commission may obtain a loan from the Bank of North Dakota in an amount not to exceed \$110,000,000, the sum of which is appropriated to the state water commission for the purpose of defraying the expenses of the construction of phase one through phase four of the Minot flood control project, for the biennium beginning July 1, 2017, and ending June 30, 2019. The terms and conditions of the loan must be negotiated by the state water commission and the Bank of North Dakota, and the repayment of principal and interest on the loan must be from revenues deposited in the resources trust fund.

SECTION 10. LEGISLATIVE INTENT - MINOT FLOOD CONTROL PROJECT FUNDING. Except for the funding appropriated in section 9 of this Act, it is the intent of the sixty-fifth legislative assembly that the state water commission not provide any additional funding for flood control projects within the city limits of Minot during the 2019-21, 2021-23, and 2023-25 bienniums.

SECTION 11. WESTERN AREA WATER SUPPLY AUTHORITY - BANK OF NORTH DAKOTA LOAN - REPORTS. The Bank of North Dakota shall consolidate the \$40,000,000 loan to the western area water supply authority authorized in section 5 of chapter 20 of the 2013 Session Laws, the \$50,000,000 loan to the western area water supply authority authorized in section 2 of chapter 500 of the 2011 Session Laws, and the \$19,500,000 loan from funds appropriated to the state water commission from the resources trust fund in section 1 of chapter 20 of the 2013 Session Laws. The terms and conditions of the consolidation loan must be negotiated by the western area water supply authority and the Bank of North Dakota. If the authority defaults on its payment of principal or interest on the consolidation loan from the Bank of North Dakota authorized by this section, the authority is subject to the default provisions under section 61-40-09. The Bank of North Dakota shall report the terms of the consolidation loan upon its completion to the legislative management's water topics overview committee during the 2017-18 interim. The western area water supply authority shall provide its quarterly financial statements and industrial sales to the legislative council for the legislative management's water topics overview committee's review during the 2017-18 interim.

SECTION 12. WESTERN AREA WATER SUPPLY AUTHORITY DEBT SERVICE SHORTFALL - BUDGET SECTION APPROVAL. If the western area water supply authority defaults on its payment of the principal or interest on the consolidation loan provided for in section 11 of this Act, the Bank of North Dakota shall notify the legislative council, and the state water commission shall provide a payment, subject to budget section approval, to the Bank of North Dakota in an amount of the default as certified to the budget section by the Bank of North Dakota.

SECTION 13. STATE ENGINEER - FLOOD HAZARD RISK MANAGEMENT STUDY - ADDITIONAL INCOME - APPROPRIATION. The water and atmospheric resources line item in section 1 of this Act includes \$50,000, for the purpose of conducting a flood hazard risk management framework study and demonstration in section 14 of this Act, for the biennium beginning July 1, 2017, and ending June 30, 2019. The state engineer may seek funding from federal, local, and private sector co-funding partnerships. Any fees collected from data users and partners and any other funds from public or private sources, including federal grants and county revenue contributions, are appropriated to the state engineer for the study and for expanding the project to additional counties for the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - FLOOD HAZARD RISK MANAGEMENT. During the 2017-18 interim, the legislative management shall study issues related to the state's development of a statewide flood hazard risk management framework by granting authority to the state engineer to perform a study and proof of concept demonstration to implement statewide flood risk management capabilities for assessing, managing, and reducing property-specific flood risk.

1. In performing the study and proof of concept demonstration, the state engineer may leverage, coordinate, and partner with the North Carolina floodplain mapping program and with Cass, Ward, Richland, and Burleigh Counties and other counties to conduct the study and proof of concept demonstration. The state engineer shall acquire and leverage data necessary to support the study and proof of concept demonstration including:
 - a. Footprints and elevations from current and future light detection and ranging data collections that meet federal emergency management agency risk mapping, assessment, and planning standards;
 - b. First floor elevations and elevation certificates from local planning and zoning offices or light detection and ranging data;
 - c. Parcel, address, and imagery data necessary for individual property flood hazard identification, assessment, and reduction; and
 - d. Any other data the state engineer deems necessary to meet the objectives in creating the database.
2. To complete the pilot project, the state engineer shall:
 - a. Construct and maintain flood hazard and risk data in a spatial, relational database;
 - b. Disseminate flood hazard and risk data through a digital display environment prompted through dynamic querying;

- c. Coordinate, incentivize, and partner with a least one county to obtain the necessary parcel data and other data needed for this study and serve as the repository for the property flood risk dataset;
 - d. Establish a technical committee consisting of federal, state, local, and private sector stakeholders and providers to the greatest extent possible to allow data sharing, coordination, synergy, and partnering;
 - e. Work with the North Carolina floodplain mapping program to incorporate the property risk dataset into the multistate flood risk information system maintained by North Carolina, augment the dataset with federal emergency management agency digital flood insurance data, and assess any data or other gaps preventing this state's full use of the system;
 - f. Make the data publicly available on the state water commission's website in an easily accessible and useable format;
 - g. Provide technical assistance to data users, including reports and analysis as needed; and
 - h. Work with the federal emergency management agency and study counties to enable the communities and property owners to use the elevation, light detection and ranging, and other data provided on the website to submit letters of map amendment or revision to the federal emergency management agency.
3. The state engineer shall report to the legislative management as requested by the legislative management. At the conclusion of the study, the state engineer shall provide the following information to the legislative management:
- a. A description of the engineer's current cooperative technical flood mapping partnership with the federal emergency management agency and any additional authority, staffing, and funding required to create a fully independent and self-sustaining state flood mapping program in lieu of the federal emergency management agency program, including the processing of letters of map change;
 - b. A detailed estimate of overall program costs and flood risk reductions of a self-sustaining state flood mapping program; and
 - c. A county-by-county assessment of the private, county, state, and federal data and resources that are currently available as compared to the resources that would be required to fully use North Carolina's flood risk information system for flood risk management, including recommendations for improvement or the statewide expansion of the project established under this study and suggested funding mechanisms and alternatives for data dissemination, which may include a one-state online repository or the provision of data by local planning and zoning offices.

SECTION 15. AMENDMENT. Subsection 1 of section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

- 1. Twenty percent must be allocated and credited to the sinking fund established for payment of the state of North Dakota water development

bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds must be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund must be established in the state treasury and the funds therein must be deposited and invested as are other state funds to earn the maximum amount permitted by law which income must be deposited in the resources trust fund. ~~Five~~Three percent of the amount credited to the resources trust fund must be transferred no less than quarterly into the renewable energy development fund, not to exceed three million dollars per biennium. ~~One-half of one percent of the amount credited to the resources trust fund must be transferred no less than quarterly into the energy conservation grant fund not to exceed one million two hundred thousand dollars per biennium.~~ The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and are available to:

- a. The state water commission for planning for and construction of water-related projects, including rural water systems. These water-related projects must be those which the state water commission has the authority to undertake and construct pursuant to chapter 61-02; ~~and.~~
- b. The industrial commission for the funding of programs for development of renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.
- c. The department of commerce for the funding of programs for development of energy conservation and for the making of grants and loans relating to energy conservation.

SECTION 16. AMENDMENT. Section 61-02-02 of the North Dakota Century Code is amended and reenacted as follows:

61-02-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the state water commission.
2. "Cost of works" includes:
 - a. The cost of construction, the cost of all lands, property rights, water rights, easements, and franchises acquired which are deemed necessary for such construction;
 - b. The cost of all water rights acquired or exercised by the commission in connection with such works;
 - c. The cost of all machinery and equipment, financing charges, interest prior to and during construction and for a period not exceeding three years after the completion of construction;

- d. The cost of engineering and legal expenses, plans, specifications, surveys, estimates of cost, and other expenses necessary or incident to determining the feasibility or practicability of any project;
 - e. Administrative expenses;
 - f. The construction of the works and the placing of the same in operation; and
 - g. Such other expenses as may be necessary or incident to the financing authorized in this chapter, including funding of debt service, repair and replacement reserves, capitalized interest, and the payment of bond issuance costs.
3. "Fresh water" means fresh water of the state drawn from an underground or surface source in this state under an industrial use water permit, whether treated or untreated, and dispensed to an oil and gas industry user.
4. "Oil and gas industry user" means an enterprise engaged in exploration, drilling, or production of oil and gas, and includes businesses that transport water for use in the enterprise.
5. "Owner" includes all individuals, associations, corporations, limited liability companies, districts, municipalities, and other political subdivisions of this state having any title or interest in any properties, rights, water rights, easements, or franchises to be acquired.
- ~~4.6.~~ "Project" means any one of the works defined in subsection 5, or any combination of such works, which are physically connected or jointly managed and operated as a single unit.
- ~~5.7.~~ "Works" includes:
- a. All property rights, easements, and franchises relating thereto and deemed necessary or convenient for their operation;
 - b. All water rights acquired and exercised by the commission in connection with such works;
 - c. All means of conserving and distributing water, including without limiting the generality of the foregoing two subdivisions, reservoirs, dams, diversion canals, distributing canals, channels, lateral ditches, pumping units, mains, pipelines, treatment plants, and waterworks systems; and
 - d. All works for the conservation, control, development, storage, treatment, distribution, and utilization of water, including without limiting the generality of the foregoing subdivisions, works for the purpose of irrigation, flood control, watering stock, supplying water for public, domestic, industrial, and recreational use, fire protection, and the draining of lands injured or in danger of injury as a result of such water utilization.

SECTION 17. AMENDMENT. Subsection 1 of section 61-02-78 of the North Dakota Century Code is amended and reenacted as follows:

1. An infrastructure revolving loan fund is established on January 1, 2015, within the resources trust fund to provide loans for water supply, flood protection, or other water development and water management projects. Ten percent of oil extraction moneys deposited in the resources trust fund, not to exceed a total deposit from oil extraction moneys of twenty-five million dollars, are made available on a continuing basis for making loans in accordance with this section. Accounts may be established in the resources trust fund as necessary for its management and administration.

SECTION 18. AMENDMENT. Section 61-02-79 of the North Dakota Century Code is amended and reenacted as follows:

61-02-79. Bank of North Dakota - Line of credit.

The Bank of North Dakota shall extend a line of credit not to exceed ~~two hundred~~seventy-five 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 for ~~water supply projects in-suspense, water supply projects identified in section 19 of chapter 54 of the 2015-session laws, and water supply projects approved before June 30, 2017~~2019, and flood control projects that have approval for funding before June 30, ~~2017~~2019.

SECTION 19. Two new sections to chapter 61-02 of the North Dakota Century Code are created and enacted as follows:

Oil and gas industry fresh water royalty.

A royalty of seventy-five cents per one thousand gallons [3785.41 liters] is imposed on fresh water dispensed to an oil and gas industry user at a privately owned water depot or water-dispensing point in the state. For each privately owned water depot or water-dispensing point in this state which dispenses fresh water to an oil and gas industry user, the commission shall maintain water-metering devices in compliance with rules adopted by the commission.

Deposit of revenue.

The state water commission shall collect and transfer royalty payments collected under this chapter to the resources trust fund for the sole purpose of repaying state-guaranteed loans made to entities that sell fresh water to oil and gas industry users.

SECTION 20. AMENDMENT. Section 61-40-11 of the North Dakota Century Code is amended and reenacted as follows:

61-40-11. Water rates.

~~The authority shall develop~~industrial commission shall provide an industrial water depot and lateral retail rate ~~and present the rate to the industrial commission for approval. Any industrial water depot and lateral rate adjustment must have approval of the industrial commission before going into effect~~for the authority which is a competitive, floating, market rate. The authority shall develop domestic water rates that must include all costs for operation, maintenance, and operating and capital reserves,

and debt repayment of all infrastructure managed or constructed by the authority, with the exception of the costs identified in section 61-40-10 which are paid for by industrial water depot and lateral sales.

SECTION 21. TRANSFER - INFRASTRUCTURE REVOLVING LOAN FUND TO RESOURCES TRUST FUND. On July 1, 2017, the state treasurer shall transfer any oil extraction moneys exceeding \$25,000,000 which have been deposited in the infrastructure revolving loan fund from the infrastructure revolving loan fund to the resources trust fund.

SECTION 22. LEGISLATIVE MANAGEMENT STUDY - WESTERN AREA WATER SUPPLY AUTHORITY. During the 2017-18 interim, the legislative management shall study whether allowing private persons to lease the western area water supply industrial infrastructure and privatizing industrial sales will maximize industrial sales or otherwise be commensurate with repaying the western area water supply authority's debt to the state. The study must include identification and consideration of the collateral for the debt, the authority's cashflow and revenue, the current loan structure and financing stream, the equipment that may be privatized, and any other factors that are relevant and necessary to accomplish the objective of the study. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-sixth legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - House Action

	Base Budget	House Changes	House Version
Administrative and support services	\$5,535,618	\$100,154	\$5,635,772
Water and atmospheric resources	863,400,218	(127,322,401)	736,077,817
Minot flood control loan		110,000,000	110,000,000
Water authority debt payments		8,300,000	8,300,000
Total all funds	\$868,935,836	(\$8,922,247)	\$860,013,589
Less estimated income	868,935,836	(8,922,247)	860,013,589
General fund	\$0	\$0	\$0
FTE	97.00	(4.00)	93.00

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

	Adjusts Funding for Base Payroll Changes ¹	Adds Funding for Health Insurance Increases ²	Removes 4 FTE Positions ³	Increases Funding for the Bank of North Dakota Loan Repayment Program ⁴	Adds Funding for the Agriculture Commissioner's Wildlife Services Program ⁵	Adds Loan Funding for Minot Flood Control ⁶
Administrative and support services	\$71,150	\$35,690				
Water and atmospheric resources	251,550	241,922	(753,720)	3,693,997	125,000	
Minot flood control loan						110,000,000
Water authority debt payments						
Total all funds	\$322,700	\$277,612	(\$753,720)	\$3,693,997	\$125,000	\$110,000,000
Less estimated income	322,700	277,612	(753,720)	3,693,997	125,000	110,000,000
General fund	\$0	\$0	\$0	\$0	\$0	\$0

FTE 0.00 0.00 (4.00) 0.00 0.00 0.00

	Adds Funding From a Line of Credit for Water Projects ⁷	Adds Funding for a Flood Hazard Risk Management Study ⁸	Adjusts Funding for Agency Operations and Water Projects ⁹	Water Authority Debt Payments ¹⁰	Total House Changes
Administrative and support services			(\$6,686)		\$100,154
Water and atmospheric resources	75,000,000	50,000	(205,931,150)		(127,322,401)
Minot flood control loan					110,000,000
Water authority debt payments				8,300,000	8,300,000
Total all funds	\$75,000,000	\$50,000	(\$205,937,836)	\$8,300,000	(\$8,922,247)
Less estimated income	75,000,000	50,000	(205,937,836)	8,300,000	(8,922,247)
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	(4.00)

¹ Funding is added for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

² Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

³ Four FTE positions and related funding of \$753,720 are removed.

⁴ Funding of \$3,693,997 is added from the water development trust fund to provide a total of \$7,500,000 for loan payments on outstanding bonds that were refinanced during the 2015-17 biennium with the Bank of North Dakota.

⁵ Funding of \$125,000 from the resources trust fund is appropriated to the State Water Commission for the Agriculture Commissioner's wildlife services program. This is a reduction of \$125,000 from the 2015-17 biennium.

⁶ A section is added authorizing the State Water Commission to obtain a loan from the Bank of North Dakota and appropriating the proceeds to the State Water Commission for the construction of Phase 1 through 4 of the Minot flood control project.

⁷ Funding from a \$75 million line of credit from the Bank of North Dakota is added to make \$50 million available for water projects approved during the 2015-17 biennium and \$25 million for new water projects during the 2017-19 biennium.

⁸ Funding of \$50,000 from the resources trust fund is appropriated to the State Engineer to conduct a flood hazard risk management study.

⁹ Funding for the operations of the agency and water projects funding is adjusted to provide a total of \$299,875,000 for new water projects in the 2017-19 biennium from the resources trust fund and water development trust fund.

¹⁰ A section is added to provide an appropriation of \$8.3 million for oil and gas industry fresh water royalty income deposited in the resources trust fund to the State Water Commission for the purpose of repaying state-guaranteed loans, which were made to entities that sell fresh water to oil and gas industry users, for the 2017-19 biennium. The section requires the State Water Commission to report to Legislative Management's Water Topics Overview Committee any funding made available and payments made on the state-guaranteed loans.

This amendment also adds sections:

- Identifying the cost of the health insurance premium increase.
- Designating funding from the water and atmospheric resources line item in Section 1 to various project types and authorizes funding transfers between the designations subject to Budget Section approval.
- Requiring the State Water Commission to use funding from the Bank of North Dakota line of credit for the Northwest Area Water Supply Project before any other funding source.
- Providing legislative intent that the State Water Commission not provide any additional funding for flood control projects within the city limits of Minot during the 2019-21, 2021-23, and 2023-25 bienniums.
- Directing the Bank of North Dakota to consolidate Western Area Water Supply Authority loans, which includes a \$19.5 million loan from the resources trust fund.
- Directing the State Water Commission to provide a payment, subject to Budget Section approval, to the Bank of North Dakota if the Western Area Water Supply Authority defaults on its loan.
- Amending North Dakota Century Code Section 57-51.1-07 relating to the allocation of money in the oil extraction tax development fund. The amendment reduces the percentage of the resources trust fund which is allocated to the renewable energy development fund from 5 to 3 percent and removes all allocations to the energy conservation grant fund.
- Amending Section 61-02-02 relating to definitions for the State Water Commission. The amendment adds definitions for "fresh water" and "oil and gas industry user".
- Amending Section 61-02-78 relating to the infrastructure revolving loan fund. The amendment limits the total oil extraction money deposited in the infrastructure revolving loan fund to \$25 million.
- Directing the State Treasurer to transfer on July 1, 2017, all extraction money exceeding \$25 million that has been deposited in the infrastructure revolving loan fund from the infrastructure revolving loan fund to the resources trust fund.
- Amending Section 61-02-79 relating to the State Water Commission line of credit with the Bank of North Dakota. The amendment authorizes the State Water Commission to obtain a \$75 million line of credit with the Bank of North Dakota for the 2017-19 biennium.
- Amending Section 61-40-11 relating to Western Area Water Supply Authority industrial water rates. The amendment requires the Industrial Commission to set industrial water rates that are at a competitive, floating, market rate for the Western Area Water Supply Authority.
- Creating two new sections to Chapter 61-02 relating to oil and gas industry fresh water royalties.
- Provides for a Legislative Management study on the affects on repayment of state-guaranteed debt by allowing private persons to lease the Western Area Water Supply Authority's industrial infrastructure and privatizing industrial water sales.
- Providing for a Legislative Management and State Engineer study relating to flood hazard risk management.