

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED HOUSE BILL NO. 1020**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water  
2 commission; to provide an appropriation to the industrial commission; to amend and reenact  
3 section 57-51.1-07, subsection 10 of section 61-02-02, section 61-02-08, subsection 1 of  
4 section 61-02-78, section 61-02-79, the new section to chapter 61-03, as created by section 12  
5 of House Bill No. 1374, as approved by the sixty-fifth legislative assembly, and sections  
6 61-29-06, 61-40-05, and 61-40-11of the North Dakota Century Code, relating to the oil  
7 extraction tax development fund, the definition of water conveyance project, the state water  
8 commission chairman and vice chairman, the infrastructure revolving loan fund, a Bank of North  
9 Dakota line of credit, economic analyses for certain water projects, management of the Little  
10 Missouri scenic river, the authority of the western area water supply authority, and water rates of  
11 the western area water supply authority; to provide for budget section approval; to provide for a  
12 state engineer study; to provide for an industrial commission study; to provide for a legislative  
13 management study; to provide for reports; to provide a statement of legislative intent; to  
14 designate funding; to provide for a transfer; to provide exemptions; to provide a contingent  
15 effective date; to provide an effective date; to provide an expiration date; and to declare an  
16 emergency.

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

18 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
19 as may be necessary, are appropriated from special funds derived from federal funds and other  
20 income, to the state water commission for the purpose of defraying the expenses of the state  
21 water commission, for the biennium beginning July 1, 2017, and ending June 30, 2019, as  
22 follows:

23		Adjustments or	
24	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>

1	Administrative and support services	\$5,535,618	\$97,568	\$5,633,186
2	Water and atmospheric resources	<u>863,400,218</u>	<u>(146,859,929)</u>	<u>716,540,289</u>
3	Total all funds	\$868,935,836	(\$146,762,361)	\$722,173,475
4	Full-time equivalent positions	97.00	(4.00)	93.00

5       **SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act  
6 includes the sum of \$257,498 of other funds, for increases in employee health insurance  
7 premiums from \$1,130 to \$1,241 per month.

8       **SECTION 3. ADDITIONAL INCOME - APPROPRIATION - BUDGET SECTION**

9       **APPROVAL.** In addition to the amounts appropriated in section 1 of this Act, any additional  
10 amounts in the resources trust fund and water development trust fund which become available  
11 are appropriated, subject to budget section approval, to the state water commission for the  
12 purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2017, and  
13 ending June 30, 2019.

14       **SECTION 4. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.**

15 Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the  
16 water and atmospheric resources line item in section 1 of this Act. However, this exclusion is  
17 only in effect for two years after June 30, 2019. Any unexpended funds appropriated from the  
18 resources trust fund after that period has expired must be transferred to the resources trust fund  
19 and any unexpended funds appropriated from the water development trust fund after that period  
20 has expired must be transferred to the water development trust fund.

21       **SECTION 5. STATE WATER COMMISSION PROJECT FUNDING DESIGNATIONS -**  
22 **TRANSFERS - BUDGET SECTION APPROVAL.**

- 23       1. Of the funds appropriated in the water and atmospheric resources line item in section  
24       1 of this Act from funds available in the resources trust fund and water development  
25       trust fund, \$298,875,000 is designated as follows:
- 26       a. \$120,125,000 for water supply;
  - 27       b. \$27,000,000 for rural water supply;
  - 28       c. \$136,000,000 for flood control; and
  - 29       d. \$15,750,000 for general water.
- 30       2. The funding designated in this section is for the specific purposes identified; however,  
31       the state water commission may transfer funding among these items, subject to

1 budget section approval and upon notification to the legislative management's water  
2 topics overview committee.

3 **SECTION 6. LEGISLATIVE INTENT - MOUSE RIVER FLOOD CONTROL PROJECT**

4 **FUNDING.** Except for funding provided during bienniums prior to the 2017-19 biennium, it is the  
5 intent of the sixty-fifth legislative assembly that the state provide no more than \$193,000,000 of  
6 state funding for Mouse River flood control projects within the city limits of Minot. It is the intent  
7 of the sixty-fifth legislative assembly that the \$193,000,000 be made available during the  
8 2017-19, 2019-21, 2021-23, and 2023-25 bienniums.

9 **SECTION 7. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY PROJECT -**

10 **BUDGET SECTION APPROVAL.** It is the intent of the sixty-fifth legislative assembly that the  
11 state water commission provide, in the form of a grant, up to \$30,000,000, of which  
12 \$17,000,000 is for the completion of the planning and permitting process and \$13,000,000 is to  
13 initiate construction of phase one prioritized project features identified in accordance with  
14 subsection 2 of section 8 of this Act, to the Garrison diversion conservancy district for the Red  
15 River valley water supply project, for the biennium beginning July 1, 2017, and ending June 30,  
16 2019. The Garrison diversion conservancy district must receive budget section approval prior to  
17 changing any funding between designations identified in this section.

18 **SECTION 8. RED RIVER VALLEY WATER SUPPLY PROJECT - REPORT TO**

19 **LEGISLATIVE MANAGEMENT - BUDGET SECTION APPROVAL.** Any funding received by the  
20 Garrison diversion conservancy district from the state water commission for the Red River  
21 valley water supply project during the biennium beginning July 1, 2017, and ending June 30,  
22 2019, is subject to the following requirements:

- 23 1. Any funding received for the completion of the planning and permitting process of the  
24 Red River valley water supply project must result in the following accomplishments:
- 25 a. The completed Red River valley water supply plan document that will be the  
26 basis and justification for project construction and must include alternative  
27 selection, water supply needs, projected project costs, easement acquisitions,  
28 environmental regulation compliance to include the Boundary Waters Treaty of  
29 1909, and an implementation schedule;

- 1           b. Acquisition of all state and federal permits required for the construction of any
  - 2           project features intended to be constructed with funding provided during the
  - 3           2017-19 biennium;
  - 4           c. A signed bureau of reclamation water service contract agreeing to a minimum of
  - 5           one hundred sixty-five cubic feet per second over a minimum of forty years or
  - 6           equivalent to ensure an adequate water source for the project's needs;
  - 7           d. Prioritized project features for phase one construction; and
  - 8           e. A recommendation for funding options for all phases of the Red River valley
  - 9           water supply project.
- 10        2. Any funding received to initiate construction of phase one prioritized project features
  - 11        identified in subsection 1 may be spent and construction of phase one may begin only
  - 12        after the budget section receives and approves certification from the state water
  - 13        commission and the state engineer that all items listed in subsection 1 have been
  - 14        accomplished.
  - 15        3. Quarterly progress reports on the Red River valley water supply project from the
  - 16        Garrison diversion conservancy district to the water topics overview committee of the
  - 17        legislative management, during the 2017-18 interim.

18           **SECTION 9. WESTERN AREA WATER SUPPLY AUTHORITY - BANK OF NORTH**

19        **DAKOTA LOAN - REPORTS.** Notwithstanding section 5 of chapter 500 of the 2011 Session  
20        Laws, the Bank of North Dakota shall consolidate the \$40,000,000 loan to the western area  
21        water supply authority authorized in section 5 of chapter 20 of the 2013 Session Laws, the  
22        \$50,000,000 loan to the western area water supply authority authorized in section 2 of chapter  
23        500 of the 2011 Session Laws, and the \$25,000,000 loan from the general fund to the western  
24        area water supply authority authorized in section 3 of chapter 500 of the 2011 Session Laws.  
25        The terms and conditions of the consolidation loan must be negotiated by the western area  
26        water supply authority and the Bank of North Dakota. The western area water supply authority  
27        is not obligated to repay principal on loans from the resources trust fund for the period  
28        beginning July 1, 2017, and ending June 30, 2018. The interest rate on the \$10,000,000 loan to  
29        the western area water supply authority authorized in section 4 of chapter 500 of the 2011  
30        Session Laws must be 2.5 percent on any outstanding balance remaining after the effective  
31        date of this Act. The Bank of North Dakota shall report the terms of the consolidation loan upon

1 its completion to the legislative management's water topics overview committee during the  
2 2017-18 interim. The western area water supply authority shall provide its monthly financial  
3 statements and industrial sales to the legislative council for the legislative management's water  
4 topics overview committee's review during the 2017-18 interim.

5 **SECTION 10. WESTERN AREA WATER SUPPLY AUTHORITY DEBT SERVICE**

6 **SHORTFALL - BUDGET SECTION APPROVAL.** If the western area water supply authority  
7 defaults on its payment of the principal or interest on the consolidation loan provided for in  
8 section 9 of this Act or the revenue bonds or other financing provided for in section 12 of this  
9 Act, the Bank of North Dakota shall notify the legislative council, and the state water  
10 commission shall provide a payment, subject to budget section approval, to the Bank of North  
11 Dakota in an amount of the default as certified to the budget section by the Bank of North  
12 Dakota.

13 **SECTION 11. APPROPRIATION - INDUSTRIAL COMMISSION STUDY - WESTERN**

14 **AREA WATER SUPPLY AUTHORITY - REPORT TO LEGISLATIVE MANAGEMENT.** There is  
15 appropriated out of any moneys in the resources trust fund, in the state treasury, the sum of  
16 \$150,000, or so much of the sum as may be necessary, to the industrial commission for the  
17 purpose of conducting an independent study of the feasibility and desirability of the sale or  
18 lease of the industrial water supply assets of the western area water supply authority, for the  
19 period beginning with the effective date of this Act, and ending June 30, 2019. The study must  
20 provide information regarding the financial impact to the western area water supply authority, its  
21 members and customers, the financial viability of the authority, and options available to the  
22 authority for debt servicing. The industrial commission may form a nonvoting advisory  
23 committee chaired by the state engineer to provide input regarding the scope of the study and  
24 to receive reports on the status of the study. The industrial commission shall report to the  
25 legislative management's interim water topics overview committee on the results of the study by  
26 June 1, 2018.

27 **SECTION 12. ACTIONS RESULTING FROM THE WESTERN AREA WATER SUPPLY**  
28 **AUTHORITY STUDY.**

29 1. If the industrial commission determines, based on the study directed in section 11 of  
30 this Act, that it is feasible and desirable to lease or sell the industrial water supply  
31 assets of the western area water supply authority, the industrial commission shall

1           develop a timeline to complete the lease or the sale of the industrial water assets of  
2           the western area water supply authority and report to the legislative management's  
3           interim water topics overview committee.

4           2. If the industrial commission determines, based on the study directed in section 11 of  
5           this Act, that it is not feasible and desirable to lease or sell the industrial water supply  
6           assets of the western area water supply authority, notwithstanding section 5 of chapter  
7           500 of the 2011 Session Laws, the western area water supply authority shall, with the  
8           assistance of the industrial commission and the Bank of North Dakota, repay its  
9           obligations to the Bank of North Dakota through the issuance of revenue bonds or  
10          other financing options acceptable to the industrial commission and Bank of North  
11          Dakota.

12           **SECTION 13. STATE ENGINEER - FLOOD HAZARD RISK MANAGEMENT STUDY -**  
13   **ADDITIONAL INCOME - APPROPRIATION.** The water and atmospheric resources line item in  
14   section 1 of this Act includes \$30,000 of which \$15,000 is from the resources trust fund and  
15   \$15,000 of other funds received from Ward County, for the purpose of conducting a flood  
16   hazard risk management framework study and demonstration in section 14 of this Act, for the  
17   biennium beginning July 1, 2017, and ending June 30, 2019. The state engineer may seek  
18   funding from federal, local, and private sector co-funding partnerships. Any fees collected from  
19   data users and partners and any other funds from public or private sources, including federal  
20   grants and county revenue contributions, are appropriated to the state engineer for the study  
21   and for expanding the project to additional counties for the biennium beginning July 1, 2017,  
22   and ending June 30, 2019.

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

29          1. In performing the study and proof of concept demonstration, the state engineer may  
30          leverage, coordinate, and partner with the North Carolina floodplain mapping program  
31          and with Ward County to conduct the study and proof of concept demonstration. The

- 1 state engineer shall acquire and leverage data necessary to support the study and  
2 proof of concept demonstration including:
- 3 a. Footprints and elevations from current and future light detection and ranging data  
4 collections that meet federal emergency management agency risk mapping,  
5 assessment, and planning standards;
  - 6 b. First floor elevations and elevation certificates from local planning and zoning  
7 offices or light detection and ranging data;
  - 8 c. Parcel, address, and imagery data necessary for individual property flood hazard  
9 identification, assessment, and reduction; and
  - 10 d. Any other data the state engineer deems necessary to meet the objectives in  
11 creating the database.
- 12 2. To complete the pilot project, the state engineer shall:
- 13 a. Construct and maintain flood hazard and risk data in a spatial, relational  
14 database;
  - 15 b. Disseminate flood hazard and risk data through a digital display environment  
16 prompted through dynamic querying;
  - 17 c. Coordinate, incentivize, and partner with a least one county to obtain the  
18 necessary parcel data and other data needed for this study and serve as the  
19 repository for the property flood risk dataset;
  - 20 d. Establish a technical committee consisting of federal, state, local, and private  
21 sector stakeholders and providers to the greatest extent possible to allow data  
22 sharing, coordination, synergy, and partnering;
  - 23 e. Work with the North Carolina floodplain mapping program to incorporate the  
24 property risk dataset into the multistate flood risk information system maintained  
25 by North Carolina, augment the dataset with federal emergency management  
26 agency digital flood insurance data, and assess any data or other gaps  
27 preventing this state's full use of the system;
  - 28 f. Make the data publicly available on the state water commission's website in an  
29 easily accessible and useable format;
  - 30 g. Provide technical assistance to data users, including reports and analysis as  
31 needed; and

- 1           h. Work with the federal emergency management agency and the study county to  
2           enable the communities and property owners to use the elevation, light detection  
3           and ranging, and other data provided on the website to submit letters of map  
4           amendment or revision to the federal emergency management agency.
- 5           3. The state engineer shall report to the legislative management as requested by the  
6           legislative management. At the conclusion of the study, the state engineer shall  
7           provide the following information to the legislative management:
- 8           a. A description of the engineer's current cooperative technical flood mapping  
9           partnership with the federal emergency management agency and any additional  
10          authority, staffing, and funding required to create a fully independent and  
11          self-sustaining state flood mapping program in lieu of the federal emergency  
12          management agency program, including the processing of letters of map change;
- 13          b. A detailed estimate of overall program costs and flood risk reductions of a  
14          self-sustaining state flood mapping program; and
- 15          c. A county assessment of the private, county, state, and federal data and resources  
16          that are currently available as compared to the resources that would be required  
17          to fully use North Carolina's flood risk information system for flood risk  
18          management, including recommendations for improvement or the statewide  
19          expansion of the project established under this study and suggested funding  
20          mechanisms and alternatives for data dissemination, which may include a  
21          one-state online repository or the provision of data by local planning and zoning  
22          offices.

23           **SECTION 15. AMENDMENT.** Section 57-51.1-07 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25           **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

26           Moneys deposited in the oil extraction tax development fund must be transferred monthly by  
27 the state treasurer as follows:

- 28           1. Twenty percent must be allocated and credited to the sinking fund established for  
29           payment of the state of North Dakota water development bonds, southwest pipeline  
30           series, and any moneys in excess of the sum necessary to maintain the accounts  
31           within the sinking fund and for the payment of principal and interest on the bonds must



1 be credited to a special trust fund, to be known as the resources trust fund. The  
2 resources trust fund must be established in the state treasury and the funds therein  
3 must be deposited and invested as are other state funds to earn the maximum amount  
4 permitted by law which income must be deposited in the resources trust fund.  
5 ~~Five~~Three percent of the amount credited to the resources trust fund must be  
6 transferred no less than quarterly into the renewable energy development fund, not to  
7 exceed three million dollars per biennium. One-half of one percent of the amount  
8 credited to the resources trust fund must be transferred no less than quarterly into the  
9 energy conservation grant fund not to exceed ~~one million~~ two hundred thousand  
10 dollars per biennium. The principal and income of the resources trust fund may be  
11 expended only pursuant to legislative appropriation and are available to:

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

- 24 2. Twenty percent must be allocated to the common schools trust fund and foundation  
25 aid stabilization fund as provided in section 24 of article X of the Constitution of North  
26 Dakota.
- 27 3. Thirty percent must be allocated to the legacy fund as provided in section 26 of  
28 article X of the Constitution of North Dakota.
- 29 4. Thirty percent must be allocated and credited to the state's general fund.

30 **SECTION 16. AMENDMENT.** Section 57-51.1-07 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

2           Moneys deposited in the oil extraction tax development fund must be transferred monthly by  
3 the state treasurer as follows:

4           1.   Twenty percent must be allocated and credited to the sinking fund established for  
5           payment of the state of North Dakota water development bonds, southwest pipeline  
6           series, and any moneys in excess of the sum necessary to maintain the accounts  
7           within the sinking fund and for the payment of principal and interest on the bonds must  
8           be credited to a special trust fund, to be known as the resources trust fund. The  
9           resources trust fund must be established in the state treasury and the funds therein  
10          must be deposited and invested as are other state funds to earn the maximum amount  
11          permitted by law which income must be deposited in the resources trust fund. Three  
12          percent of the amount credited to the resources trust fund must be transferred no less  
13          than quarterly into the renewable energy development fund, not to exceed three  
14          million dollars per biennium. One-half of one percent of the amount credited to the  
15          resources trust fund must be transferred no less than quarterly into the energy  
16          conservation grant fund not to exceed one million two hundred thousand dollars per  
17          biennium. The principal and income of the resources trust fund may be expended only  
18          pursuant to legislative appropriation and are available to:

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

1           2.   Twenty percent must be allocated to the common schools trust fund and foundation  
2           aid stabilization fund as provided in section 24 of article X of the Constitution of North  
3           Dakota.

4           3.   Thirty percent must be allocated to the legacy fund as provided in section 26 of  
5           article X of the Constitution of North Dakota.

6           4.   Thirty percent must be allocated and credited to the state's general fund.

7           **SECTION 17. AMENDMENT.** Subsection 10 to section 61-02-02 of the North Dakota  
8   Century Code as amended by section 3 of House Bill No. 1374, as approved by the sixty-fifth  
9   legislative assembly, is amended and reenacted as follows:

10          10.   "Water conveyance project" means any surface ~~or subsurface~~ drainage works, bank  
11           stabilization, or snagging an clearing of water courses.

12          **SECTION 18. AMENDMENT.** Section 61-02-08 of the North Dakota Century Code as  
13   amended by section 6 of House Bill No. 1374, as approved by the sixty-fifth legislative  
14   assembly, is amended and reenacted as follows:

15          **61-02-08. Meetings of commission.**

16          The commission shall hold at least one meeting every two months at places as it, by  
17   resolution, may provide. The governor shall serve as chairman, and the commission shall select  
18   a member of the commission to serve as vice chairman. The chairman, or in the chairman's  
19   absence or disability, the vice chairman of the commission, may issue a call for any meeting at  
20   any time. The governor, ~~as chairman,~~ or governor's appointed representative shall preside at all  
21   meetings of the commission ~~and in case of the governor's,~~ and in case of the absence or  
22   disability ~~of the governor and governor's appointed representative,~~ the vice chairman shall  
23   preside. ~~The seven appointed members of the commission shall select an appointed member to~~  
24   ~~serve as vice chairman of the commission.~~

25          **SECTION 19. AMENDMENT.** Subsection 1 of section 61-02-78 of the North Dakota  
26   Century Code is amended and reenacted as follows:

27          1.   An infrastructure revolving loan fund is established on January 1, 2015, within the  
28           resources trust fund to provide loans for water supply, flood protection, or other water  
29           development and water management projects. Ten percent of oil extraction moneys  
30           deposited in the resources trust fund, not to exceed a total deposit from oil extraction  
31           moneys of twenty-six million dollars, are made available on a continuing basis for

1 making loans in accordance with this section. Accounts may be established in the  
2 resources trust fund as necessary for its management and administration.

3 **SECTION 20. AMENDMENT.** Section 61-02-79 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **61-02-79. Bank of North Dakota - Line of credit.**

6 The Bank of North Dakota shall extend a line of credit not to exceed ~~two hundred seventy-~~  
7 five million dollars at a rate ~~that of one and one-half percent over the three month London~~  
8 interbank offered rate, but may not exceed ~~one and three-quarters~~three percent to the state  
9 water commission. The state water commission shall repay the line of credit from funds  
10 available in the resources trust fund, water development trust fund, or other funds, as  
11 appropriated by the legislative assembly. The state water commission may access the line of  
12 credit, as necessary, to provide funding as authorized by the legislative assembly for ~~water-~~  
13 ~~supply projects in suspense, water supply projects identified in section 19 of chapter 54 of the~~  
14 ~~2015 session laws, and~~ water supply projects approved before June 30, ~~2017~~2019, and flood  
15 control projects that have approval for funding before June 30, ~~2017~~2019.

16 **SECTION 21.** The new section to chapter 61-03 of the North Dakota Century Code created  
17 by section 12 of House Bill No. 1374, as approved by the sixty-fifth legislative assembly, is  
18 amended and reenacted as follows:

19 **Economic analysis process required for certain projects.**

20 The state engineer shall develop an economic analysis process for water conveyance  
21 projects and flood-related projects expected to cost more than ~~seven hundred fifty thousand~~one  
22 million dollars, and a life cycle analysis process for municipal water supply projects. When the  
23 state water commission is considering whether to fund a water conveyance project, flood-  
24 related project, or water supply project, the state engineer shall review the economic analysis or  
25 life cycle analysis, and inform the state water commission of the findings from the analysis and  
26 review.

27 **SECTION 22. AMENDMENT.** Section 61-29-06 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **61-29-06. Management.**

30 Channelization, reservoir construction, or diversion other than for agricultural or\_  
31 recreational, or temporary use purposes and the dredging of waters within the confines of the

1 Little Missouri scenic river and all Little Missouri River tributary streams are expressly  
2 prohibited. Flood control dikes may be constructed within the floodplain of the Little Missouri  
3 River. Diking and riprapping for bank erosion control shall be permitted within the confines of  
4 the Little Missouri scenic river. The construction of impoundments for any purpose on the Little  
5 Missouri mainstream shall be prohibited.

6 This chapter shall in no way affect or diminish the rights of owners of the land bordering the  
7 river to use the waters for domestic purposes, including livestock watering, or any other rights of  
8 riparian landowners.

9 **SECTION 23. AMENDMENT.** Section 61-40-05 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **61-40-05. Authority of the western area water supply authority.**

12 In addition to authority declared under section 61-40-01, the board of directors of the  
13 western area water supply authority may:

- 14 1. Sue and be sued in the name of the authority.
- 15 2. Exercise the power of eminent domain in the manner provided by title 32 or as  
16 described in this chapter for the purpose of acquiring and securing any right, title,  
17 interest, estate, or easement necessary or proper to carry out the duties imposed by  
18 this chapter, and particularly to acquire the necessary rights in land for the  
19 construction of an entire part of any pipeline, reservoir, connection, valve, pumping  
20 installation, or other facility for the storage, transportation, or utilization of water and all  
21 other appurtenant facilities used in connection with the authority. However, if the  
22 interest sought to be acquired is a right of way for any project authorized in this  
23 chapter, the authority, after making a written offer to purchase the right of way and  
24 depositing the amount of the offer with the clerk of the district court of the county in  
25 which the right of way is located, may take immediate possession of the right of way,  
26 as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty  
27 days after notice has been given in writing to the landowner by the clerk of the district  
28 court that a deposit has been made for the taking of a right of way as authorized in this  
29 subsection, the owner of the property taken may appeal to the district court by serving  
30 a notice of appeal upon the acquiring agency, and the matter must be tried at the next

1 regular or special term of court with a jury unless a jury be waived, in the manner  
2 prescribed for trials under chapter 32-15.

3 3. Accept funds, property, services, pledges of security, or other assistance, financial or  
4 otherwise, from federal, state, and other public or private sources for the purpose of  
5 aiding and promoting the construction, maintenance, and operation of the authority.

6 The authority may cooperate and contract with the state or federal government, or any  
7 department or agency of state or federal government, or any city, water district, or  
8 water system within the authority, in furnishing assurances and meeting local  
9 cooperation requirements of any project involving treatment, control, conservation,  
10 distribution, and use of water.

11 4. Cooperate and contract with the agencies or political subdivisions of this state or other  
12 states, in research and investigation or other activities promoting the establishment,  
13 construction, development, or operation of the authority.

14 5. Appoint and fix the compensation and reimbursement of expenses of employees as  
15 the board determines necessary to conduct the business and affairs of the authority  
16 and to procure the services of engineers and other technical experts, and to retain  
17 attorneys to assist, advise, and act for the authority in its proceedings.

18 6. Operate and manage the authority to distribute water to authority members and others  
19 within or outside the territorial boundaries of the authority and this state.

20 7. Hold, own, sell, or exchange any and all property purchased or acquired by the  
21 authority. All money received from any sale or exchange of property must be deposited  
22 to the credit of the authority and may be used to pay expenses of the authority.

23 8. Enter contracts to obtain a supply of bulk water through the purchase of infrastructure,  
24 bulk water sale or lease, which contracts may provide for payments to fund some or all  
25 of the authority's costs of acquiring, constructing, or reconstructing one or more water  
26 supply or infrastructure.

27 9. Acquire, construct, improve, and own water supply infrastructure, office and  
28 maintenance space in phases, in any location, and at any time.

29 10. Enter contracts to provide for a bulk sale, lease, or other supply of water for beneficial  
30 use to persons within or outside the authority. The contracts may provide for payments  
31 to fund some or all of the authority's costs of acquiring, constructing, or reconstructing

1 one or more water system projects, as well as the authority's costs of operating and  
2 maintaining one or more projects, whether the acquisition, construction, or  
3 reconstruction of any water supply project actually is completed and whether water  
4 actually is delivered pursuant to the contracts. The contracts the cities, water districts,  
5 and other entities that are members of the western area water supply authority are  
6 authorized to execute are without limitation on the term of years.

7 11. Borrow money as provided in this chapter.

8 12. Make all contracts, execute all instruments, and do all things necessary or convenient  
9 in the exercise of its powers or in the performance of its covenants or duties or in order  
10 to secure the payment of its obligations, but an encumbrance, mortgage, or other  
11 pledge of property of the authority may not be created by any contract or instrument.

12 13. Accept from any authorized state or federal agency loans or grants for the planning,  
13 construction, acquisition, lease, or other provision of a project, and enter agreements  
14 with the agency respecting the loans or grants. Other than state-guaranteed loans,  
15 additional debt that may form the basis of a claim for territorial or franchise protection  
16 for industrial water sales for oil and gas exploration and production may be acquired  
17 by the authority or member entities only upon approval by the industrial commission  
18 and the emergency commission.

19 14. Contract debts and borrow money, pledge property of the authority for repayment of  
20 indebtedness, and provide for payment of debts and expenses of the authority.

21 15. Operate and manage the authority to distribute water to any out-of-state cities or water  
22 systems that contract with the authority.

23 16. Accept, apply for, and hold water allocation permits.

24 17. Adopt rules concerning the planning, management, operation, maintenance, sale, and  
25 ratesetting regarding water sold by the authority. The authority may adopt a rate  
26 structure with elevated rates set for project industrial water depot and lateral supplies  
27 in recognition that a large component of the project expense is being incurred to meet  
28 the demands of industrial users. The industrial water depot and lateral rate structure  
29 must be approved in accordance with section 61-40-11.

30 18. Develop water supply systems; store and transport water; and provide, contract for,  
31 and furnish water service for domestic, municipal, and rural water purposes; milling,

1 manufacturing, mining, industrial, metallurgical, and any and all other beneficial uses;  
2 and fix the terms and rates therefore. The authority may acquire, construct, operate,  
3 and maintain dams, reservoirs, ground water storage areas, canals, conduits,  
4 pipelines, tunnels, and any and all treatment plants, works, facilities, improvements,  
5 and property necessary the same without any required public vote before taking  
6 action.

7 19. Contract to purchase or improve water supply infrastructure or to obtain bulk water  
8 supplies without requiring any vote of the public on the projects or contracts. In relation  
9 to the initial construction of the system and for the purposes of entering a contract with  
10 the authority, municipalities are exempt from the public voting requirements or water  
11 contract duration limitations otherwise imposed by section 40-33-16.

12 20. Accept assignment by member entities of contracts that obligate member entities to  
13 provide a water supply, contracts that relate to construction of water system  
14 infrastructure, or other member entity contracts that relate to authorities transferred to  
15 the authority under this chapter.

16 21. Issue revenue bonds to repay its loan obligations to the Bank of North Dakota. For the  
17 purpose of issuing such revenue bonds, the provisions of chapters 40-35 and 40-36  
18 apply to the extent necessary and consistent with section 12 of this Act.

19 **SECTION 24. AMENDMENT.** Section 61-40-11 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **61-40-11. Water rates.**

22 ~~The authority shall develop an industrial water depot and lateral retail rate and present the~~  
23 ~~rate to the industrial commission for approval. Any industrial water depot and lateral rate~~  
24 ~~adjustment must have approval of the industrial commission before going into effect~~The  
25 industrial commission may authorize the authority to contract at competitive, floating, market  
26 rates for industrial water depot and lateral retail sales. The authority shall provide a report on  
27 the rates to the commission and legislative management's water topics overview committee on  
28 a regular basis. The authority shall develop domestic water rates that must include all costs for  
29 operation, maintenance, and operating and capital reserves, and debt repayment of all  
30 infrastructure managed or constructed by the authority, with the exception of the costs identified  
31 in section 61-40-10 which are paid for by industrial water depot and lateral sales.



1       **SECTION 25. TRANSFER - INFRASTRUCTURE REVOLVING LOAN FUND TO**

2       **RESOURCES TRUST FUND.** On July 1, 2017, the state treasurer shall transfer any oil  
3       extraction moneys exceeding \$26,000,000 which have been deposited in the infrastructure  
4       revolving loan fund from the infrastructure revolving loan fund to the resources trust fund.

5       **SECTION 26. LEGISLATIVE MANAGEMENT STUDY - OIL AND GAS INDUSTRIAL**

6       **WATER USE.** During the 2017-18 interim, the legislative management shall study industrial  
7       water use of the oil and gas industry. The study must include the recapture of water used in  
8       fracking, the recycling of water used in fracking, and other oil and gas activities, fracking  
9       methods which do not require the use of water, and taxes or fees other states charge for water  
10      used in the oil and gas industry.

11      **SECTION 27. STATE WATER COMMISSION - 2019-21 BIENNIUM BUDGET.** The state  
12      water commission, in accordance with section 54-44.1-04, shall prepare its 2019-21 biennium  
13      budget request and the office of management and budget shall prepare the draft appropriations  
14      Act under section 54-44.1-16 for the state water commission for consideration by the sixty-sixth  
15      legislative assembly with funding provided separately in a salaries and wages line item,  
16      operating expenses line item, capital assets line item, project carryover line item, new projects  
17      line item, and any additional line items as determined necessary by the commission or the office  
18      of management and budget. The state water commission shall present funding for projects in a  
19      manner consistent with the funding designations identified in section 5 of this Act, for the  
20      2019-21 biennium.

21      **SECTION 28. EFFECTIVE DATE - EXPIRATION DATE.** Section 15 of this Act becomes  
22      effective on August 1, 2017, is effective through July 31, 2019, and after that date is ineffective.  
23      Section 16 of this Act becomes effective on August 1, 2019. Sections 17, 18, and 21 of this Act  
24      become effective on August 1, 2017.

25      **SECTION 29. CONTINGENT EFFECTIVE DATE.** Section 23 of this Act is contingent on  
26      certification by the industrial commission to the legislative council that the industrial commission  
27      has determined the western area water supply authority shall, with the assistance of the  
28      industrial commission and the Bank of North Dakota, repay its obligations to the Bank of North  
29      Dakota through the issuance of revenue bonds, as provided under subsection 2 of section 12 of  
30      this Act.

- 1       **SECTION 30. EMERGENCY.** Sections 9, 10, 11, 12, 22, 23, and 29 of this Act are declared
- 2       to be an emergency measure.