

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1020  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6-09.5-03 of the North Dakota Century Code and section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, relating to the community water facility loan fund and the water-related topics overview committee; to provide for legislative management reports; to provide for a loan from the Bank of North Dakota; and to declare an emergency.

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

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498,413,774</u>	<u>324,194,592</u>	<u>822,608,366</u>
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0
Full-time equivalent positions	87.00	3.00	90.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

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

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

**SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and support services line item in section 1 of this Act includes \$135,000 from the resources trust fund that the state water commission shall provide as a grant to the game and fish department for law enforcement

activities on sovereign lands in the state, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts included in the estimated income line item in section 1 of this Act, any additional amounts in the resources trust fund and water development trust fund that become available are appropriated, subject to budget section approval, to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY.** The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09.

**SECTION 6. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.** Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the water and atmospheric resources line item in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2015. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.

**SECTION 7. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION.** Except for the construction of ring dikes and levees, construction relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

**SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING.** Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

**SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.** Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States army corps of engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States army corps of engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

**SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums.

**SECTION 11. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is

for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects, including levees and dikes. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

**SECTION 12. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 13. LEGISLATIVE INTENT - BOND PAYMENTS.** Of the funds appropriated in section 1 of this Act, \$60,000,000 in the water and atmospheric resources line item is from the resources trust fund for the purposes of paying off or defeasing outstanding bond issues. The state water commission may expend funds for this purpose only if available funding from the resources trust fund for water projects for the biennium beginning July 1, 2013, and ending June 30, 2015, has exceeded \$287,000,000.

**SECTION 14. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE BUDGET SECTION.** The state water commission shall report to the budget section every six months during the 2013-14 interim regarding any changes made to the state water commission priority projects list presented to the sixty-third legislative assembly for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION.** During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak upstream coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs.

**SECTION 16. AMENDMENT.** Section 6-09.5-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 17. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

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

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to

~~develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members, and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.~~

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

\_\_\_\_\_  
Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1020 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 75                      Nays 17                      Absent 2

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 39                      Nays 7                      Absent 1

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President of the Senate

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State