

**FIRST ENGROSSMENT  
with House Amendments  
ENGROSSED SENATE BILL NO. 2020**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water  
2 commission; to create and enact a new section to chapter 61-04 of the North Dakota Century  
3 Code, relating to metering certain water sources; to amend and reenact section 7 of chapter 20  
4 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide  
5 exemptions; to provide legislative intent; to provide for retroactive application; and to declare an  
6 emergency.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
9 as may be necessary, are appropriated out of any moneys in the general fund in the state  
10 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
11 other income, to the state water commission for the purpose of defraying the expenses of that  
12 agency, for the biennium beginning with the effective date of this Act, and ending June 30, 2013,  
13 as follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
16 Grants local cost-share	\$0	\$500,000	\$500,000
17 Beaver bay feasibility study	342,000	(342,000)	0
18 Administrative and support services	2,977,674	252,199	3,229,873
19 Water and atmospheric resources	307,768,034	140,145,740	447,913,774
20 Federal stimulus funds	<u>0</u>	<u>7,271,773</u>	<u>7,271,773</u>
21 Total all funds	\$311,087,708	\$147,827,712	\$458,915,420
22 Less estimated income	<u>297,263,809</u>	<u>146,656,412</u>	<u>443,920,221</u>
23 Total general fund	\$13,823,899	\$1,171,300	\$14,995,199
24 Full-time equivalent positions	86.00	1.00	87.00

1       **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

2       **SIXTY-THIRD LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
3 items approved by the sixty-first legislative assembly for the 2009-11 biennium and the 2011-13  
4 one-time funding items included in the appropriation in section 1 of this Act:

5 <u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
6 Federal stimulus funds	\$12,000,000	\$7,271,773
7 Ray/Tioga, Burke/Divide/Williams, Wildrose 8       and Stanley water projects	<u>2,792,000</u>	<u>500,000</u>
9 Total special funds	\$14,792,000	\$7,771,773

10 The 2011-13 one-time funding amounts are not part of the entity's base budget for the 2013-15  
11 biennium. The state water commission shall report to the appropriations committees of the  
12 sixty-third legislative assembly on the use of the one-time funding for the biennium beginning  
13 July 1, 2011, and ending June 30, 2013.

14       **SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and  
15 support services line item in section 1 of this Act includes \$200,000 from the general fund that  
16 the state water commission shall provide as a grant to the game and fish department for law  
17 enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2011,  
18 and ending June 30, 2013.

19       **SECTION 4. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts  
20 included in the estimated income line item in section 1 of this Act, any additional amounts in the  
21 resources trust fund and water development trust fund that become available are appropriated  
22 to the state water commission for the purpose of defraying the expenses of that agency, for the  
23 biennium beginning July 1, 2011, and ending June 30, 2013.

24       **SECTION 5. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY.**  
25 Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the  
26 water and atmospheric resources line item in section 1 of this Act. However, this exclusion is  
27 only in effect for two years after June 30, 2013. Any unexpended funds appropriated from the  
28 resources trust fund after that period has expired must be transferred to the resources trust fund  
29 and any unexpended funds appropriated from the water development trust fund after that period  
30 has expired must be transferred to the water development trust fund.

1       **SECTION 6.** A new section to chapter 61-04 of the North Dakota Century Code is created  
2 and enacted as follows:

3       **Metering of certain water sources required - Rules.**

4       The state engineer shall require the remote metering of water used pursuant to a temporary  
5 or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground  
6 water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per  
7 year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas  
8 purposes are subject to the metering requirements of this section. The state engineer shall  
9 develop rules to provide:

- 10       1. The specifications for remote terminal water metering devices;
- 11       2. That metering be operational by July 1, 2012;
- 12       3. That meters be available for inspection by state water commission staff on a daily  
13       basis;
- 14       4. That meters be sealed and tamperproof;
- 15       5. That meters may be replaced only under supervision of the state engineer; and
- 16       6. That the penalty for circumventing the provisions of this section shall be a thirty-day  
17       suspension of the noncompliant permit.

18       **SECTION 7. AMENDMENT.** Section 7 of chapter 20 of the 2009 Session Laws is amended  
19 and reenacted as follows:

20               **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.**

21       Of the funds appropriated in the water and atmospheric resources line item in  
22       section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium  
23       beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30,  
24       2011, are not subject to section 54-44.1-11 and must be continued into the next or  
25       subsequent bienniums and may be expended only for Fargo flood control projects.  
26       ~~These~~Except as otherwise provided, these funds may be used only for land purchases  
27       and construction; including right-of-way acquisition costs. No more than ten percent of  
28       these funds may not be used for administration; engineering, legal, planning, or other  
29       similar purposes; and are not subject to the sixty-five percent funding requirement  
30       contained in Senate Bill No. 2316 (2009). The city of Fargo, Cass County, and the

1           Cass County joint water resource district must approve any expenditures made under  
2           this section.

3           **SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the  
4 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,  
5 \$30,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2011, and  
6 ending June 30, 2013. Any funds not spent by June 30, 2013, are not subject to section  
7 54-44.1-11 and must be continued into the next or subsequent bienniums and may be  
8 expended only for Fargo flood control projects. Except as otherwise provided, these funds may  
9 be used only for construction, including right-of-way acquisition costs. No more than ten percent  
10 of these funds may be used for engineering, legal, planning, or other similar purposes. The city  
11 of Fargo, Cass County, and the Cass County joint water resource district must approve any  
12 expenditures made under this section.

13           **SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS AND**  
14 **GRANTS.** It is the intent of the sixty-second legislative assembly that of the funds appropriated  
15 in the water and atmospheric resources line item in section 1 of this Act, the state water  
16 commission provide funding for the following grants and projects, for the biennium beginning  
17 with the effective date of this Act, and ending June 30, 2013:

18           Grant to wildlife services for animal control	\$100,000
19           Flood-related water projects in the	\$250,000
20           Nelson County water resource district	

21           **SECTION 10. LEGISLATIVE INTENT - WATER-RELATED FUNDING PRIORITIES.** It is  
22 the intent of the sixty-second legislative assembly that the \$5,000,000 for the Red River valley  
23 water supply project identified by the state water commission as a 2011-13 biennium funding  
24 priority be used for general statewide water management and that the state water commission  
25 not spend any funding for the Red River valley water supply project during the 2011-13  
26 biennium.

27           **SECTION 11. RETROACTIVE APPLICATION.** Section 7 of this Act applies retroactively to  
28 January 1, 2011.

29           **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.