

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; ~~and to provide an exemption~~ exemptions; to amend and reenact section 54-35-02.7
 3 of the North Dakota Century Code, relating to the water topics overview committee; to repeal
 4 section 61-02-78, relating to the infrastructure revolving loan fund; to provide legislative intent;
 5 to provide for legislative management reports; and to provide for a legislative management
 6 study.

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 from special funds derived from federal funds and other
 10 income, to the state water commission for the purpose of defraying the expenses of the state
 11 water commission, for the biennium beginning July 1, 2015, and ending June 30, 2017, as
 12 follows:

	Base Level	Adjustments or Enhancements	Appropriation
15 Accrued leave payments	\$325,774	(\$325,774)	\$0
16 Administrative and support services	4,716,665	1,193,723	5,910,388
17 Water and atmospheric resources	822,365,166	598,548,294	1,420,913,460
18 Total all funds	\$827,407,605	\$599,416,243	\$1,426,823,848
19 Full-time equivalent positions	90.00	10.00	100.00
20 <u>Accrued leave payments</u>	<u>\$325,774</u>	<u>(\$325,774)</u>	<u>\$0</u>
21 <u>Administrative and support services</u>	<u>4,716,665</u>	<u>(208,991)</u>	<u>4,507,674</u>
22 <u>Water and atmospheric resources</u>	<u>822,365,166</u>	<u>166,853,582</u>	<u>989,218,748</u>
23 <u>Total all funds</u>	<u>\$827,407,605</u>	<u>\$166,318,817</u>	<u>\$993,726,422</u>
24 <u>Less estimated income</u>	<u>827,407,605</u>	<u>141,333,658</u>	<u>968,741,263</u>

1	<u>Total general fund</u>	<u>\$0</u>	<u>\$24,985,159</u>	<u>\$24,985,159</u>
2	<u>Full-time equivalent positions</u>	<u>90.00</u>	<u>8.00</u>	<u>98.00</u>

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

4 **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
5 items approved by the sixty-third legislative assembly for the 2013-15 biennium:

6	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
7	Excavator	\$243,200	\$0
8	Southwest water pipeline project	21,000,000	0
9	Grants for water	10,350,000	0
10	Office space renovation	<u>45,000</u>	<u>0</u>
11	Total all funds	\$31,638,200	\$0
12	Total special funds	<u>31,638,200</u>	<u>0</u>
13	Total general fund	\$0	\$0

14 **SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and
15 support services line item in section 1 of this Act includes \$135,000 from the resources trust
16 fund the state water commission shall provide as a grant to the game and fish department for
17 law enforcement activities on sovereign lands in the state, for the biennium beginning July 1,
18 2015, and ending June 30, 2017.

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 which become available are
22 appropriated to the state water commission for the purpose of defraying the expenses of that
23 agency, for the biennium beginning July 1, 2015, and ending June 30, 2017.

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, 2017. 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. FARGO FLOOD CONTROL PROJECT FUNDING.** Funds designated by the
2 sixty-first legislative assembly, the sixty-second legislative assembly, the sixty-third legislative
3 assembly, and the sixty-fourth legislative assembly for Fargo flood control are available only for
4 levee and dike protection until the Fargo flood control project receives federal authorization, a
5 project partnership agreement is executed, a federal appropriation is provided for project
6 construction, and the budget for the Fargo flood control project is approved by the state water
7 commission.

8 | **SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.** Prior to the
9 state water commission expending any state cost-sharing funds, an advance funding
10 agreement between the United States army corps of engineers and the local Fargo flood control
11 sponsor must precede any state funding used to advance construction work considered to be a
12 federal responsibility.

13 | **SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It
14 is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local
15 cost-share of constructing a federally authorized Fargo flood control project and that total Fargo
16 flood control project funding to be provided by the state not exceed \$450,000,000. It is further
17 the intent of the sixty-fourth legislative assembly that the \$206,000,000 yet to be designated by
18 the state for the Fargo flood control project be made available in equal installments over the
19 next three bienniums.

20 | **SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the
21 funds appropriated in the water and atmospheric resources line item in section 1 of this Act,
22 \$69,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2015, and
23 ending June 30, 2017. Any funds not spent by June 30, 2017, are not subject to
24 section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be
25 expended only for Fargo flood control projects, including levees and dikes. Except as otherwise
26 provided, these funds may be used only for land purchases and construction, including
27 right-of-way acquisition costs and may not be used for the purchase of dwellings. No more than
28 ten percent of these funds may be used for engineering, legal, planning, or other similar
29 purposes. The city of Fargo, Cass County, and the Cass County joint water resource district
30 must approve any expenditures made under this section. Costs incurred by nonstate entities for

1 dwellings or other real property which are not paid by state funds are eligible for application by
2 the nonstate entity for cost-sharing with the state.

3 **SECTION 10. GRANTS - WESTERN AREA WATER SUPPLY - INCREMENTAL FUNDING**

4 **AND RESTRICTIONS.** Funds specified for western area water supply authority projects in the
5 water and atmospheric resources line item in section 1 of this Act must be distributed as grants
6 from the resources trust fund. The funds must be awarded in increments of up to \$10,000,000
7 upon determination by the state water commission that sufficient domestic demand has been
8 demonstrated for the project for which the funds are requested. Funds may not be used solely
9 to construct industrial water infrastructure or to provide industrial water for exploration or
10 development of the oil and gas industry. The western area water supply authority may request
11 funds, in increments of up to \$10,000,000, through individual applications to the commission up
12 to the amount specified in this Act for the western area water supply authority.

13 **SECTION 11. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO**

14 **THE WATER TOPICS OVERVIEW COMMITTEE.** The state water commission shall report to
15 the legislative management's water topics overview committee every six months during the
16 2015-16 interim regarding any changes made to the state water commission priority projects list
17 presented to the sixty-fourth legislative assembly for the biennium beginning July 1, 2015, and
18 ending June 30, 2017.

19 **SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE WATER TOPICS**

20 **OVERVIEW COMMITTEE.** During the 2015-16 interim, the F-M area diversion authority board
21 shall report to the legislative management's water topics overview committee biannually
22 regarding an update on congressional authorization of the diversion project and the status of
23 the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and
24 the project budget. The MNDak upstream coalition shall report to the budget section biannually
25 regarding an update on the impacts of the Fargo flood control project and mitigation efforts,
26 alternatives, and costs.

27 **SECTION 13. STATE WATER COMMISSION STUDY OF FARGO DIVERSION PROJECT.**

28 The state water commission shall contract with North Dakota state university to expand the
29 scope of the current agricultural impacts study of the F-M area diversion project at a cost that
30 may not exceed \$80,000. The expanded study is contingent upon hydraulic modeling performed
31 by the diversion authority and supplied to the state water commission and North Dakota state

1 university research team. The hydraulic modeling performed by the diversion authority is eligible
2 for cost share by the state water commission. The expanded study must focus on:

- 3 1. The impacts in the area outside the area recognized by the United States army corps
4 of engineers for which mitigation is required and must address impacts from greater
5 than six inches of additional water, which is consistent with preliminary indications
6 from the federal emergency management agency.
- 7 2. Agricultural production income impacts due to operation of the diversion project.
- 8 3. Agricultural production income losses resulting from a ten-year, twenty-five-year,
9 fifty-year, one hundred-year, and five hundred-year flood event.

10 **SECTION 14. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **54-35-02.7. Water topics overview committee - Duties.**

13 The legislative management, during each interim, shall appoint a water topics overview
14 committee in the same manner as the legislative management appoints other interim
15 committees. The committee must meet quarterly and is responsible for legislative overview of
16 water topics and related matters, the Garrison diversion project, and for any necessary
17 discussions with adjacent states on water topics. The committee shall work collaboratively with
18 the state water commission to develop policies to further define the state role in major flood
19 control projects. The committee shall prepare a schedule of priorities with respect to water
20 projects. The state water commission and state engineer shall assist the committee in
21 developing the schedule of priorities, and the committee may seek input from stakeholders
22 within the state regarding water project priorities. The committee shall report on the committee's
23 project prioritization process, provide updates on allocated program expenditures, and report on
24 the fund balances of projects, grants, and contracts. The committee also shall study policies
25 regarding the development and financing of municipal projects, including water treatment
26 plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis
27 of future project development, and ongoing maintenance cost of current and future projects; and
28 technology, including the use of technology for permitting and electronic metering. ~~During the~~
29 ~~2013-14 interim, the committee shall review water supply routes and alternatives for the Red~~
30 ~~River valley water supply project.~~ The legislative management shall designate the chairman of

1 the committee. The committee shall operate according to the statutes and procedure governing
2 the operation of other legislative management interim committees.

3 **SECTION 15. REPEAL.** Section 61-02-78 of the North Dakota Century Code is repealed.