Prepared by the Legislative Council staff for
the Senate Appropriations - Education and
Environment Division Committee
February 17, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2020

Page 1, line 2, after "resources" insert "; to amend and reenact section 61-02-79 of the North Dakota Century Code and section 4 of chapter 20 of the 2021 Session Laws, relating to a Bank of North Dakota line of credit and state water commission discretionary funding; to provide legislative intent; to provide an exemption; and to declare an emergency"

Page 1, line 7, remove "for the biennium beginning July 1, 2023, and ending June 30,"

Page 1, line 8, replace "2025" with "for the period beginning with the effective date of this Act, and ending June 30, 2025"

Page 1, replace lines 9 through 20 with:

"

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$20,537,867	$2,927,459	$23,465,326
Operating expenses	43,366,550	16,112,518	59,479,068
Capital assets	98,467,437	201,916,513	300,383,950
Water supply - grants	125,000,000	158,000,000	283,000,000
Rural water supply - grants	59,600,000	(19,600,000)	40,000,000
Flood control projects	48,000,000	66,600,000	114,600,000
Discretionary funding	0	1,000,000	1,000,000
General water - grants	14,227,275	(2,227,275)	12,000,000
Basinwide plan implementation	0	1,000,000	1,000,000
Total special funds	$409,199,129	$425,729,215	$834,928,344
Full-time equivalent positions	90.00	3.00	93.00"

Page 1, line 21, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY**"

Page 1, line 22, after "biennium" insert "and the 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act"

Page 1, remove line 24

Page 2, replace lines 1 through 5 with:

"Line of credit - Bank of North Dakota	$50,000,000	$100,000,000
Basinwide plan implementation	1,100,000	1,000,000
Discretionary funding	0	1,000,000
Equipment for new employees	0	19,320
Information technology unification	0	1,532,980
Increased motor pool rates	0	118,180
Drilling supplies inflation	0	180,000
Navigability study	0	180,000
Airborne electromagnetic survey data collection	0	750,000
Ground water modeling and hydrologic analysis software	0	72,665
Potential agency relocation	0	200,000
Radar system	0	1,800,000

Drilling rig replacement	0	1,800,000
Northwest area water supply	0	47,847,238
Discretionary water project funding	6,000,000	0
Mouse River flood control project	74,500,000	0
Water infrastructure projects	75,000,000	0
Total special funds	$206,600,000	$156,500,383

The 2023-25 one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The department of water resources shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 3. 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 that become available are appropriated to the department of water resources for the purpose of defraying the expenses of that agency, excluding operating expenses and salaries and wages, for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 4. APPROPRIATION - WATER PROJECTS STABILIZATION FUND - LOAN REPAYMENT - ONE-TIME FUNDING ITEM. There is appropriated out of any moneys in the water projects stabilization fund in the state treasury, not otherwise appropriated, the sum of $30,000,000, or so much of the sum as may be necessary, to the department of water resources for the purpose of repayment of loans issued by the Bank of North Dakota to the western area water supply authority for the period beginning with the effective date of this Act, and ending June 30, 2025. This funding is considered a one-time funding item.

SECTION 5. DEPARTMENT OF WATER RESOURCES DISCRETIONARY FUNDING. The discretionary funding appropriated to the department of water resources in section 1 of this Act may be used as necessary, except for salaries and wages, for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 6. PILOT PROJECT - BASINWIDE WATER PLAN IMPLEMENTATION - REPORT TO LEGISLATIVE MANAGEMENT. Of the $1,000,000 in the basinwide plan implementation line item in section 1 of this Act, up to $1,000,000 may be used to provide grants for the pilot project authorized in this section for the period beginning with the effective date of this Act, and ending June 30, 2025. These funds are not subject to state water commission cost-share policies. Water resource districts and joint water resource districts in a basin may develop a basinwide water plan identifying water conveyance, flood control, and other water projects to be undertaken in the basin, and may jointly apply to the state water commission for a grant of up to $1,000,000 for implementation of the plan. The state water commission may select a basinwide plan submitted under this section for funding and enter into one cooperative agreement with the water resource districts and joint water resource districts that submitted the plan. The cooperative agreement must include the amount of funding the state water commission will provide, a prohibition on using funds granted for implementation of the plan for planning or any purpose other than implementation of the basinwide plan, and the obligations of the state water commission and each water resource district and joint water resource district in implementing the basinwide plan. The agreement also must provide for monitoring and oversight of the basinwide plan's

implementation. The department of water resources shall report to the legislative management on the results of this pilot project no later than August 1, 2024.

SECTION 7. ESTIMATED INCOME - WATER PROJECTS STABILIZATION FUND. The total special funds line item in section 1 of this Act includes $120,000,000 from the water projects stabilization fund for water supply grants for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 8. 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 ~~fifty~~one hundred million dollars at ~~a rate of one and one-half percent over the three month London interbank offered rate, but may not exceed three percent to the state water commission~~the prevailing interest rate charged to North Dakota government entities. The ~~state water commission~~department of water resources 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~~department of water resources may access the line of credit, as necessary, to provide ~~funding as authorized by the legislative assembly~~up to fifty million dollars for the northwest area water supply project and up to fifty million dollars for the southwest pipeline project during the biennium beginning July 1, ~~2021~~2023, and ending June 30, ~~2023~~2025.

SECTION 9. AMENDMENT. Section 4 of chapter 20 of the 2021 Session Laws is amended and reenacted as follows:

SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE WATER COMMISSION DISCRETIONARY FUNDING. There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of $6,000,000, or so much of the sum as may be necessary, to the ~~state water commission for the purpose of providing discretionary funds for water project grants~~department of water resources to be used as necessary except for salaries and wages, for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is considered to be a one-time funding item.

SECTION 10. STATE WATER COMMISSION - RED RIVER WATER SUPPLY PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Red River water supply projects prior to the 2023-25 biennium, the state water commission may not approve state funding for the Red River water supply project in excess of a total of $953,000,000 without legislative approval. It is the intent of the sixty-eighth legislative assembly that of the $953,000,000, $175,000,000 is provided from the resources trust fund for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 11. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL PROJECT FUNDING - LEGISLATIVE INTENT. Excluding the funding provided for Mouse River flood control projects prior to the 2023-25 biennium, the state water commission may not approve state funding for the Mouse River flood control project in excess of a total of $380,500,000 without legislative approval. It is the intent of the sixty-eighth legislative assembly that of the $380,500,000, $76,100,000 is

provided from the resources trust fund for the period beginning with the effective date of this Act, and ending June 30, 2025.

SECTION 12. SOUTHWEST PIPELINE PROJECT FUNDING - LEGISLATIVE INTENT. It is the intent of the sixty-eighth legislative assembly that the sixty-ninth legislative assembly appropriate $40,000,000 from the resources trust fund for the southwest pipeline project for the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 13. EXEMPTION - LINE ITEM TRANSFERS. The office of management and budget shall transfer up to $13,292,362 between the operating and capital assets line items in section 1 of this Act, during the period beginning with the effective date of this Act, and ending June 30, 2025, as requested by the director of the department of water resources. The director of the department of water resources shall notify the legislative council of any transfers made pursuant to this section.

SECTION 14. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to $405,000,000 for grants or water-related projects included in the capital assets, water supply - grants, rural water supply - grants, flood control projects, and general water - grants line items in section 1 of chapter 20 of the 2021 Session Laws, sections 5 and 6 of chapter 20 of the 2021 Session Laws, section 9 of chapter 80 of the 2021 Session Laws, and subdivision 3 of section 1 of chapter 550 of the 2021 Special Session Session Laws. Any unexpended obligated and unobligated funds from these appropriations may be continued into the 2023-25 biennium. Any funds continued may be expended only for the purpose for which it was originally appropriated. The department of water resources may seek emergency commission and budget section approval under section 54-16-04.2 to increase carryover spending authority of funds appropriated in the 2021-23 biennium into the 2023-25 biennium.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2020 - State Water Commission - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	$20,537,867	$2,927,459	$23,465,326
Operating expenses	43,366,550	16,112,518	59,479,068
Capital assets	98,467,437	201,916,513	300,383,950
Water supply - Grants	125,000,000	158,000,000	283,000,000
Rural water supply - Grants	59,600,000	(19,600,000)	40,000,000
Flood control projects	48,000,000	66,600,000	114,600,000
General water - Grants	14,227,275	(2,227,275)	12,000,000
Basinwide plan implementation		1,000,000	1,000,000
Discretionary funding		1,000,000	1,000,000
Loan repayment		30,000,000	30,000,000
Total all funds	$409,199,129	$455,729,215	$864,928,344
Less estimated income	409,199,129	455,729,215	864,928,344
General fund	$0	$0	$0
FTE	90.00	3.00	93.00

Department 770 - State Water Commission - Detail of Senate Changes

	Adjusts Funding for Base Payroll Changes[1]	Adds Funding for Salary and Benefit Increases[2]	Adds FTE Positions[3]	Adds Funding for Other Operations and Compensation[4]	Makes Other Base Budget Adjustments[5]	Adds One-Time Funding[6]
Salaries and wages	$148,098	$1,509,354	$703,398	$576,609	($10,000)	
Operating expenses			2,000	5,512,584	7,744,789	$2,853,145
Capital assets					(7,740,789)	3,800,000
Water supply - Grants						
Rural water supply - Grants						
Flood control projects						
General water - Grants					6,000	
Basinwide plan implementation						
Discretionary funding						
Loan repayment						30,000,000
Total all funds	$148,098	$1,509,354	$705,398	$6,089,193	$0	$36,653,145
Less estimated income	148,098	1,509,354	705,398	6,089,193	0	36,653,145
General fund	$0	$0	$0	$0	$0	$0
FTE	0.00	0.00	3.00	0.00	0.00	0.00

	Adjusts Funding for Water Projects[7]	Total Senate Changes
Salaries and wages		$2,927,459
Operating expenses		16,112,518
Capital assets	$205,857,302	201,916,513
Water supply - Grants	158,000,000	158,000,000
Rural water supply - Grants	(19,600,000)	(19,600,000)
Flood control projects	66,600,000	66,600,000
General water - Grants	(2,233,275)	(2,227,275)
Basinwide plan implementation	1,000,000	1,000,000
Discretionary funding	1,000,000	1,000,000
Loan repayment		30,000,000
Total all funds	$410,624,027	$455,729,215
Less estimated income	410,624,027	455,729,215
General fund	$0	$0
FTE	0.00	3.00

[1] Funding is adjusted for base payroll changes, including the cost to continue 2021-23 biennium salary increases.

[2] The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from $1,429 to $1,648 per month:

	Federal Funds	Other Funds	Total
Salary increase	$23,689	$1,025,704	$1,049,393
Health insurance increase	12,102	447,859	459,961
Total	$35,791	$1,473,563	$1,509,354

[3] The following FTE positions and funding of $2,000 for related travel expenses are added:

	FTE Positions	Other Funds
Natural resources services	2.00	$505,772
Engineering and planning services	1.00	197,626
Total	3.00	$703,398

[4] Funding for operations and salaries and wages is adjusted as follows:

	Salaries and Wages	Operating Expenses	Total
Northwest area water supply temporary salaries	$170,000		$170,000
Temporary employee benefits	61,609		61,609
Staff training and development		$80,000	80,000
Information technology unification		4,082,784	4,082,784
Pushing remote sensors (PRESENS) installations	345,000	1,227,800	1,572,800
Groundwater modeling and hydrologic analysis software maintenance		22,000	22,000
RiskMAP (federal funds)		100,000	100,000
Total	$576,609	$5,512,584	$6,089,193

[5] Funding is adjusted for other changes as follows:

	Other Funds
Reduces funding for salaries and wages	($10,000)
Increases funding for operating expenses, including $5.9 million for professional fees and services	7,744,789
Reduces funding for capital assets	(7,740,789)
Increases funding for general water grants	6,000
Total	$0

[6] One-time funding is added as follows:

	Other Funds
New FTE equipment	$19,320
Information technology unification	1,532,980
Increased motor pool rates	118,180
Drilling supplies inflation	180,000
Navigability study	180,000
Airborne electromagnetic survey data collection	750,000
Ground water modeling and hyrdological analysis software	72,665
Agency relocation	200,000
Drilling rig replacement	1,800,000
Bowman radar system	1,800,000
Total	$6,653,145

A section is also added to appropriate $30 million from the water projects stabilization fund to repay loans issued by the Bank of North Dakota for the Western Area Water Supply Authority.

[7] Funding for water projects is adjusted as follows:

	Total Funds
Increase funding for capital assets, including $47.8 million from federal funds for the Northwest Area Water Supply Project and $100 million from a line of credit	$205,857,302
Increase funding for water supply grants	158,000,000
Decrease funding for rural water supply grants	(19,600,000)
Increase funding for flood control projects	66,600,000
Decrease funding for general water grants	(2,233,275)
Add one-time funding for basinwide plan implementation	1,000,000
Add one-time funding for discretionary water projects	1,000,000
Total	$410,624,027

This amendment also adds sections to:

- Appropriate any additional funds in the resources trust fund to the Department of Water Resources for expenses of the department, excluding operating expenses and salaries and wages.
- Appropriate $30 million from the water projects stabilization fund to repay Bank of North Dakota loans for the Western Area Water Supply Authority.
- Provide that the discretionary funds line item may be used as necessary, except for salaries and wages.

- Provide that $1 million appropriated for basinwide plan implementation is for a pilot project to provide grants for water conveyance, flood control, and other water projects.
- Identify $120 million of the amount appropriated in Section 1 is from the water projects stabilization fund.
- Provide for the Bank to extend a $100 million line of credit to the Department of Water Resources, of which $50 million may be used for the Northwest Area Water Supply Project and $50 million may be used for the Southwest Pipeline Project.
- Amend 2021 Session Laws to allow the Department of Water Resources to use its discretionary funding as necessary, except for salaries and wages.
- Provide legislative intent for a total of $953 million for the Red River Water Supply Project, of which $175 million is provided during the 2023-25 biennium.
- Provide legislative intent for a total of $380.5 million for the Mouse River flood control project, of which $76.1 million is provided during the 2023-25 biennium.
- Provide legislative intent that the 69th Legislative Assembly appropriate $40 million for the Southwest Pipeline Project.
- Provide authority for the Department of Water Resources to transfer up to $13.3 million between the operating expenses and capital assets line items.
- Provide that any unexpended obligated and unobligated 2021-23 biennium appropriation authority for grants or water-related projects may be continued and expended during the 2023-25 biennium.
- Declare the bill to be an emergency measure.