

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2020

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 water resources; to provide an appropriation to the parks and recreation department; to amend
3 and reenact ~~section~~sections 61-02-01.3, 61-02-79, and 61-03-21.4 of the North Dakota Century
4 Code and section 4 of chapter 20 of the 2021 Session Laws, relating to a Bank of North Dakota
5 line of credit, water project economic analyses requirements, and state water commission
6 discretionary funding; to provide for a transfer; to provide for a report; to provide legislative
7 intent; to provide an exemption; and to declare an emergency.

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated from special funds derived from federal funds and other
11 income, to the department of water resources for the purpose of defraying the expenses of the
12 department of water resources, for the period beginning with the effective date of this Act, and
13 ending June 30, 2025, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
16 Salaries and wages	\$20,537,867	\$2,927,459	\$23,465,326
17 Operating expenses	43,366,550	16,112,518	59,479,068
18 Capital assets	98,467,437	201,916,513	300,383,950
19 Water supply - grants	125,000,000	158,000,000	283,000,000
20 Rural water supply - grants	59,600,000	(19,600,000)	40,000,000
21 Flood control projects	48,000,000	66,600,000	114,600,000
22 Discretionary funding	0	1,000,000	1,000,000
23 General water - grants	14,227,275	(2,227,275)	12,000,000
24 Basinwide plan implementation	0	1,000,000	1,000,000

Sixty-eighth
Legislative Assembly

1	Total special funds	\$409,199,129	\$425,729,215	\$834,928,344
2	Full-time equivalent positions	90.00	3.00	93.00
3	Salaries and wages	\$20,537,867	\$1,656,382	\$22,194,249
4	Operating expenses	43,366,550	16,112,518	59,479,068
5	Capital assets	98,467,437	177,316,513	275,783,950
6	Water supply - grants	125,000,000	191,200,000	316,200,000
7	Rural water supply - grants	59,600,000	(7,600,000)	52,000,000
8	Flood control projects	48,000,000	67,700,000	115,700,000
9	Discretionary funding	0	9,000,000	9,000,000
10	General water - grants	14,227,275	(2,227,275)	12,000,000
11	Total special funds	\$409,199,129	\$453,158,138	\$862,357,267
12	Full-time equivalent positions	90.00	3.00	93.00

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

SIXTY-NINTH LEGISLATIVE ASSEMBLY. The following amounts reflect one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 biennium one-time funding items included in the appropriation in section 1 of this Act:

17	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
18	Line of credit - Bank of North Dakota	\$50,000,000	\$100,000,000
19	Basinwide plan implementation	1,100,000	1,000,000
20	Discretionary funding	0	1,000,000
21	Basinwide plan implementation	1,100,000	0
22	Discretionary funding	0	9,000,000
23	Equipment for new employees	0	19,320
24	Information technology unification	0	1,532,980
25	Increased motor pool rates	0	118,180
26	Drilling supplies inflation	0	180,000
27	Navigability study	0	180,000
28	Airborne electromagnetic survey data collection	0	750,000
29	Ground water modeling and hydrologic analysis software	0	72,665
30	Potential agency relocation	0	200,000
31	Radar system	0	1,800,000

1	Drilling rig replacement	0	1,800,000
2	Northwest area water supply	0	47,847,238
3	Discretionary water project funding	6,000,000	0
4	Mouse River flood control project	74,500,000	0
5	Water infrastructure projects	<u>75,000,000</u>	<u>0</u>
6	Total special funds	\$206,600,000	\$156,500,383
7	<u>Total special funds</u>	<u>\$206,600,000</u>	<u>\$163,500,383</u>

8 The 2023-25 one-time funding amounts are not a part of the entity's base budget for the
9 2025-27 biennium. The department of water resources shall report to the appropriations
10 committees of the sixty-ninth legislative assembly on the use of this one-time funding for the
11 period beginning with the effective date of this Act, and ending June 30, 2025.

12 **SECTION 3. ADDITIONAL INCOME - APPROPRIATION.** In addition to the amounts
13 included in the estimated income line item in section 1 of this Act, any additional amounts in the
14 resources trust fund that become available are appropriated to the department of water
15 resources for the purpose of ~~defraying the expenses of that agency, excluding operating~~
16 ~~expenses and salaries and wages~~providing water supply grants and rural water supply grants,
17 for the period beginning with the effective date of this Act, and ending June 30, 2025. Any
18 additional amounts must be allocated equally between water supply grants and rural water
19 supply grants.

20 ~~**SECTION 4. APPROPRIATION - WATER PROJECTS STABILIZATION FUND - LOAN**~~
21 ~~**REPAYMENT - ONE-TIME FUNDING ITEM.**~~ There is ~~appropriated out of any moneys in the~~
22 ~~water projects stabilization fund in the state treasury, not otherwise appropriated, the sum of~~
23 ~~\$30,000,000, or so much of the sum as may be necessary, to the department of water~~
24 ~~resources for the purpose of repayment of loans issued by the Bank of North Dakota to the~~
25 ~~western area water supply authority for the period beginning with the effective date of this Act,~~
26 ~~and ending June 30, 2025. This funding is considered a one-time funding item.~~

27 **SECTION 4. TRANSFER - WATER PROJECT STABILIZATION FUND TO WATER**
28 **INFRASTRUCTURE REVOLVING LOAN FUND.** The office of management and budget shall
29 transfer \$30,000,000 from the water project stabilization fund to the water infrastructure
30 revolving loan fund established under section 6-09-49.2, during the period beginning with the
31 effective date of this Act, and ending June 30, 2025.

1 **SECTION 5. TRANSFER - BANK OF NORTH DAKOTA PROFITS - WATER**

2 **INFRASTRUCTURE REVOLVING LOAN FUND.** The Bank of North Dakota shall transfer
3 \$100,000,000, or so much of the sum as may be necessary, from its current earnings and
4 accumulated profits to the water infrastructure revolving loan fund during the biennium
5 beginning July 1, 2023, and ending June 30, 2025. The moneys must be transferred as
6 requested by the director of the department of water resources, after consultation with the Bank
7 of North Dakota, to provide local cost-share loans for projects approved by the state water
8 commission pursuant to section 6-09-49.2.

9 **SECTION 6. APPROPRIATION - PARKS AND RECREATION DEPARTMENT -**

10 **SOVEREIGN LANDS RECREATION USE GRANTS - ONE-TIME FUNDING.** There is
11 appropriated from special funds derived from a grant from the state water commission, not
12 otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to
13 the parks and recreation department for the purpose of providing grants for developing
14 recreation opportunities on sovereign lands in the state, for the period beginning with the
15 effective date of this Act, and ending June 30, 2025. An eligible grant recipient must identify \$1
16 of matching funds for each \$1 awarded pursuant to this section. This funding is considered to
17 be a one-time funding item.

18 **SECTION 7. SOVEREIGN LANDS RECREATION USE GRANT.** The water supply - grants
19 line item in section 1 of this Act includes \$3,000,000 from the resources trust fund which the
20 state water commission shall provide as a grant to the parks and recreation department for
21 developing recreation opportunities on sovereign lands in the state, for the period beginning
22 with the effective date of this Act, and ending June 30, 2025.

23 **SECTION 8. DEPARTMENT OF WATER RESOURCES DISCRETIONARY FUNDING.** The
24 discretionary funding appropriated to the department of water resources in section 1 of this Act
25 may be used as necessary, except for salaries and wages, for the period beginning with the
26 effective date of this Act, and ending June 30, 2025.

27 ~~**SECTION 8. PILOT PROJECT - BASINWIDE WATER PLAN IMPLEMENTATION -**~~

28 ~~**REPORT TO LEGISLATIVE MANAGEMENT.** Of the \$1,000,000 in the basinwide plan~~
29 ~~implementation line item in section 1 of this Act, up to \$1,000,000 may be used to provide~~
30 ~~grants for the pilot project authorized in this section for the period beginning with the effective~~
31 ~~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 9. ESTIMATED INCOME - WATER PROJECTS STABILIZATION FUND. The total special funds line item in section 1 of this Act includes ~~\$120,000,000~~\$123,380,315 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 10. AMENDMENT. Section 61-02-01.3 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01.3. Comprehensive water development plan.

1. Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes.

2. As part of the commission's planning process, to facilitate local project sponsor participation and project prioritization and to assist in education regarding life cycle analyses for municipal water supply projects, and economic analyses for flood control and water conveyance projects only for those expected to cost more than ~~one million~~five hundred thousand dollars, the commission shall develop ~~a policy that outlines~~policies and procedures for commissioner-hosted meetings within the upper Missouri River, lower Missouri River, James River, upper Red River, lower Red River,

1 Mouse River, Devils Lake, Little Missouri River, upper Heart River, and upper
2 Cannonball River drainage basins.

3 **SECTION 11. 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 ~~fifty~~one hundred million
7 dollars at a ~~rate of one and one-half percent over the three-month London interbank offered~~
8 ~~rate, but may not exceed three percent to the state water commission~~the prevailing interest rate
9 charged to North Dakota government entities. The ~~state water commission~~department of water
10 resources shall repay the line of credit from funds available in the resources trust fund, ~~water~~
11 ~~development trust fund~~, or other funds, as appropriated by the legislative assembly. The ~~state~~
12 ~~water commission~~department of water resources may access the line of credit, as necessary, to
13 provide funding ~~as authorized by the legislative assembly~~up to fifty million dollars for the
14 northwest area water supply project and up to fifty million dollars for the southwest pipeline
15 project during the biennium beginning July 1, ~~2024~~2023, and ending June 30, ~~2023~~2025.

16 **SECTION 12. AMENDMENT.** Section 61-03-21.4 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **61-03-21.4. Economic analysis process required for certain projects.**

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

26 **SECTION 13. AMENDMENT.** Section 4 of chapter 20 of the 2021 Session Laws is
27 amended and reenacted as follows:

28 **SECTION 4. APPROPRIATION - RESOURCES TRUST FUND - STATE**

29 **WATER COMMISSION DISCRETIONARY FUNDING.** There is appropriated out of
30 any moneys in the resources trust fund in the state treasury, not otherwise
31 appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to

1 the state water commission for the purpose of providing discretionary funds for water-
2 project grants department of water resources to be used as necessary except for
3 salaries and wages, for the biennium beginning July 1, 2021, and ending June 30,
4 2023. This funding is considered to be a one-time funding item.

5 **SECTION 14. STATE WATER COMMISSION - RED RIVER WATER SUPPLY PROJECT**
6 **FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Red River water supply
7 projects prior to the 2023-25 biennium, the state water commission may not approve state
8 funding for the Red River water supply project in excess of a total of \$953,000,000 without
9 legislative approval. It is the intent of the sixty-eighth legislative assembly that of the
10 \$953,000,000, ~~\$175,000,000~~ \$180,000,000 is provided from the resources trust fund for the
11 period beginning with the effective date of this Act, and ending June 30, 2025.

12 **SECTION 15. STATE WATER COMMISSION - MOUSE RIVER FLOOD CONTROL**
13 **PROJECT FUNDING - LEGISLATIVE INTENT.** Excluding the funding provided for Mouse River
14 flood control projects prior to the 2023-25 biennium, the state water commission may not
15 approve state funding for the Mouse River flood control project in excess of a total of
16 \$380,500,000 without legislative approval. It is the intent of the sixty-eighth legislative assembly
17 that of the \$380,500,000, \$76,100,000 is provided from the resources trust fund for the period
18 beginning with the effective date of this Act, and ending June 30, 2025.

19 **SECTION 16. SOUTHWEST PIPELINE PROJECT FUNDING - LEGISLATIVE INTENT.** It
20 is the intent of the sixty-eighth legislative assembly that the sixty-ninth legislative assembly
21 appropriate \$40,000,000 from the resources trust fund for the southwest pipeline project water
22 treatment plant for the biennium beginning July 1, 2025, and ending June 30, 2027.

23 **SECTION 17. LEGISLATIVE INTENT - STATE WATER COMMISSION - CITY OF**
24 **BISMARCK WATER TREATMENT PLANT.** Excluding the funding provided for the city of
25 Bismarck water treatment plant prior to the 2023-25 biennium, it is the intent of the sixty-eighth
26 legislative assembly that up to \$50,000,000 of funding appropriated in the water supply - grants
27 line item in section 1 of this Act be made available during the 2023-25 biennium for the city of
28 Bismarck water treatment plant.

29 **SECTION 18. LEGISLATIVE INTENT - CITY OF MEDORA WATER SUPPLY PROJECT.** It
30 is the intent of the sixty-eighth legislative assembly that the city of Medora request funding from
31 the state water commission for water storage, water main replacement, and water supply

1 expansion projects after all agreements for the construction of the Theodore Roosevelt
2 presidential library have been finalized between the library, the library foundation, the city of
3 Medora, and Billings County.

4 **SECTION 19. MISSOURI RIVER EDUCATE, ADVOCATE, AND ENGAGE PROGRAM -**
5 **LEGISLATIVE INTENT.** It is the intent of the sixty-eighth legislative assembly that:

- 6 1. Support be provided for the Missouri River educate, advocate, and engage effort
7 conducted by the Missouri River joint water resource board;
- 8 2. The effort is needed to secure the state's rights to Missouri River water; and
- 9 3. The state water commission and the department of water resources work in
10 cooperation with the Missouri River joint water resource board to provide financial and
11 technical assistance as the commission deems appropriate.

12 **SECTION 20. DEPARTMENT OF WATER RESOURCES - GARRISON DIVERSION**
13 **CONSERVANCY DISTRICT - LEGISLATIVE INTENT - REPORT.** It is the intent of the
14 sixty-eighth legislative assembly that the department of water resources, in coordination with
15 the Garrison Diversion Conservancy District, research and identify options for the use of the
16 Missouri River intake constructed near Washburn. The department of water resources shall
17 report its findings and recommendations to the legislative management by October 1, 2024.

18 **SECTION 21. EXEMPTION - LINE ITEM TRANSFERS.** The office of management and
19 budget shall transfer up to \$13,292,362 between the operating expenses and capital assets line
20 items in section 1 of this Act, during the period beginning with the effective date of this Act, and
21 ending June 30, 2025, as requested by the director of the department of water resources. The
22 director of the department of water resources shall notify the legislative council of any transfers
23 made pursuant to this section.

24 **SECTION 22. EXEMPTION - GRANTS - APPLICATION - WATER-RELATED PROJECTS -**
25 **CARRYOVER AUTHORITY.** Section 54-44.1-11 does not apply to ~~\$405,000,000~~\$367,000,000
26 for grants or water-related projects included in the capital assets, water supply - grants, rural
27 water supply - grants, flood control projects, and general water - grants line items in section 1 of
28 chapter 20 of the 2021 Session Laws, sections 5 and 6 of chapter 20 of the 2021 Session Laws,
29 section 9 of chapter 80 of the 2021 Session Laws, and subdivision 3 of section 1 of chapter 550
30 of the 2021 Special Session Session Laws. Any unexpended obligated and unobligated funds
31 from these appropriations may be continued into the 2023-25 biennium. Any funds continued

1 may be expended only for the purpose for which it was originally appropriated. The department
2 of water resources may seek emergency commission and budget section approval under
3 section 54-16-04.2 to increase carryover spending authority of funds appropriated in the
4 2021-23 biennium into the 2023-25 biennium.

5 **SECTION 23. EMERGENCY.** This Act is declared to be an emergency measure.