

**Department 770 - State Water Commission
Senate Bill No. 2020**

Executive Budget Comparison to Prior Biennium Appropriations

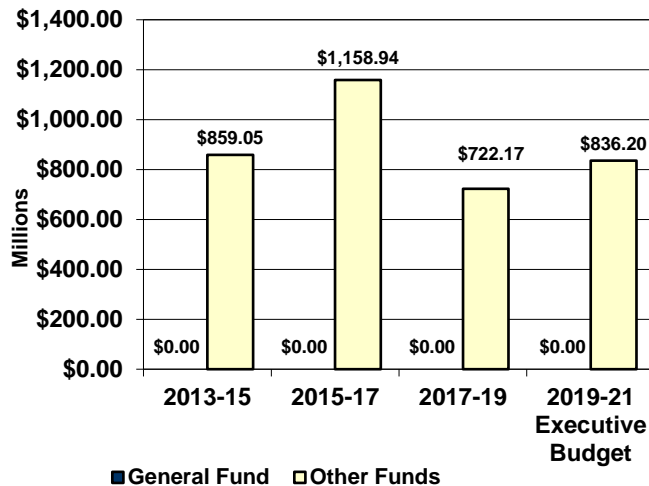
| | FTE Positions | General Fund | Other Funds | Total |
|---|---------------|--------------|---------------|---------------|
| 2019-21 Executive Budget | 90.00 | \$0 | \$836,198,186 | \$836,198,186 |
| 2017-19 Legislative Appropriations ¹ | 93.00 | 0 | 722,173,475 | 722,173,475 |
| Increase (Decrease) | (3.00) | \$0 | \$114,024,711 | \$114,024,711 |

¹The 2017-19 biennium agency appropriation amounts have not been adjusted for additional carryover authority of \$63,158,619 for uncompleted water projects authorized under Section 6 of Senate Bill No. 2020 (2015).

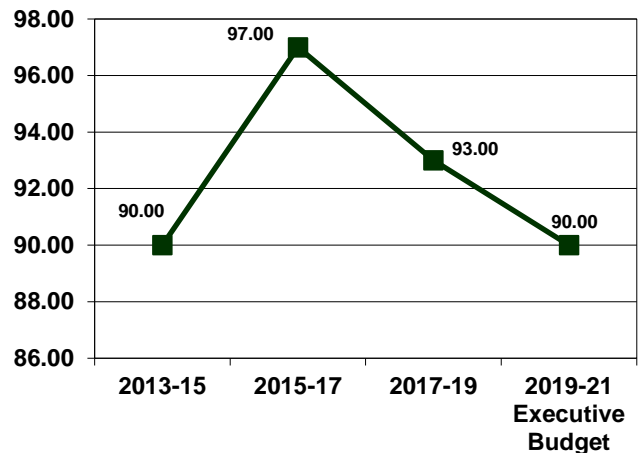
Ongoing and One-Time Other Funds Appropriations

| | Ongoing Other Funds Appropriation | One-Time Other Funds Appropriation | Total Other Funds Appropriation |
|------------------------------------|-----------------------------------|------------------------------------|---------------------------------|
| 2019-21 Executive Budget | \$836,198,186 | \$0 | \$836,198,186 |
| 2017-19 Legislative Appropriations | 647,173,475 | 75,000,000 | 722,173,475 |
| Increase (Decrease) | \$189,024,711 | (\$75,000,000) | \$114,024,711 |

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

| | General Fund | Other Funds | Total |
|--------------------------|--------------|---------------|---------------|
| 2019-21 Executive Budget | \$0 | \$836,198,186 | \$836,198,186 |
| 2019-21 Base Level | 0 | 647,173,475 | 647,173,475 |
| Increase (Decrease) | \$0 | \$189,024,711 | \$189,024,711 |

First House Action

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

**Executive Budget Highlights
(With First House Changes in Bold)**

| | General Fund | Other Funds | Total |
|---|--------------|-------------|-------------|
| 1. Adds funding for state employee salary and benefit increases, of which \$799,386 is for salary increases, \$355,238 is for health insurance increases, and \$103,135 is for retirement contribution increases. The Senate added funding for salary adjustments of 2 percent for the 1st year of the biennium and 3 percent for the 2nd year and increases in health insurance premiums from \$1,241 to \$1,427 per month. The Senate did not add funding for retirement contribution increases. | \$0 | \$1,257,759 | \$1,257,759 |
| 2. Removes funding for 4 FTE unspecified positions | \$0 | (\$693,912) | (\$693,912) |
| 3. Adds 1 FTE risk mapping position from federal funds | \$0 | \$174,126 | \$174,126 |

| | | | |
|---|-----|----------------|----------------|
| 4. Adjusts funding available for project carryover to provide a total of \$308,333,818 | \$0 | \$33,465,921 | \$33,465,921 |
| 5. Adjusts funding available for new projects to provide a total of \$350,751,493. The Senate removed the new projects line item and added funding for the following line items: Water supply - Grants (\$115 million), Rural water supply - Grants (\$30 million), Flood control - Grants (\$145 million), General water - Grants (\$35,255,000). | \$0 | \$180,969,346 | \$180,969,346 |
| 6. Adjusts funding for capital assets, which includes state owned projects, to provide a total of \$113,213,758 (Includes \$41,666,182 of carryover funding for capital asset projects). The Senate increased funding for capital assets to provide a total of \$147,938,758. | \$0 | (\$11,605,684) | (\$11,605,684) |
| 7. Adjusts funding for operating expenses to provide a total of \$43,787,553. The Senate reduced funding for operating expenses as recommended in the executive budget and added funding for Microsoft Office 365 licensing, to provide a total of \$43,855,753 for operating expenses. | \$0 | (\$14,257,138) | (\$14,257,138) |

Other Sections in Senate Bill No. 2020

Exemption - Water-related projects - Section 3 authorizes the State Water Commission to continue any unexpended 2019-21 biennium appropriation authority for grants or water-related projects for 2 years beyond June 30, 2021.

Resources trust fund and water development trust fund - Section 4 provides, in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund, any additional amounts that become available in those funds are appropriated, subject to Budget Section approval, to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2019-21 biennium.

Legislative intent - Fargo flood control project - Section 5 provides legislative intent the state provide a portion of the local cost-share of the Fargo flood control project not to exceed \$703 million and that the \$332.5 million yet to be designated by the state be provided in equal installments over the next 5 bienniums, beginning July 1, 2019.

Legislative intent - Red River Valley Water Supply Project - Report to Legislative Management - Section 6 provides legislative intent the State Water Commission provide, in the form of a grant, up to \$50 million to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project during the 2019-21 biennium and that the State Water Commission provide state funding at an 80 percent state cost-share after June 30, 2021. The section also requires the Garrison Diversion Conservancy District report to the Legislative Management on a regular basis.

Red River Valley Water Supply Project - Report to Legislative Management - Budget Section approval - Section 7 establishes certain requirements the Garrison Diversion Conservancy District must meet regarding the planning and permitting process and require the district to obtain certification from the State Water Commission and the State Engineer that those items are complete. The section also requires approval from the Budget Section of the certification and for construction to begin before the funding can be provided to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project.

Bank of North Dakota - Line of credit - Section 8 extends authorization of a line of credit for the State Water Commission at the Bank of North Dakota, not to exceed \$75 million, at a rate of 1.5 percent over the 3 month London interbank offered rate (LIBOR).

Continuing Appropriations

Infrastructure revolving loan fund - North Dakota Century Code Section 61-02-78 established the infrastructure revolving loan fund within the resources trust fund to provide loans for water supply, flood protection, or other water development and water management projects. A total of \$26 million of oil extraction money was deposited in the resources trust fund and, along with loan repayments and earnings of the fund, is available on a continuing basis for infrastructure loans.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

House Bill No. 1085 - Amends Section 61-34-04 relating to the drought disaster livestock water assistance program, to remove grant amount limitations.

House Bill No. 1192 - Requires the State Engineer to maintain ordinary high water mark delineation guidelines as identified in the bill.

Senate Bill No. 2090 - Creates several new sections to Chapter 61-04, relating to permits for the appropriation of water; amends several sections under Chapter 61-04, relating to the appropriation of water and to adjust water permit fees; and repeals Sections 61-04-07, 61-04-15.1, 61-04-17, and 61-04-22, relating to appeals of permit application rejections, change in point of diversion or use, surplus water delivery, and a prescriptive water right.

Senate Bill No. 2275 - Authorizes the Public Finance Authority to issue up to \$500 million of bonds to support the infrastructure revolving loan fund and the resources trust fund, increasing the amount available in the infrastructure revolving loan fund for low-interest loans to political subdivisions and institutions of higher education for infrastructure projects and increasing the amount available in the resources trust fund for water projects. The bill also expands the bonding authority for counties and transfers existing infrastructure loans for water projects from the resources trust fund to the infrastructure revolving loan fund. In the bill, \$26 million is appropriated to the Public Finance Authority for the repayment of the bonds.

Senate Bill No. 2295 - Restricts the creation of an irrigation district if the primary purpose of the district is to provide drainage benefits to residents of the district and provides that drainage benefits provided by an irrigation district may not impact the authority of a water resource board to assess for drainage projects under Chapter 61-16.1 or 61-21.

State Water Commission - Budget No. 770
Senate Bill No. 2020
Base Level Funding Changes

| | Executive Budget Recommendation | | | | Senate Version | | | |
|---|---------------------------------|--------------|---------------|---------------|----------------|--------------|---------------|---------------|
| | FTE Position | General Fund | Other Funds | Total | FTE Position | General Fund | Other Funds | Total |
| 2019-21 Biennium Base Level | 93.00 | \$0 | \$647,173,475 | \$647,173,475 | 93.00 | \$0 | \$647,173,475 | \$647,173,475 |
| 2019-21 Ongoing Funding Changes | | | | | | | | |
| Base payroll changes | | | (\$285,707) | (\$285,707) | | | (\$285,707) | (\$285,707) |
| Salary increase | | | 799,386 | 799,386 | | | 559,891 | 559,891 |
| Health insurance increase | | | 355,238 | 355,238 | | | 419,435 | 419,435 |
| Retirement contribution increase | | | 103,135 | 103,135 | | | 0 | 0 |
| Removes 4 FTE unspecified positions | (4.00) | | (693,912) | (693,912) | (4.00) | | (693,912) | (693,912) |
| Adds 1 FTE risk mapping position | 1.00 | | 174,126 | 174,126 | 1.00 | | 174,126 | 174,126 |
| Adjusts funding available for new projects | | | 180,969,346 | 180,969,346 | | | (169,782,147) | (169,782,147) |
| Adjusts funding available for project carryover | | | 33,465,921 | 33,465,921 | | | 33,465,921 | 33,465,921 |
| Adjusts capital assets | | | (11,605,684) | (11,605,684) | | | (51,880,684) | (51,880,684) |
| Adjusts operating expenses | | | (14,257,138) | (14,257,138) | | | (14,257,138) | (14,257,138) |
| Adds Microsoft Office 365 licensing | | | 0 | 0 | | | 68,200 | 68,200 |
| Adds water supply - Grants line item | | | 0 | 0 | | | 115,000,000 | 115,000,000 |
| Adds rural water supply - Grants line item | | | 0 | 0 | | | 30,000,000 | 30,000,000 |
| Adds flood control - Grants line item | | | 0 | 0 | | | 145,000,000 | 145,000,000 |
| Adds general water - Grants line item | | | 0 | 0 | | | 35,255,000 | 35,255,000 |
| Total ongoing funding changes | (3.00) | \$0 | \$189,024,711 | \$189,024,711 | (3.00) | \$0 | \$123,042,985 | \$123,042,985 |
| One-time funding items | | | | | | | | |
| Adds Bank of North Dakota line of credit | | | | \$0 | | | \$75,000,000 | \$75,000,000 |
| Total one-time funding changes | 0.00 | \$0 | \$0 | \$0 | 0.00 | \$0 | \$75,000,000 | \$75,000,000 |
| Total Changes to Base Level Funding | (3.00) | \$0 | \$189,024,711 | \$189,024,711 | (3.00) | \$0 | \$198,042,985 | \$198,042,985 |
| 2019-21 Total Funding | 90.00 | \$0 | \$836,198,186 | \$836,198,186 | 90.00 | \$0 | \$845,216,460 | \$845,216,460 |

Other Sections for State Water Commission - Budget No. 770

| | Executive Budget Recommendation | Senate Version |
|------------------------------------|--|---|
| Exemption - Water-related projects | Section 4 would provide that funds appropriated for grants or water-related projects in Section 1 are exempt from North Dakota Century Code Section 54-44.1-11 for 2 years after June 30, 2021. Any unexpended funds appropriated from the resources trust fund or the water development trust fund after that period has expired must be transferred to the originating fund. | Section 3 provides that funds appropriated for grants or water-related projects in Section 1 are exempt from North Dakota Century Code Section 54-44.1-11 for 2 years after June 30, 2021. Any unexpended funds appropriated from the resources trust fund or the water development trust fund after that period has expired must be transferred to the originating fund. |

Other Sections for State Water Commission - Budget No. 770

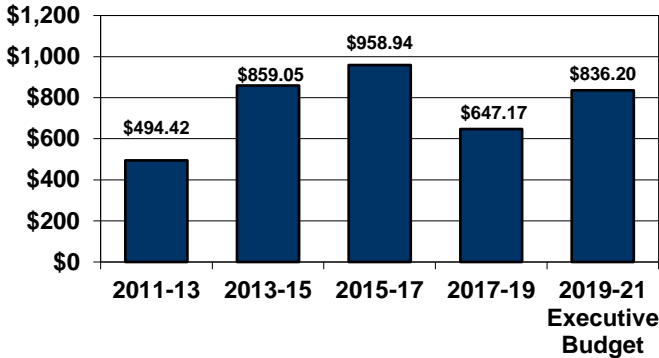
| | <u>Executive Budget Recommendation</u> | <u>Senate Version</u> |
|--|--|---|
| Additional income | Section 3 would appropriate any additional income from the resources trust fund or water development trust fund that becomes available to the State Water Commission during the 2019-21 biennium. | Section 4 provides that in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund, any additional amounts that become available in those funds are appropriated, subject to Budget Section approval, to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2019-21 biennium. |
| Line item transfers | Section 5 would authorize the State Water Commission to transfer funds between line items in Section 1 of the bill, when it is cost-effective for the construction of water projects. The department must report transfers to the Office of Management and Budget. | |
| Legislative intent - Fargo flood control project | | Section 5 provides legislative intent the state provide a portion of the local cost-share of the Fargo flood control project not to exceed \$703 million and that the \$332.5 million yet to be designated by the state be provided in equal installments over the next 5 bienniums, beginning July 1, 2019. |
| Legislative intent - Red River Valley Water Supply Project - Report to Legislative Management | | Section 6 provides legislative intent the State Water Commission provide, in the form of a grant, up to \$50 million to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project during the 2019-21 biennium and that the State Water Commission provide state funding at an 80 percent state cost-share after June 30, 2021. |
| Red River Valley Water Supply Project - Report to Legislative Management - Budget Section approval | | Section 7 establishes certain requirements the Garrison Diversion Conservancy District must meet regarding the planning and permitting process and requires the district obtain certification from the State Water Commission and the State Engineer that those items are complete. The section also requires approval from the Budget Section of the certification and for construction to begin before the funding can be provided to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project. |
| Bank of North Dakota - Line of credit | Section 6 would extend authorization of a line of credit at the Bank of North Dakota, not to exceed \$75 million, at an annual percentage rate of 1.5 percent over the 3 month LIBOR rate, but may not exceed 3 percent to the State Water Commission. The State Water Commission must 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 may access the line of credit, as necessary, to provide funding as authorized by the Legislative Assembly for water supply and flood control projects approved for funding before June 30, 2021. | Section 8 continues the authorization of a line of credit at the Bank of North Dakota, not to exceed \$75 million, at an annual percentage rate of 1.5 percent over the 3 month LIBOR rate, but may not exceed 3 percent to the State Water Commission. The State Water Commission must 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 may access the line of credit, as necessary, to provide funding as authorized by the Legislative Assembly for water supply and flood control projects approved for funding before June 30, 2021. |
| Contingent appropriation - Bank of North Dakota line of credit | Section 7 would provide a contingent appropriation of \$75 million, from funds obtained through a Bank of North Dakota line of credit, to the State Water Commission for the purpose of funding water projects for the 2019-21 biennium. | |

Department 770 - State Water Commission

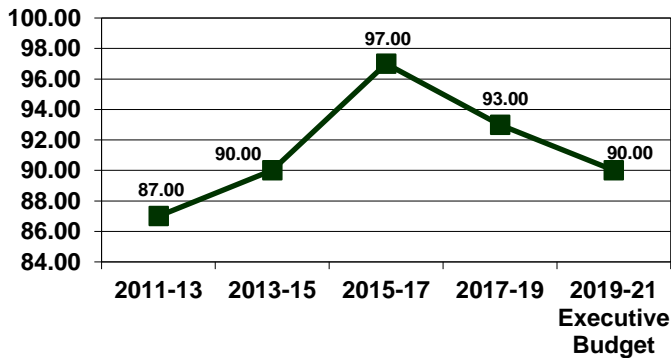
Historical Appropriations Information

Total Ongoing Other Funds Appropriations Since 2011-13

Agency Ongoing Funding (in Millions)



FTE Positions



| Total Other Funds Appropriations | | | | | |
|---|----------------------------|---------------|---------------|-----------------|--------------------------|
| | 2011-13 | 2013-15 | 2015-17 | 2017-19 | 2019-21 Executive Budget |
| Ongoing other funds appropriations | \$494,420,221 ¹ | \$859,045,805 | \$958,935,836 | \$647,173,475 | \$836,198,186 |
| Increase (decrease) from previous biennium | N/A | \$364,625,584 | \$99,890,031 | (\$311,762,361) | \$114,024,711 |
| Percentage increase (decrease) from previous biennium | N/A | 73.7% | 11.6% | (32.5%) | 29.2% |
| Cumulative percentage increase (decrease) from 2011-13 biennium | N/A | 73.7% | 94.0% | 30.9% | 69.1% |

¹Amount excludes \$14,995,199 from the general fund for the 2011-13 biennium for the administration of the State Water Commission.

Major Increases (Decreases) in Other Funds Appropriations

2013-15 Biennium

- 1. Changed funding source for the administration of the State Water Commission from the general fund to the resources trust fund \$17,566,561
- 2. Added funding to provide grants to advance the Stutsman County Rural Water, North Central Rural Water Consortium, and McLean-Sheridan Rural Water projects \$10,350,000
- 3. Added funding to advance additional construction on the Southwest Pipeline Project \$21,000,000
- 4. Added funding for 3 FTE positions \$425,507
- 5. Added funding for the infrastructure revolving loan fund within the resources trust fund \$15,000,000
- 6. Increased funding for professional services \$14,086,303
- 7. Increased funding for utilities \$3,749,426
- 8. Increased funding for capital payments \$131,366,895
- 9. Increased funding for grants \$150,860,165

2015-17 Biennium

- 1. Added funding for 4 FTE water permitting positions \$768,831
- 2. Added funding for 1 FTE regulatory director position \$273,871
- 3. Added funding for 1 FTE water supply project manager position \$229,840
- 4. Added funding for 1 FTE sovereign lands position \$192,784
- 5. Increased funding for professional services \$10,727,828
- 6. Added funding for loan payment on Bank of North Dakota loan to refinance outstanding bonds \$7,000,000
- 7. Increased funding for water projects \$36,132,255

2017-19 Biennium

- | | |
|---|-----------------|
| 1. Removed 4 FTE positions and related funding | (\$753,720) |
| 2. Increased funding for Bank of North Dakota loan payments relating to State Water Commission outstanding bonds refinanced through the Bank during the 2015-17 biennium to provide \$7.5 million per biennium. | \$3,693,997 |
| 3. Added \$125,000 from the resources trust fund for the Agriculture Commissioner's Wildlife Services program | \$125,000 |
| 4. Adjusted funding for operating expenses and water projects | (\$225,437,836) |
| 5. Added funding for a State Engineer study, of which \$15,000 is from the resources trust fund and \$15,000 is other funds received from Ward County | \$30,000 |

2019-21 Biennium (Executive Budget Recommendation)

- | | |
|---|----------------|
| 1. Removes funding for 4 FTE unspecified positions | (\$693,912) |
| 2. Adds 1 FTE risk mapping position from federal funds | \$174,126 |
| 3. Adjusts funding available for new projects to provide a total of \$350,751,493. The Senate removed the new projects line item and added funding for the following line items: Water supply - Grants (\$115 million), Rural water supply - Grants (\$30 million), Flood control - Grants (\$145 million), General water - Grants (\$35,255,000). | \$180,969,346 |
| 4. Adjusts funding available for project carryover to provide a total of \$308,333,818 | \$33,465,921 |
| 5. Adjusts funding for capital assets, which includes state owned projects, to provide a total of \$113,213,758 (Includes \$41,666,182 of carryover funding for capital asset projects). The Senate increased funding for capital assets to provide a total of \$147,938,758. | (\$11,605,684) |
| 6. Adjusts funding for operating expenses to provide a total of \$43,787,553. The Senate reduced funding for operating expenses as recommended in the executive budget and added funding for Microsoft Office 365 licensing, to provide a total of \$43,855,753 for operating expenses. | (\$14,257,138) |

**GOVERNOR'S RECOMMENDATION FOR THE
STATE WATER COMMISSION AS SUBMITTED
BY THE OFFICE OF MANAGEMENT AND BUDGET**

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, 2017, and ending June 30, 2019, as follows:

| | <u>Base level</u> | <u>Adjustments or Enhancements</u> | <u>Appropriation</u> |
|--------------------------------|-------------------|--|----------------------|
| Salaries and wages | \$19,651,385 | \$460,179 | \$20,111,564 |
| Operating expenses | 47,608,165 | (3,820,612) | 43,787,553 |
| Capital assets | 112,219,442 | 994,316 | 113,213,758 |
| Grants - local cost share | 467,694,483 | (116,942,990) | 350,751,493 |
| Grants- carryover | <u>0</u> | <u>308,333,818</u> | <u>308,333,818</u> |
| Total all funds | \$647,173,475 | \$189,024,711 | \$836,198,186 |
| Full-time equivalent positions | 93.00 | (3.00) | 90.00 |

SECTION 2. ONE-TIME FUNDING – EFFECT ON BASE BUDGET – REPORT TO SIXTY-SIXTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fourth legislative assembly for the 2015-17 biennium and the 2017-19 one-time funding items included in the grand total appropriation in section 1 of this Act:

| <u>One-Time Funding Description</u> | <u>2017-19</u> | <u>2019-21</u> |
|---------------------------------------|-------------------|----------------|
| Line of credit – Bank of North Dakota | <u>75,000,000</u> | <u>0</u> |
| Total all funds | \$75,000,000 | \$0 |

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 and water development trust fund that become available are appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 4. 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 capital assets, capital construction carryover, or grants line items in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2021. 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 5. LINE ITEM TRANSFERS. The chief engineer/secretary of the state water commission may transfer between the salaries and wages, operating, capital assets, capital construction carryover, and grants line item in Section 1 of this Act when it is cost-effective for construction of water projects. The state water commission shall notify the office of management and budget of any transfers made pursuant to this section.

SECTION 6. 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 seventy-five 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 state water commission 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 may access the line of credit, as necessary, to

provide funding as authorized by the legislative assembly for water supply projects approved before June 30, ~~2019~~2021, and flood control projects that have approval for funding before June 30, ~~2019~~2021.

SECTION 7. CONTINGENT APPROPRIATION – BANK OF NORTH DAKOTA LINE OF CREDIT.

The sum of \$75,000,000, or so much of the sum as necessary, from a Bank of North Dakota line of credit included in section 6 of this Act, may be transferred to the state water commission for the purpose of funding water projects for the biennium beginning July 1, 2019, and ending June 30, 2021.