Fifty-sixth Legislative Assembly of North Dakota

## SENATE BILL NO. 2165

Introduced by

Appropriations Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to create and enact a new chapter to title 61 of the North Dakota Century

2 Code, relating to the issuance of bonds to finance construction of flood control projects; to

3 amend and reenact subdivision d of subsection 5 of section 61-02-02 of the North Dakota

4 Century Code, relating to the definition of works; to provide an appropriation; to provide an

5 expiration date; and to declare an emergency.

## 6 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

7	SEC	CTION 1. AMENDMENT. Subdivision d of subsection 5 of section 61-02-02 of the
8	North Dako	ta Century Code is amended and reenacted as follows:
9		d. All works for the conservation, control, development, storage, treatment,
10		distribution, and utilization of water including, without limiting the generality of
11		the foregoing subdivisions, works for the purpose of irrigation, flood control,
12		watering stock, supplying water for public, domestic, industrial, and
13		recreational use, fire protection, and the draining of lands injured or in danger
14		of injury as a result of such water utilization.
15	SEC	CTION 2. A new chapter to title 61 of the North Dakota Century Code is created and
16	enacted as	follows:
17	Leg	islative findings and intent - Authority to issue bonds.
18	<u>1.</u>	The legislative assembly finds that some cities suffered serious economic and
19		social injuries due to the major flood disaster in 1997 and are at significant risk for
20		future flooding. It further finds that construction of flood control or reduction
21		projects is necessary for the protection of health, property, and enterprises and for
22		the promotion of prosperity and the general welfare of the people of the state of
23		North Dakota and that construction of any such projects involves and requires the
24		exercise of the sovereign powers of the state and concerns a public purpose.

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1		<u>The</u>	refore, it is declared necessary and in the public interest that the state of North			
2		Dak	tota by and through the state water commission assist in financing the costs of			
3		<u>con</u>	structing flood control or reduction projects through the issuance of bonds.			
4	<u>2.</u>	<u>In f</u>	urtherance of this public purpose, the state water commission may issue bonds			
5		und	ler chapter 61-02 and the proceeds are appropriated for flood control projects			
6		<u>autl</u>	norized and funded in part by the federal government and designed to provide			
7		per	manent flood control or reduction to cities that suffered severe damages as a			
8		resi	ult of the 1997 flood. The commission may issue bonds for a flood control or			
9		red	uction project only when:			
10		<u>a.</u>	The flood control or reduction project involves a city that suffered catastrophic			
11			flood damage requiring evacuation of the major share of its populace;			
12		<u>b.</u>	The flood control or reduction project includes interstate features and requires			
13			acquisition of private property to build permanent flood protection systems to			
14			comply with federal flood protection standards;			
15		<u>C.</u>	The board of commissioners of the city provides a written certification to the			
16			state water commission that the city has committed itself to contribute			
17			one-half or more of the North Dakota project sponsor's share of the			
18			nonfederal share of the cost to construct the project; and			
19		<u>d.</u>	The United States army corps of engineers issues its approval of the flood			
20			control or reduction project.			
21	Bon	d is	suance amount limited. The state water commission bonds issued for flood			
22	control or re	duct	ion projects under this Act may not exceed one-half of the North Dakota project			
23	sponsor's share of the nonfederal share of the cost to construct the flood control or reduction					
24	project or, ir	<u>n the</u>	aggregate, fifty-two million dollars plus the costs of issuance of the bonds,			
25	capitalized i	ntere	est, and reasonably required reserves, whichever is less.			
26	Lim	itatio	on of action. An action may not be brought or maintained in any court in this			
27	state questioning the validity of any bonds issued under this Act unless the action is					
28	commenced within thirty days after the adoption of the resolution of the state water commission					
29	authorizing the sale of the bonds. The state water commission may commence a special					
30	proceeding any time after the effective date of this Act in and by which the constitutionality and					
31	validity of th	e bo	nds to be issued pursuant to this Act may be judicially examined, approved,			

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1	and confirmed or disapproved and disaffirmed. Proceedings must comply as nearly as possible				
2	with the procedure required for declaratory judgment proceedings.				
3	Bonds payable from appropriations and other revenues.				
4	<u>1.</u>	Principal and interest on bonds issued under this Act are payable from transfers to			
5		be made and appropriated by the legislative assembly from the first available			
6		current biennial earnings of the Bank of North Dakota prorated with any other			
7		bonds payable from transfers to be made and appropriated by the legislative			
8		assembly from the first available current biennial earnings of the Bank of North			
9		Dakota, to be credited by the trustee to the fund established for paying principal			
10		and interest on the bonds under a trust indenture, or from appropriations of other			
11		available revenues in the then current biennium, and any other revenues the state			
12		water commission makes available during the then current biennium for that			
13		purpose, including any federal moneys received by the state for the construction of			
14		flood control or reduction projects to pay bonds issued for that project.			
15	<u>2.</u>	Obligations issued under the provisions of this Act do not constitute a debt, liability,			
16		or obligation of the state of North Dakota or a pledge of the faith and credit of the			
17		state of North Dakota, but are payable solely from the sources as described in this			
18		<u>Act.</u>			
19	<u>3.</u>	The state water commission shall include in its submission to the governor for			
20		inclusion by the governor in the biennial executive budget of the state for each year			
21		of the respective biennium during the term of any bonds issued under this Act an			
22		amount fully sufficient to pay the principal and interest required to be paid in each			
23		year of the biennium, if any, from moneys from nongeneral fund sources.			
24		Provided, that should the governor not include in the executive budget for any			
25		reason the amounts required to be included by this section, the state water			
26		commission shall request independently that the legislative assembly amend the			
27		executive budget appropriation so as to include the amounts.			
28	<b>SECTION 3. EXPIRATION DATE.</b> The authority of the commission to issue bonds				
29	under section	on 2 of this Act is effective through June 30, 2001, and after that date is ineffective.			
30	SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.				