

Introduced by

Representatives Grosz, Dorso, Boucher

- 1 A BILL for an Act to provide for the issuance of bonds to finance construction of an outlet to  
2 Devils Lake and to finance a statewide water development program; to provide an  
3 appropriation; and to declare an emergency.

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

5 **SECTION 1. Legislative findings and intent - Authority to issue bonds.**

- 6 1. The legislative assembly finds that the Devils Lake basin is suffering and facing a  
7 worsening flood disaster. It further finds that construction of an outlet to Devils  
8 Lake is necessary for the protection of health, property, and enterprises, and for  
9 the promotion of prosperity and the general welfare of the people of the state of  
10 North Dakota, and that construction of the outlet involves and requires the exercise  
11 of the sovereign powers of the state and concerns a public purpose. Therefore, it  
12 is declared necessary that an outlet for Devils Lake be constructed by the state  
13 water commission to provide flood relief to the Devils Lake basin.
- 14 2. The legislative assembly also finds that there is a critical need to develop a  
15 comprehensive statewide water development program to serve the long-term  
16 water resource needs of the state and its people and to protect the state's current  
17 usage of, and the state's claim to, its proper share of Missouri River water.
- 18 3. In furtherance of these public purposes, the state water commission may issue  
19 bonds under chapter 61-02 in an aggregate amount not to exceed twenty million  
20 dollars to finance the cost of these projects provided that:
- 21 a. The commission may only issue bonds for construction of an outlet to Devils  
22 Lake when the United States authorizes construction of an outlet including  
23 plans addressing damage to basic infrastructure such as roads, culverts, and

bridges; riverbank erosion; downstream flooding; and increased water treatment costs caused by or resulting from construction of the outlet.

- b. The commission may only issue bonds to finance a comprehensive statewide water development program pursuant to this Act when the Congress of the United States enacts legislation for the completion of the Garrison diversion unit, which may include the delivery of water to the northwest area water supply project; southwest pipeline project; Turtle Lake irrigation district; Nesson-Valley irrigation district; Elk Charbonneau-Timber Creek irrigation district; the Williston irrigation project; the Oakes irrigation project; other municipal, rural, and industrial water supply projects; and delivery of Missouri River water to the Sheyenne River. This Act does not affect the state water commission's authority to otherwise issue bonds pursuant to chapter 61-02.
- c. The commission shall notify the budget section of the legislative council if either of the contingencies in subdivision a or b occur and bonds are issued under this Act.
- d. The authority of the commission to issue bonds under this Act is effective through July 1, 1999, and after that date is ineffective.

**SECTION 2. State water commission may match federal funds.** The state water commission may use all or part of the proceeds of bonds issued as provided in this Act to match any federal funds available for the projects identified in subdivisions a and b of subsection 3 of section 1 of this Act. Proceeds realized from the sale of bonds under this Act are available to match federal funds in the ratio most beneficial to the state.

**SECTION 3. Limitation of action.** No action may be brought or maintained in any court in this state questioning the validity of any bonds issued under this Act unless the action is commenced within thirty days after the adoption of the resolution of the state water commission authorizing the sale of the bonds. The state water commission may commence a special proceeding any time after the effective date of this Act in and by which the constitutionality and validity of the bonds to be issued pursuant to this Act may be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Proceedings must comply as nearly as possible with the procedure required for declaratory judgment proceedings.

**SECTION 4. Bonds payable from appropriations and other revenues.**

1. Bonds issued under this Act are payable from transfers to be made by the legislative assembly from the accumulated and undivided profits of the Bank of North Dakota to the resources trust fund and thereafter appropriated for payment of the bonds or from appropriations of other available revenues, and other revenues available to the state water commission for that purpose, including any federal moneys received by the state for the construction of an outlet to Devils Lake to pay bonds issued for that project, or financing a statewide water development program to pay bonds issued for that project.
2. Obligations issued under the provisions of this Act do not constitute a debt, liability, or obligation of the state of North Dakota or a pledge of the faith and credit of the state of North Dakota, but are payable solely from the accumulated and undivided profits of the Bank of North Dakota or other sources provided for by the legislative assembly.
3. The state water commission shall include in its submission to the governor for inclusion by the governor in the biennial executive budget of the state for each year of the respective biennium during the term of any bonds issued under this Act an amount fully sufficient to pay the principal and interest required to be paid in each year of the biennium, if any, from moneys from nongeneral fund sources. Provided, that should the governor not include in the executive budget for any reason the amounts required to be included by this section, the state water commission shall request independently that the legislative assembly amend the executive budget appropriation so as to include the amounts.

**SECTION 5. APPROPRIATION.** The sum of \$2,000,000, or so much of the sum as may be necessary, is transferred from the accumulated and undivided profits of the Bank of North Dakota to the resources trust fund. Upon transfer of the funds by the Bank of North Dakota, there is hereby appropriated out of any moneys in the resources trust fund, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the state water commission for the biennium beginning July 1, 1997, and ending June 30, 1999, for the purpose of paying the interest on and principal of the bonds issued in accordance with this Act.

1           **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.