

Fifty-seventh  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1023

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state water  
2 commission; to provide for the sale of the land and building used by the state water commission  
3 as a maintenance shop and the purchase of new property for such use; to provide for a  
4 continuing appropriation; to provide a statement of legislative intent; to create and enact a new  
5 section to chapter 61-02.1 and a new subsection to section 61-02.1-04 of the North Dakota  
6 Century Code, relating to funding of water development projects and repayment of bonds; to  
7 amend and reenact sections 54-27-25 and 61-01-26.1 of the North Dakota Century Code and  
8 section 11 of chapter 535 of the 1999 Session Laws, relating to funds deposited in the water  
9 development trust fund, supplementing the water resources of eastern North Dakota, and to the  
10 expiration date for the issuance of bonds; to provide an exemption from payment of fees; and to  
11 provide a line of credit and an appropriation for repayment.

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

13 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
14 funds as may be necessary, are appropriated out of any moneys in the water development trust  
15 fund in the state treasury, not otherwise appropriated, and from special funds derived from  
16 federal funds and other income, to the state water commission for the purpose of defraying the  
17 expenses of its various divisions, for the biennium beginning July 1, 2001, and ending June 30,  
18 2003, as follows:

|    |                      |             |
|----|----------------------|-------------|
| 19 | Salaries and wages   | \$9,066,759 |
| 20 | Operating expenses   | 6,503,485   |
| 21 | Equipment            | 499,833     |
| 22 | Capital improvements | 23,710,864  |
| 23 | Grants               | 22,475,067  |
| 24 | Cooperative research | 3,050,000   |

|   |                                      |                   |
|---|--------------------------------------|-------------------|
| 1 | Statewide water development projects | <u>28,572,333</u> |
| 2 | Total special funds appropriation    | \$93,878,341      |

3           **SECTION 2. RESOURCES TRUST FUND.** The amount of \$21,718,031, or so much of  
4 the funds as may be necessary, included in the total special funds appropriation line item in  
5 section 1 of this Act is from the resources trust fund for the biennium beginning July 1, 2001,  
6 and ending June 30, 2003.

7           **SECTION 3. WATER DEVELOPMENT TRUST FUND.** The amount of \$47,365,504 or  
8 so much of the funds as may be necessary, included in the total special funds appropriation line  
9 item in section 1 of this Act is from the water development trust fund for the biennium beginning  
10 July 1, 2001, and ending June 30, 2003.

11           **SECTION 4. ALLOCATION OF GRANT FUNDS.** The funds appropriated in the grants  
12 line item in section 1 of this Act must be disbursed by the state water commission in  
13 accordance with section 61-02-64.1.

14           **SECTION 5. GRANTS - STATEWIDE WATER DEVELOPMENT PROJECTS.** Section  
15 54-44.1-11 does not apply to appropriations made for grants or for statewide water  
16 development projects in this Act. However, this exclusion is only in effect for two years after  
17 June 30, 2003. Any unexpended funds appropriated from the resources trust fund after that  
18 period has expired must be transferred to the resources trust fund and any unexpended funds  
19 appropriated from the water development trust fund after that period has expired must be  
20 transferred to the water development trust fund.

21           **SECTION 6. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT.** If the  
22 resources trust fund 2001-03 revenues are in excess of \$21,718,031, any excess is  
23 appropriated, subject to emergency commission approval, from the resources trust fund to the  
24 state water commission for the biennium beginning July 1, 2001, and ending June 30, 2003.

25           **SECTION 7. Sale and purchase of land and building - Authority - Continuing**  
26 **appropriation.**

27           1. The state water commission, on behalf of the state of North Dakota, may sell in  
28           one or more parcels the land and building known as the "state water commission  
29           maintenance shop" located at 2603 East Broadway Avenue, Bismarck, North  
30           Dakota, and legally described as follows:

1                   A tract of land lying in the Northwest Quarter (NW 1/4) of Section  
2                   Two (2), Township One Hundred Thirty-Eight (138) North, Range Eighty (80)  
3                   West of the Fifth (5) Principal Meridian, in the County of Burleigh and State of  
4                   North Dakota, and described as follows:

5                   Commencing at the northwest corner of said section two; thence  
6                   traveling in a southerly direction along the west boundary of said section two  
7                   for a distance of seven hundred seventy-four and six-tenths feet (774.60);  
8                   thence turning a right angle to the left in an easterly direction along a line  
9                   which is parallel to the north boundary of said section two for a distance of  
10                  forty-seven feet (47.00), which shall be called the true point of beginning;  
11                  thence continuing due east along said line for a distance of eight hundred  
12                  forty-two and nine-tenths feet (842.90); thence turning a deflection angle of  
13                  ninety degrees and twenty-two minutes (90 degrees 22') to the right and  
14                  traveling in a southerly direction to a point of intersection with the north fifty  
15                  foot railroad right-of-way line; thence traveling in a westerly direction along  
16                  said north fifty foot railroad right-of-way line to a point of intersection with the  
17                  west boundary of said section two; thence traveling in a northerly direction  
18                  along the west boundary of said section two for a distance of four hundred  
19                  seventy-two and one-tenth feet (472.10); thence turning a right angle to the  
20                  right in an easterly direction along a line which is parallel to the north  
21                  boundary of said section two for a distance of forty-seven feet (47.00); thence  
22                  traveling in a northerly direction along a line which is parallel to the west  
23                  boundary of said section two for a distance of one hundred fifty feet (150.00)  
24                  to the point of beginning. Including all of the property bounded by the above  
25                  described line, subject to existing rights-of-way and easements.

26                  The above described tract of land contains 11.77 acres, more or less.

27                  2. The conveyance authorized by this Act is exempt from sections 54-01-05.2 and  
28                  54-01-05.5. The conveyance may only be made after the property has been  
29                  appraised and the property must be sold at public auction unless no bid equals or  
30                  exceeds the minimum appraised value. The appraisal must be dated no earlier  
31                  than eighteen months before the auction. If at the public auction no bid equals or

1 exceeds the minimum appraised value, the state water commission may negotiate  
2 a price for the land with a purchaser.

3 3. All proceeds from the sale or so much of the sale proceeds as may be necessary,  
4 not otherwise appropriated, are appropriated on a continuing basis to the state  
5 water commission for the purchase of land and the construction of a building and  
6 associated appurtenances to be used as a new maintenance facility. The  
7 purchase authorized by this subsection may proceed only after completion of a  
8 certified appraisal of the property to be purchased and completion of a physical  
9 inspection of any building to be purchased demonstrating that the building is  
10 structurally sound and suitable for the state water commission's purposes.

11 4. The attorney general shall review and approve the form and legality of all legal  
12 documents required for the conveyance and purchase authorized by this Act,  
13 including title opinions.

14 **SECTION 8. LEGISLATIVE INTENT.** It is the intent of the fifty-seventh legislative  
15 assembly that the proceeds of the sale of the state water commission maintenance shop  
16 located in east Bismarck be used to purchase land and construct a new maintenance shop  
17 building. If the proceeds from the sale are less than \$977,100, the state water commission may  
18 use other funds appropriated to the state water commission for the purpose of purchasing land  
19 and constructing a new maintenance shop building.

20 It is further the intent of the fifty-seventh legislative assembly that if the proceeds from  
21 the sale are not available at the time the state water commission needs to purchase and  
22 construct the new building and associated appurtenances, the state water commission may use  
23 other funds appropriated to it provided that, upon receipt of the proceeds of the sale, the state  
24 water commission shall transfer to the funds from which money was taken an amount equal to  
25 any funds utilized for the purchase of land and construction of the new maintenance building. If  
26 the state water commission uses other funds appropriated to it because the funds from the sale  
27 of the land and building are insufficient, the state water commission need not make a transfer of  
28 sale proceeds.

29 It is further the intent of the fifty-seventh legislative assembly that no more than a total  
30 of \$977,100 may be expended from the amounts appropriated under this Act to purchase land  
31 and construct the new maintenance building and associated appurtenances.

1           **SECTION 9. AMENDMENT.** Section 54-27-25 of the 1999 Supplement to the North  
2 Dakota Century Code is amended and reenacted as follows:

3           **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.** There is  
4 created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco  
5 settlement dollars obtained by the state under sections IX (payments) and XI (calculation and  
6 disbursement of payments) of the master settlement agreement and consent agreement  
7 adopted by the east central judicial district court in its judgment entered December 28, 1998  
8 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys  
9 received by the state for enforcement of the judgment must be deposited in the fund. Interest  
10 earned on the fund must be credited to the fund and deposited in the fund. The principal and  
11 interest of the fund must be allocated as follows:

- 12           1. Transfers to a community health trust fund to be administered by the state  
13           department of health. The state department of health may use funds as  
14           appropriated for community-based public health programs and other public health  
15           programs, including programs with emphasis on preventing or reducing tobacco  
16           usage in this state. Transfers under this subsection must equal ten percent of total  
17           annual transfers from the tobacco settlement trust fund.
- 18           2. Transfers to the common schools trust fund to become a part of the principal of  
19           that fund. Transfers under this subsection must equal forty-five percent of total  
20           annual transfers from the tobacco settlement trust fund.
- 21           3. Transfers to the water development trust fund to be used to address the long-term  
22           water development and management needs of the state and to defray the  
23           expenses of the state water commission. Transfers under this subsection must  
24           equal forty-five percent of the total annual transfers from the tobacco settlement  
25           trust fund.

26           Notwithstanding the provisions of this section, during each biennium transfers that  
27 would be made to the common schools trust fund under subsection 2 must instead be  
28 transferred to the water development trust fund until the state water commission certifies to the  
29 state treasurer that deposits in the water development trust fund during that biennium are  
30 sufficient to pay the principal and interest for that biennium on bonds authorized under section  
31 61-02.1-01, and for that biennium, the expenses of the state water commission and ongoing

1 water development program costs. When that certification is received, the state treasurer shall  
2 determine the amount deposited in the water development trust fund during that biennium and  
3 transfers that would be made to the water development trust fund under subsection 3 must  
4 instead be transferred to the common schools trust fund until deposits in the common schools  
5 trust fund during that biennium are equal to the amount deposited in the water development  
6 trust fund during that biennium or until the end of the biennium, whichever occurs first.

7 Transfers to the funds under this section must be made within thirty days of receipt by  
8 the tobacco settlement trust fund.

9 **SECTION 10. AMENDMENT.** Section 61-01-26.1 of the 1999 Supplement to the North  
10 Dakota Century Code is amended and reenacted as follows:

11 **61-01-26.1. Findings and declaration of policy - Water to eastern North Dakota a**  
12 **critical priority - Water supplementation study - Employment of staff.** The legislative  
13 assembly finds that many areas and localities in eastern North Dakota do not enjoy safe  
14 drinking water, ~~and that the water in these areas and localities contains iron, sulfates, alkali,~~  
15 ~~salt, nitrates, fluoride, and other hazardous and discoloring substances.~~ It is also found that  
16 other areas and localities in eastern North Dakota do not have sufficient quantities of water to  
17 ensure a dependable, long-term water supply. The legislative assembly further finds that  
18 supplementation of the water resources of eastern North Dakota ~~with water supplies from other~~  
19 ~~available sources, including the Missouri River,~~ may be the only alternative to provide eastern  
20 North Dakota with a dependable source of safe, good quality water and an adequate quantity of  
21 water.

22 It is further declared that effective development and utilization of the land and water  
23 resources of this state; the opportunity for greater economic security; the protection of health,  
24 property, enterprise, and the preservation of the benefits from the land and water resources of  
25 this state; and the promotion of the prosperity and general welfare of all of the people of North  
26 Dakota involve, necessitate, and require the exercise of the sovereign powers of the state and  
27 concern a public purpose. Therefore, in order to accomplish this public purpose, it is declared  
28 necessary that a means to supply and distribute water to the people of eastern North Dakota  
29 for all beneficial purposes ~~including domestic, rural water, municipal, livestock, light industrial,~~  
30 ~~mining, agriculture, and other uses~~ must be developed. In furtherance of this public purpose,  
31 the supply and delivery of water to eastern North Dakota is established as a critical priority and

1 the state water commission shall ~~continue to cooperate~~, in cooperation with the Garrison  
2 diversion conservancy district ~~in addressing~~ and the communities and rural water systems in  
3 eastern North Dakota, address this critical priority by developing a plan and estimate of the  
4 costs for supplementing the water resources of eastern North Dakota with water supplies from  
5 other available resources, including the Missouri River.

6 The state water commission may employ full-time personnel and may employ such  
7 other personnel as are necessary for the administration of this section as appropriated funds  
8 permit. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund or  
9 appropriated for purposes of administering this section may be used for salaries and expenses  
10 of persons employed pursuant to this section.

11 **SECTION 11.** A new section to chapter 61-02.1 of the North Dakota Century Code is  
12 created and enacted as follows:

13 **Funding - Statewide water development projects - Bond issuance amount.**

14 1. The priorities for the statewide water development program for the 2001-03  
15 biennium include municipal, rural, and industrial projects; irrigation projects;  
16 general water management projects, including rural flood control, snagging and  
17 clearing, channel improvement, recreation, and planning studies; flood control  
18 projects; and weather modification projects. The state water commission may  
19 provide the funds necessary to construct these projects from money appropriated  
20 to the state water commission from the resources trust fund, the water  
21 development trust fund, or by issuing bonds in an amount not to exceed thirty-six  
22 million three hundred thousand dollars plus the costs of issuance of the bonds,  
23 capitalized interest, and reasonably required reserves. The commission may  
24 utilize up to five million five hundred thousand dollars from the water development  
25 trust fund, the resources trust fund, or from bond proceeds to provide cost share  
26 for a flood control channel and levy project designed to provide protection from  
27 overland flooding to a city with a population in excess of eighty thousand as of the  
28 2000 federal decennial census. The amount provided may not exceed fifty percent  
29 of the city's share of the cost to construct the project. Bonds may be issued  
30 utilizing the procedures set forth in chapter 61-02. The proceeds of any bonds

1           issued under the authority provided in this section are appropriated to the state  
2           water commission for the purposes set forth in this section.

3           2. If the state water commission determines it is appropriate to do so, it may, in lieu of  
4           issuing or in combination with the issuance of bonds pursuant to sections  
5           61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects  
6           set forth in those provisions, use funds appropriated to it from the resources trust  
7           fund or the water development trust fund. Regardless of the source, the amount of  
8           funds used may not exceed the limits set forth in section 61-02.1-02.

9           **SECTION 12.** A new subsection to section 61-02.1-04 of the 1999 Supplement to the  
10 North Dakota Century Code is created and enacted as follows:

11           Principal and interest on bonds issued for projects authorized pursuant to  
12           section 10 of this Act are payable from transfers to be made and appropriated by  
13           the legislative assembly from the water development trust fund as provided in  
14           section 61-02.1-05, then from transfers to be made and appropriated by the  
15           legislative assembly from revenues in the resources trust fund other than revenues  
16           from state taxes, then from appropriations of other available revenues in the then  
17           current biennium, and then from any other revenues the state water commission  
18           makes available during the then current biennium for that purpose. If sufficient  
19           funds from these sources are not available, then from transfers to be made and  
20           appropriated by the legislative assembly from the first available current biennial  
21           earnings of the Bank of North Dakota not to exceed six million five hundred  
22           thousand dollars per biennium prorated with any other bonds payable from  
23           transfers to be made and appropriated by the legislative assembly from the  
24           available current biennial earnings of the Bank of North Dakota, to be credited by  
25           the trustee to the fund established for paying principal and interest on the bonds  
26           under a trust indenture.

27           **SECTION 13. LEGISLATIVE INTENT - STATEWIDE WATER PROJECT FUNDING**

28 **LIMIT.** Notwithstanding the amounts of \$28,572,333 included in the statewide water  
29 development projects line item in section 1 of this Act and \$36,300,000 included in section 11  
30 of this Act, and the amount appropriated in chapter 61-02.1, it is the intent of the fifty-seventh  
31 legislative assembly that no more than a total of sixty-seven million eight hundred thousand

1 dollars, plus, if bonds are issued, the costs of issuance of the bonds, capitalized interest, and  
2 reasonably required reserves, may be expended for statewide water development projects for  
3 the 2001-03 biennium.

4 **SECTION 14. LINE OF CREDIT - APPROPRIATION.** The Bank of North Dakota shall  
5 extend a line of credit not to exceed \$25,000,000, which is appropriated for the biennium  
6 beginning July 1, 2001, and ending June 30, 2003, to the state water commission for the  
7 purpose of interim financing until bonds are issued under chapter 61-02.1.

8 **SECTION 15. APPROPRIATION.** There is appropriated out of any moneys in the  
9 water development trust fund, not otherwise appropriated, or from bond proceeds, the sum of  
10 \$25,000,000, or so much of the sum as may be necessary, to the state water commission for  
11 the purpose of repaying the line of credit extended to the state water commission under section  
12 14 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

13 **SECTION 16. EXEMPTION FROM PAYMENT OF FEES.** For purposes of charging  
14 fees or requiring payment for services pursuant to sections 54-10-01, 54-12-08, and 52-21-25,  
15 the state auditor, attorney general, and the director of the office of management and budget  
16 shall consider the funds appropriated to the state water commission from the water  
17 development trust fund in the same manner as if the funds were appropriated from the general  
18 fund for the 2001-03 biennium.

19 **SECTION 17. AMENDMENT.** Section 11 of chapter 535 of the 1999 Session Laws is  
20 amended and reenacted as follows:

21 **SECTION 11. EXPIRATION DATE.** The authority of the commission to issue bonds as  
22 provided in chapter 61-02.1 is effective through June 30, ~~2004~~ 2003, and after that date is  
23 ineffective provided, however, that the commission may continue to exercise all other powers  
24 granted to it under this Act and to comply with any covenants entered into pursuant to this Act.