

**FIRST ENGROSSMENT
with Conference Committee Amendments****ENGROSSED SENATE BILL NO. 2188**

Introduced by

Senator Traynor

Representatives Brekke, Grosz, D. Johnson

1 A BILL for an Act to create and enact a new section to chapter 61-01 and chapter 61-02.1 of
2 the North Dakota Century Code, relating to statewide water development goals and the
3 issuance of bonds to finance construction of flood control projects, the southwest pipeline
4 project, a Devils Lake outlet, and a statewide water development program; to amend and
5 reenact subdivision d of subsection 5 of section 61-02-02 of the North Dakota Century Code,
6 relating to the definition of works; to require the pledging of funds for certain water projects; to
7 allocate funds from settlements with tobacco product manufacturers; to provide a statement of
8 legislative intent; to provide for reports to the legislative council; to provide for development of a
9 statewide water development program; to provide an appropriation; to provide an effective date;
10 to provide an expiration date; and to declare an emergency.

11 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

12 **SECTION 1.** A new section to chapter 61-01 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Statewide water development goals.** The legislative assembly will support to the
15 extent funds are available from the water development trust fund the comprehensive statewide
16 water development program developed pursuant to section 2 of chapter 587 of the 1995
17 Session Laws and to the state water management plan established under section 61-01-26. In
18 order to implement the state water management plan, the legislative assembly will support the
19 following:

20 1. During the 1999-2001 biennium:

21 a. Southwest pipeline project: Six million dollars in state funds and eleven
22 million five hundred thousand dollars in federal funds, assuming Perkins
23 County water system payment to the state water commission of four million
24 five hundred thousand dollars.

- 1 b. Northwest area water supply project: Eight million two hundred thousand
2 dollars in local funds and fourteen million eight hundred thousand dollars in
3 federal funds, with an option being considered of the state water commission
4 bonding the local cost-share with local repayment of the total principal,
5 interest, and cost of issuance of the bonds to the state water commission.
- 6 c. Other municipal, rural, and industrial projects: Twenty-five million five
7 hundred thousand dollars in local funds and thirty-nine million nine hundred
8 thousand dollars in federal funds.
- 9 d. Grand Forks flood control: Twenty-five million dollars in local funds,
10 twenty-five million dollars in state funds, and thirty-eight million five hundred
11 thousand dollars in federal funds. The state total cost-share of fifty-two
12 million dollars or so much of the total cost-share that is required may be
13 bonded, requiring a loan repayment estimated at three million nine hundred
14 thousand dollars per year with repayment beginning in 2001.
- 15 e. Devils Lake outlet to the Sheyenne River and to west Stump Lake:
16 Seventeen million five hundred thousand dollars in state funds and thirty-two
17 million five hundred thousand dollars in federal funds. The total state
18 cost-share of seventeen million five hundred thousand dollars includes
19 mitigation costs and will be bonded, requiring a local repayment estimated at
20 one million five hundred thousand dollars per year, with the split between
21 state and local loan repayment to be determined. Before bonds may be
22 issued for a Devils Lake outlet, construction of the outlet must be approved by
23 the state water commission and the federal government must have agreed to
24 participate in construction of the outlet.
- 25 2. During the 2001-03 biennium:
- 26 a. Water to eastern North Dakota: Seventeen million dollars in federal funds
27 appropriated under the Garrison Diversion Unit Reformulation Act of 1986
28 [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or
29 other federal Act. The local cost has not been determined and will be
30 determined after project configuration is complete.

b. Southwest pipeline project: Five hundred thousand dollars in local funds, one million seven hundred thousand dollars in state funds, and twelve million five hundred thousand dollars federal funds.

c. Northwest area water supply project: Eight million seven hundred thousand dollars in local funds and sixteen million three hundred thousand dollars in federal funds.

d. Other municipal, rural, and industrial projects: Seventeen million seven hundred thousand dollars in local funds and thirty-two million eight hundred thousand dollars in federal funds.

e. Grand Forks flood control: Thirty-five million seven hundred thousand dollars in local funds, twenty-seven million dollars in state funds, and sixty-two million nine hundred thousand dollars in federal funds; annual bond payments of three million nine hundred thousand dollars. Components of the Grand Forks flood control project involve water treatment plant improvements. Those federal costs are reflected in subdivision d because of potential cost-sharing using Garrison diversion municipal, rural, and industrial funds. Other projects, such as greenway, are listed under subdivision g.

f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond repayments of one million five hundred thousand dollars per year.

g. General projects: Thirty-one million seven hundred thousand dollars in local funds, twenty-five million nine hundred thousand dollars in state funds, and thirty-nine million eight hundred thousand dollars in federal funds.

3. During the 2003-05 biennium:

a. Water to eastern North Dakota: Six million dollars in federal funds appropriated under the Garrison Diversion Unit Reformulation Act of 1986 [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or other federal Act. The local cost has not been determined and will be determined after project configuration is complete.

b. Southwest pipeline project: One million dollars in local funds, five million dollars in state funds, and eleven million four hundred thousand dollars in federal funds.

- 1 c. Northwest area water supply project: Eleven million eight hundred thousand
2 dollars in local funds and twenty-one million eight hundred thousand dollars in
3 federal funds.
- 4 d. Other municipal, rural, and industrial projects: Seventeen million seven
5 hundred thousand dollars in local funds and thirty-two million eight hundred
6 thousand dollars in federal funds.
- 7 e. Grand Forks flood control: Annual bond payments of three million nine
8 hundred thousand dollars.
- 9 f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond
10 repayments of one million five hundred thousand dollars per year.
- 11 g. General projects: Twenty-four million dollars in local funds, eighteen million
12 four hundred thousand dollars in state funds, and five million five hundred
13 thousand dollars in federal funds.
- 14 4. During the 2005-07 biennium:
- 15 a. Water to eastern North Dakota: Eighty-four million dollars in federal funds
16 appropriated under the Garrison Diversion Unit Reformulation Act of 1986
17 [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or
18 other federal Act. The local cost has not been determined and will be
19 determined after project configuration is complete.
- 20 b. Southwest pipeline project: One million dollars in local funds, nine million five
21 hundred thousand dollars in state funds, and nineteen million five hundred
22 thousand dollars in federal funds.
- 23 c. Northwest area water supply project: Five million eight hundred thousand
24 dollars in local funds and ten million nine hundred thousand dollars in federal
25 funds.
- 26 d. Other municipal, rural, and industrial projects: Seventeen million seven
27 hundred thousand dollars in local funds and thirty-two million eight hundred
28 thousand dollars in federal funds.
- 29 e. Grand Forks flood control: Annual bond payments of three million nine
30 hundred thousand dollars.

f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond repayments of one million five hundred thousand dollars per year.

g. General projects: Twenty-four million dollars in local funds, eighteen million four hundred thousand dollars in state funds, and five million five hundred thousand dollars in federal funds.

5. During the 2007-09 biennium:

a. Water to eastern North Dakota: Fifty-nine million dollars in federal funds appropriated under the Garrison Diversion Unit Reformulation Act of 1986 [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or other federal Act. The local cost has not been determined and will be determined after project configuration is complete.

b. Northwest area water supply project: Three million seven hundred thousand dollars in local funds and seven million dollars in federal funds.

c. Other municipal, rural, and industrial projects: Seventeen million seven hundred thousand dollars in local funds and thirty-two million eight hundred thousand dollars in federal funds.

d. Grand Forks flood control: Annual bond repayments of three million nine hundred thousand dollars.

e. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond repayments of one million five hundred thousand dollars per year.

f. General projects: Twenty-four million dollars in local funds, eighteen million four hundred thousand dollars in state funds, and five million five hundred thousand dollars in federal funds.

6. During the 2009-11 biennium:

a. Water to eastern North Dakota: Two million dollars in federal funds appropriated under the Garrison Diversion Unit Reformulation Act of 1986 [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or other federal Act. The local cost has not been determined and will be determined after project configuration is complete.

b. Northwest area water supply project: One million seven hundred thousand dollars in local funds and three million three hundred thousand dollars in federal funds.

c. Other municipal, rural, and industrial projects: Seventeen million seven hundred thousand dollars in local funds and thirty-two million eight hundred thousand dollars in federal funds.

d. Grand Forks flood control: Annual bond repayments of three million nine hundred thousand dollars.

e. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond repayments of one million five hundred thousand dollars per year.

f. General projects: Twenty-four million dollars in local funds, eighteen million four hundred thousand dollars in state funds, and five million five hundred thousand dollars in federal funds.

7. Beyond the year 2011:

a. Water to eastern North Dakota: The local cost has not been determined and will be determined after project configuration is complete.

b. Northwest area water supply project: Eight million seven hundred thousand dollars in local funds and sixteen million three hundred thousand dollars in federal funds.

c. Other municipal, rural, and industrial projects: One hundred thirty million two hundred thousand dollars in local funds and two hundred forty-one million two hundred thousand dollars in state funds. The anticipated three hundred forty-five million dollars in federal cost-share has been used in the previous bienniums and the remaining cost-share for projects has been identified as a potential state cost-share.

d. Grand Forks flood control: A total of fifty-eight million five hundred thousand dollars in bond repayments is anticipated.

e. Devils Lake outlet to Sheyenne River and to west Stump Lake: A total of fifteen million dollars in bond repayments.

f. General projects: Two hundred twenty million two hundred thousand dollars in local funds, one hundred fifty-six million four hundred thousand dollars in

state funds, and thirty-four million three hundred thousand dollars in federal funds.

SECTION 2. AMENDMENT. Subdivision d of subsection 5 of section 61-02-02 of the North Dakota Century Code is amended and reenacted as follows:

d. All works for the conservation, control, development, storage, treatment, distribution, and utilization of water including, without limiting the generality of the foregoing subdivisions, works for the purpose of irrigation, flood control, watering stock, supplying water for public, domestic, industrial, and recreational use, fire protection, and the draining of lands injured or in danger of injury as a result of such water utilization.

SECTION 3. Chapter 61-02.1 of the North Dakota Century Code is created and enacted as follows:

61-02.1-01. Legislative findings and intent - Authority to issue bonds.

1. The legislative assembly finds that some cities suffered serious economic and social injuries due to the major flood disaster in 1997 and other recent floods and are at significant risk for future flooding; and that construction of flood control or reduction projects is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state and that construction of any such projects involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. Therefore, it is declared necessary and in the public interest that the state by and through the state water commission assist in financing the costs of constructing flood control or reduction projects through the issuance of bonds.
2. The legislative assembly finds that continued construction of the southwest pipeline project is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state and that continued construction of the southwest pipeline project involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. The legislative assembly also finds that current funding for the southwest pipeline project has become uncertain, and therefore, it is declared necessary and in the public interest that the state by and through the state water

commission assist in financing the costs of continued construction of the southwest pipeline project through the issuance of bonds.

3. The legislative assembly finds that the Devils Lake basin is suffering and facing a worsening flood disaster; and that construction of an outlet from Devils Lake is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the state; and that construction of the outlet involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. Therefore, it is declared necessary and in the public interest that an outlet from Devils Lake be constructed with financing from the state water commission to provide flood relief to the Devils Lake basin.

4. The legislative assembly finds that there is a critical need to develop a comprehensive statewide water development program to serve the long-term water resource needs of the state and its people and to protect the state's current usage of, and the state's claim to, its proper share of Missouri River water.

5. In furtherance of the public purpose set forth in subsection 1, the state water commission may issue bonds under chapter 61-02 and the proceeds are appropriated for flood control projects authorized and funded in part by the federal government and designed to provide permanent flood control or reduction to cities that suffered severe damages as a result of the 1997 flood or other recent floods and to repay the line of credit extended to the state water commission under section 4 of this Act. The commission may issue bonds for a flood control or reduction project only:

a. When:

(1) A flood control or reduction project involves a city that suffered catastrophic flood damage requiring evacuation of the major share of its populace;

(2) A flood control or reduction project includes interstate features and requires acquisition of private property to build permanent flood protection systems to comply with federal flood protection standards;

- (3) The governing body of a city provides a written certification to the state water commission that the city has committed itself to contribute one-half or more of the North Dakota project sponsor's share of the nonfederal share of the cost to construct the project;
 - (4) The United States army corps of engineers issues its approval of the flood control or reduction project;
 - (5) A project cooperation agreement, which contains provisions acceptable to the state engineer and is approved by the governor, is entered by the state of Minnesota or one of its political subdivisions in which the flood control or reduction project is to be constructed;
 - (6) A project cooperation agreement, which contains provisions acceptable to the state engineer and is approved by the governor, is entered by the state or one of its political subdivisions in which the flood control or reduction project is to be constructed;
 - (7) The governing body of the city has approved a financing plan for all amounts of the nonfederal share of a flood control or reduction project in excess of the amounts to be paid by the state;
 - (8) That no order for injunctive relief has been issued by a court of competent jurisdiction enjoining construction of the flood control or reduction project; and
 - (9) That the flood control or reduction project is designed to be cost-effective and that any impact on residential neighborhoods is minimized in an amount reasonably practicable as determined by the state engineer and approved by the governor;
- b. When a flood control or reduction project in a city with a population as of the 1990 federal decennial census of at least eight thousand and not more than ten thousand has received significant federal funding through federal grants and funds from the United States army corps of engineers and the federal emergency management agency; or
- c. When a flood control or reduction project in a city with a population as of the 1990 federal decennial census of at least four thousand five hundred and not

1 more than six thousand has at least seventy percent of the land within the
2 boundaries of the city located within the one hundred year floodplain as
3 designated on a flood insurance rate map and the United States army corps
4 of engineers issues its approval of the flood control or reduction project.

5 6. In furtherance of the public purpose set forth in subsection 2, the state water
6 commission may issue bonds under chapter 61-02 and the proceeds are
7 appropriated for construction of the southwest pipeline project and to repay the line
8 of credit extended to the state water commission under section 4 of this Act. The
9 commission may only issue bonds under this chapter for continued construction of
10 the southwest pipeline project when it is determined that the Perkins County water
11 system will not make payment to the state water commission in the amount of four
12 million five hundred thousand dollars or on January 1, 2000, whichever occurs
13 earlier. If the Perkins County water system makes payment to the state water
14 commission after January 1, 2000, the payment must be used to pay principal and
15 interest on bonds issued for continued construction of the southwest pipeline
16 project as provided in subsection 2 of section 61-02.1-04. If the Perkins County
17 water system does not make payment to the state water commission, no benefits
18 may accrue to the Perkins County water system.

19 7. In furtherance of the public purposes set forth in subsections 3 and 4, the state
20 water commission may issue bonds under chapter 61-02 to finance the cost of one
21 or more of the projects identified in this subsection, provided that:

- 22 a. (1) The state water commission may only issue bonds for construction of
23 an outlet from Devils Lake when the United States authorizes
24 construction of an outlet and either the state water commission or a
25 federal agency has developed a plan addressing damage to basic
26 infrastructure such as roads, culverts, and bridges; riverbank erosion;
27 downstream flooding; and increased water treatment costs caused by
28 or resulting from construction of the outlet;
29 (2) The state water commission or the project sponsor must sign a project
30 cooperation agreement with the United States army corps of engineers;

- 1 (3) The outlet from Devils Lake to west Stump Lake must comply with any
2 environmental impact statement or National Environmental Policy Act
3 provisions required under federal law; and
- 4 (4) Bonds may not be issued if an order for injunctive relief has been
5 issued by a court of competent jurisdiction enjoining construction of an
6 outlet from Devils Lake to the Sheyenne River or to west Stump Lake.
- 7 b. The state water commission may only issue bonds to finance the nonfederal
8 cost-share of the Garrison diversion unit when the Congress of the United
9 States enacts legislation for the completion of the Garrison diversion unit,
10 which may include the delivery of water to the northwest area water supply
11 project; southwest pipeline project; Turtle Lake irrigation district;
12 Nesson-Valley irrigation district; Elk Charbon irrigation district; the Williston
13 irrigation project; the Oakes irrigation project; other irrigation, municipal, rural,
14 and industrial water supply projects; augmented streamflow and ground water
15 recharge projects; development of a Red River valley water supply; and
16 delivery of Missouri River water to the Sheyenne River.
- 17 8. This chapter does not affect the state water commission's authority to otherwise
18 issue bonds pursuant to chapter 61-02 or 61-24.3-01.
- 19 9. Notwithstanding this section, the state water commission may not issue bonds
20 authorized under subsection 5 or subdivision a of subsection 7 for a project unless
21 federal funds have been appropriated for that project.
- 22 10. Notwithstanding this section, if bonds are issued under this chapter, any bonds
23 subsequently issued after the first issuance must meet the same conditions as the
24 bonds initially issued.
- 25 11. Notwithstanding this section, except for a project listed in subdivision a of
26 subsection 7 the state water commission may not issue bonds under this chapter
27 unless the local project sponsor has agreed to repay the local project sponsor's
28 share of any bonds issued for the entire nonfederal share of the cost of a project.
- 29 **61-02.1-02. Bond issuance amount limited.**
- 30 1. The state water commission bonds issued for flood control or reduction projects
31 meeting the requirements of subdivision a of subsection 5 of section 61-02.1-01

1 may not exceed forty-five percent and bonds issued for flood control or reduction
2 projects meeting the requirements of subdivision b or c of subsection 5 of section
3 61-02.1-01 may not exceed one-half of the North Dakota project sponsor's share of
4 the nonfederal share of the cost to construct the flood control or reduction project
5 or, in the aggregate, sixty million three hundred thousand dollars plus the costs of
6 issuance of the bonds, capitalized interest, and reasonably required reserves,
7 whichever is less. Of the sixty million three hundred thousand dollars authorized in
8 this subsection for flood control or reduction projects under subsection 5 of section
9 61-02.1-01, fifty-two million dollars must be allocated for flood control or reduction
10 projects meeting the requirements of subdivision a of subsection 5 of section
11 61-02.1-01, three million five hundred thousand dollars must be allocated for flood
12 control or reduction projects meeting the requirements of subdivision b of
13 subsection 5 of section 61-02.1-01, and four million eight hundred thousand dollars
14 must be allocated for flood control or reduction projects meeting the requirements
15 of subdivision c of subsection 5 of section 61-02.1-01.

16 2. The state water commission bonds issued as provided in subsection 6 of section
17 61-02.1-01 for continued construction of the southwest pipeline project may not
18 exceed, in the aggregate, four million five hundred thousand dollars plus the costs
19 of issuance of the bonds, capitalized interest, and reasonably required reserves.

20 3. The state water commission bonds issued as provided in subsection 7 of section
21 61-02.1-01 for a Devils Lake outlet to the Sheyenne River and to west Stump Lake
22 or other projects listed in subdivision b of subsection 7 of section 61-02.1-01 may
23 not exceed, in the aggregate, twenty million dollars, plus the costs of issuance of
24 the bonds, capitalized interest, and reasonably required reserves. The state water
25 commission may use all or part of the proceeds of bonds issued as provided in
26 subsection 7 of section 61-02.1-01 and the proceeds are appropriated to match, in
27 a ratio no greater than required by the federal government, any federal funds
28 available for the projects identified in subsection 7 of section 61-02.1-01 and to
29 repay the line of credit extended to the state water commission under section 4 of
30 this Act. The commission may require any political subdivision affected by Devils
31 Lake flooding to participate in the cost of construction of an outlet from Devils Lake

to the Sheyenne River and to west Stump Lake by providing matching funds in a percentage of the construction costs determined by the commission to be reasonable in light of the benefits to be received by that political subdivision in relation to benefits received by all benefited political subdivisions. Any local matching fund requirement must be determined by the commission and the affected political subdivisions must be informed of their matching fund obligation prior to issuance of bonds pursuant to this chapter.

4. For any project that requires federal participation, the state water commission may issue bonds equal to the estimated project costs less any local participation. Except for a project listed in subdivision a of subsection 7 of section 61-02.1-01, if the state water commission issues bonds for both the state and local cost-share, an agreement for the local repayment of the local cost-share must be a part of an agreement between the state water commission and the local project sponsor to issue bonds for the nonfederal share.

61-02.1-03. Limitation of action. An action may not be brought or maintained in any court in this state questioning the validity of any bonds issued as provided in this chapter 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 chapter in and by which the constitutionality and validity of the bonds to be issued pursuant to this chapter 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.

61-02.1-04. Bonds payable from appropriations and other revenues.

1. Principal and interest on bonds issued for flood control or reduction projects as provided in this chapter are payable from transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any

federal moneys received by the state for the construction of flood control or reduction projects to pay bonds issued for that project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.

2. Principal and interest on bonds issued for continued construction of the southwest pipeline project are payable from transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, or from payment from the Perkins County rural water system, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of the southwest pipeline project to pay bonds issued for the project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.

3. Principal and interest on bonds issued under subsection 7 of section 61-02.1-01 are payable from transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from

1 revenues in the resources trust fund other than revenues from state taxes, then
2 from appropriations of other available revenues in the then current biennium, and
3 then from any other revenues the state water commission makes available during
4 the then current biennium for that purpose, including any federal moneys received
5 by the state for the construction of an outlet to Devils Lake to pay bonds issued for
6 that project, or financing a statewide water development program to pay bonds
7 issued for that project. If sufficient funds from these sources are not available,
8 then from transfers to be made and appropriated by the legislative assembly from
9 the first available current biennial earnings of the Bank of North Dakota not to
10 exceed six million five hundred thousand dollars per biennium prorated with any
11 other bonds payable from transfers to be made and appropriated by the legislative
12 assembly from the available current biennial earnings of the Bank of North Dakota,
13 to be credited by the trustee to the fund established for paying principal and
14 interest on the bonds under a trust indenture.

15 4. Obligations issued as provided in this chapter do not constitute a debt, liability, or
16 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 chapter.

19 5. 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
21 year of the respective biennium during the term of any bonds issued as provided in
22 this chapter an amount fully sufficient to pay the principal and interest required to
23 be paid in each year of the biennium, if any, from moneys from nongeneral fund
24 sources. Provided, that should the governor not include in the executive budget
25 for any 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 **61-02.1-05. Water development trust fund.** Moneys received by the state pursuant
29 to the 1998 settlement agreement with tobacco product manufacturers, or any successor
30 agreement, and any earnings on these moneys, must be deposited in the water development

trust fund in the state treasury for use in paying for bonds issued as provided in this chapter
and for other water projects as provided in 1999 House Bill No. 1475.

SECTION 4. LINE OF CREDIT - APPROPRIATION. The Bank of North Dakota shall extend a line of credit not to exceed \$84,800,000, which is hereby appropriated for the biennium beginning July 1, 1999, and ending June 30, 2001, to the state water commission for the purpose of interim financing until bonds are issued under chapter 61-02.1. Advances on the line of credit may be made only when a source of repayment has been identified and determined to be available.

SECTION 5. CORPORATE CENTER - CONTRACT TO PLEDGE REVENUES.
Before the issuance of any bonds for any flood control or reduction project in Grand Forks as provided in chapter 61-02.1, the state water commission shall require a contract be entered with the city of Grand Forks pledging revenue from the corporate center in that city as follows:

1. After all moneys pledged for the repayment of revenue bonds for the corporate center project have been paid, the city must pledge revenue from the project to the water development trust fund as repayment for the flood control or reduction project to facilitate economic development in this state. This contract must be in compliance with all applicable federal requirements.
2. If the corporate center is voluntarily sold, the city must pledge the proceeds of the sale, subject to the rights of bondholders and all applicable federal requirements, to the water development trust fund as repayment for the flood control or reduction project to facilitate economic development in this state. The corporate center may not be voluntarily sold without the prior approval of the budget section of the legislative council.
3. The revenue to be pledged must be in amounts similar to the amounts previously dedicated each year for the repayment of the revenue bonds.
4. The period during which revenue must be pledged under this section is from the date of the final payment of the revenue bonds until the end of the projected life of the corporate center, which must be not less than forty years from the date of initial occupancy.

5. Any refinancing of debt or any improvements to the corporate center requiring the incurring of indebtedness cannot be entered without prior approval of the budget section of the legislative council.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the fifty-sixth legislative assembly that a total of six million dollars of funding be provided to the state water commission for the southwest pipeline project through a combination of funding sources. The potential funding source must include payment from the Perkins County rural water system, bonds issued by the state water commission, or other available resources.

SECTION 7. APPROPRIATION. There is hereby appropriated out of any moneys in the water development trust fund, not otherwise appropriated or from bond proceeds, the sum of \$84,800,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of repaying the line of credit extended to the state water commission under section 4 of this Act, for the biennium beginning July 1, 1999, and ending June 30, 2001. It is the intent of the legislative assembly that the funds appropriated in this section are from transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05.

SECTION 8. EFFECTIVE DATE. The authority of the commission to issue bonds as provided in subsection 2 of section 61-02.1-01 becomes effective on the date the state engineer certifies to the state water commission that the Perkins County water system will not make a payment to the state water commission in the amount of four million five hundred thousand dollars or January 1, 2000, whichever occurs earlier.

SECTION 9. REPORTS TO LEGISLATIVE COUNCIL AND STANDING COMMITTEES - COMPREHENSIVE STATEWIDE WATER DEVELOPMENT PROGRAM AND STATE WATER MANAGEMENT PLAN IMPLEMENTATION - BOND ISSUANCE. The state engineer shall report periodically to the budget section, any other interim committee designated by the legislative council, and to the house of representatives and the senate standing committees on natural resources and appropriations regarding implementation of the comprehensive statewide water development program and state water management plan and the issuance of bonds to finance construction of flood control projects, the southwest pipeline project, a Devils Lake outlet, and a statewide water development program during the

1 1999-2000 interim. The report must include information on the funding sources used to repay
2 any bonds issued under chapter 61-02.1.

3 **SECTION 10. STATEWIDE WATER DEVELOPMENT PROGRAM - LEGISLATIVE**

4 **INTENT.** The state water commission shall develop a new comprehensive statewide water
5 development program with priorities based upon expected funds available from the water
6 development trust fund for water development projects. It is the intent of the legislative
7 assembly that the state water commission consider the delivery of water for usable purposes a
8 priority for water development projects after the projects authorized in section 3 of this Act are
9 completed.

10 **SECTION 11. EXPIRATION DATE.** The authority of the commission to issue bonds as
11 provided in chapter 61-02.1 is effective through June 30, 2001, and after that date is ineffective
12 provided, however, that the commission may continue to exercise all other powers granted to it
13 under this Act and to comply with any covenants entered into pursuant to this Act.

14 **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.