

**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 section 54-27-25 of the North Dakota Century Code and section 11 of  
8 chapter 535 of the 1999 Session Laws, relating to funds deposited in the water development  
9 trust fund and to the expiration date for the issuance of bonds; to provide a line of credit and an  
10 appropriation for repayment.

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

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

18 Salaries and wages	\$8,966,759
19 Operating expenses	6,477,485
20 Equipment	514,833
21 Capital improvements	23,710,864
22 Grants	22,625,067
23 Cooperative research	3,050,000

1	Statewide water development projects	<u>28,572,333</u>
2	Total special funds appropriation	\$93,917,341

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

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

3. All proceeds from the sale or so much of the sale proceeds as may be necessary, not otherwise appropriated, are appropriated on a continuing basis to the state water commission for the purchase of land and the construction of a building and associated appurtenances to be used as a new maintenance facility. The purchase authorized by this subsection may proceed only after completion of a certified appraisal of the property to be purchased and completion of a physical inspection of any building to be purchased demonstrating that the building is structurally sound and suitable for the state water commission's purposes.
4. The attorney general shall review and approve the form and legality of all legal documents required for the conveyance and purchase authorized by this Act, including title opinions.

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

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

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

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

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

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

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

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

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

**SECTION 10.** A new section to chapter 61-02.1 of the North Dakota Century Code is created and enacted as follows:

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

1. The priorities for the statewide water development program for the 2001-03 biennium include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed thirty million eight hundred thousand dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. Bonds may be issued utilizing the procedures set forth in chapter 61-02. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purpose of funding the 2001-03 priorities.
2. If the state water commission determines it is appropriate to do so, it may, in lieu of issuing or in combination with the issuance of bonds pursuant to sections 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects set forth in those provisions, use funds appropriated to it from the resources trust fund or the water development trust fund. Regardless of the source, the amount of funds used may not exceed the limits set forth in section 61-02.1-02.

1           **SECTION 11.** A new subsection to section 61-02.1-04 of the 1999 Supplement to the  
2 North Dakota Century Code is created and enacted as follows:

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

19          **SECTION 12. LEGISLATIVE INTENT.** Notwithstanding the amounts of \$28,572,333  
20 included in the statewide water development projects line item in section 1 of this Act and  
21 \$30,800,000 included in section 10 of this Act, and the amount appropriated in chapter 61-02.1,  
22 it is the intent of the fifty-seventh legislative assembly that no more than a total of sixty-two  
23 million three hundred thousand dollars, plus, if bonds are issued, the costs of issuance of the  
24 bonds, capitalized interest, and reasonably required reserves, may be expended for statewide  
25 water development projects for the 2001-03 biennium.

26          **SECTION 13. LINE OF CREDIT - APPROPRIATION.** The Bank of North Dakota shall  
27 extend a line of credit not to exceed \$25,000,000, which is appropriated for the biennium  
28 beginning July 1, 2001, and ending June 30, 2003, to the state water commission for the  
29 purpose of interim financing until bonds are issued under chapter 61-02.1.

30          **SECTION 14. APPROPRIATION.** There is appropriated out of any moneys in the  
31 water development trust fund, not otherwise appropriated, or from bond proceeds, the sum of

1 \$25,000,000, or so much of the sum as may be necessary, to the state water commission for  
2 the purpose of repaying the line of credit extended to the state water commission under section  
3 13 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

4 **SECTION 15. AMENDMENT.** Section 11 of chapter 535 of the 1999 Session Laws is  
5 amended and reenacted as follows:

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