

**FIRST ENGROSSMENT  
with Senate Amendments**

**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 statements of legislative intent; to create and enact a new  
5 subsection to section 61-02-14, a new section to chapter 61-02.1, and a new subsection to  
6 section 61-02.1-04 of the North Dakota Century Code, relating to funding of water development  
7 projects, repayment of bonds, and the powers and duties of the state water commission; to  
8 amend and reenact subsections 4 and 5 of section 61-01-26 and section 61-01-26.1 of the  
9 North Dakota Century Code, sections 10 and 11 of chapter 535 of the 1999 Session Laws, and  
10 section 2 of House Bill No. 1151, as approved by the fifty-seventh legislative assembly, relating  
11 to funds deposited in the water development trust fund, sharing costs for water quality  
12 protection programs, supplementing the water resources of eastern North Dakota, the  
13 statewide water development program, the expiration date for the issuance of bonds, and  
14 construction of a Devils Lake outlet; to transfer funds from the water development trust fund to  
15 the general fund; to provide requirements for the Fargo flood control project; and to provide a  
16 line of credit and an appropriation for repayment.

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

18 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
19 funds as may be necessary, are appropriated out of any moneys in the water development trust  
20 fund in the state treasury, not otherwise appropriated, and from special funds derived from  
21 federal funds and other income, to the state water commission for the purpose of defraying the  
22 expenses of its various divisions, for the biennium beginning July 1, 2001, and ending June 30,  
23 2003, as follows:

Fifty-seventh  
Legislative Assembly

1	Salaries and wages	\$9,066,759
2	Operating expenses	7,503,485
3	Equipment	499,833
4	Capital improvements	28,710,864
5	Grants	22,475,067
6	Cooperative research	3,050,000
7	Statewide water development projects	<u>28,572,333</u>
8	Total all funds	\$99,878,341
9	Less estimated income	<u>90,144,521</u>
10	Total general fund appropriation	\$9,733,820

11           **SECTION 2. STATEWIDE WATER DEVELOPMENT PROJECTS.** The amount of  
12 \$200,000, or so much of the funds as may be necessary, included in the statewide water  
13 development projects line item in section 1 of this Act is for cost-sharing for projects authorized  
14 under section 319 of the Federal Water Pollution Control Act [Pub. L. 100-4; 100 Stat. 52; 33  
15 U.S.C. 1329] for the control of nonpoint sources of pollution for the biennium beginning July 1,  
16 2001, and ending June 30, 2003.

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

21           **SECTION 4. WATER DEVELOPMENT TRUST FUND.** The amount of \$37,631,684 or  
22 so much of the funds as may be necessary, included in the total special funds appropriation line  
23 item in section 1 of this Act is from the water development trust fund for the biennium beginning  
24 July 1, 2001, and ending June 30, 2003.

25           **SECTION 5. ALLOCATION OF GRANT FUNDS.** The funds appropriated in the grants  
26 line item in section 1 of this Act must be disbursed by the state water commission in  
27 accordance with section 61-02-64.1.

28           **SECTION 6. GRANTS - STATEWIDE WATER DEVELOPMENT PROJECTS.** Section  
29 54-44.1-11 does not apply to appropriations made for grants or for statewide water  
30 development projects in this Act. However, this exclusion is only in effect for two years after  
31 June 30, 2003. Any unexpended funds appropriated from the resources trust fund after that

1 period has expired must be transferred to the resources trust fund and any unexpended funds  
2 appropriated from the water development trust fund after that period has expired must be  
3 transferred to the water development trust fund.

4 **SECTION 7. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT.** If the  
5 resources trust fund 2001-03 revenues are in excess of \$21,718,031, any excess is  
6 appropriated, subject to emergency commission approval, from the resources trust fund to the  
7 state water commission for the biennium beginning July 1, 2001, and ending June 30, 2003.

8 **SECTION 8. Sale and purchase of land and building - Authority - Continuing**  
9 **appropriation.**

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

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

18 Commencing at the northwest corner of said section two; thence  
19 traveling in a southerly direction along the west boundary of said section two  
20 for a distance of seven hundred seventy-four and six-tenths feet (774.60);  
21 thence turning a right angle to the left in an easterly direction along a line  
22 which is parallel to the north boundary of said section two for a distance of  
23 forty-seven feet (47.00), which shall be called the true point of beginning;  
24 thence continuing due east along said line for a distance of eight hundred  
25 forty-two and nine-tenths feet (842.90); thence turning a deflection angle of  
26 ninety degrees and twenty-two minutes (90 degrees 22') to the right and  
27 traveling in a southerly direction to a point of intersection with the north fifty  
28 foot railroad right-of-way line; thence traveling in a westerly direction along  
29 said north fifty foot railroad right-of-way line to a point of intersection with the  
30 west boundary of said section two; thence traveling in a northerly direction  
31 along the west boundary of said section two for a distance of four hundred

1                   seventy-two and one-tenth feet (472.10); thence turning a right angle to the  
2                   right in an easterly direction along a line which is parallel to the north  
3                   boundary of said section two for a distance of forty-seven feet (47.00); thence  
4                   traveling in a northerly direction along a line which is parallel to the west  
5                   boundary of said section two for a distance of one hundred fifty feet (150.00)  
6                   to the point of beginning. Including all of the property bounded by the above  
7                   described line, subject to existing rights-of-way and easements.

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

- 9           2. The conveyance authorized by this Act is exempt from sections 54-01-05.2 and  
10           54-01-05.5. The conveyance may only be made after the property has been  
11           appraised and the property must be sold at public auction unless no bid equals or  
12           exceeds the minimum appraised value. The appraisal must be dated no earlier  
13           than eighteen months before the auction. If at the public auction no bid equals or  
14           exceeds the minimum appraised value, the state water commission may negotiate  
15           a price for the land with a purchaser.
- 16           3. All proceeds from the sale or so much of the sale proceeds as may be necessary,  
17           not otherwise appropriated, are appropriated on a continuing basis to the state  
18           water commission for the purchase of land and the construction of a building and  
19           associated appurtenances to be used as a new maintenance facility. The  
20           purchase authorized by this subsection may proceed only after completion of a  
21           certified appraisal of the property to be purchased and completion of a physical  
22           inspection of any building to be purchased demonstrating that the building is  
23           structurally sound and suitable for the state water commission's purposes.
- 24           4. The attorney general shall review and approve the form and legality of all legal  
25           documents required for the conveyance and purchase authorized by this Act,  
26           including title opinions.

27           **SECTION 9. LEGISLATIVE INTENT.** It is the intent of the fifty-seventh legislative  
28           assembly that the proceeds of the sale of the state water commission maintenance shop  
29           located in east Bismarck be used to purchase land and construct a new maintenance shop  
30           building. If the proceeds from the sale are less than \$977,100, the state water commission may

1 use other funds appropriated to the state water commission for the purpose of purchasing land  
2 and constructing a new maintenance shop building.

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

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

15 **SECTION 10. AMENDMENT.** Subsections 4 and 5 of section 61-01-26 of the North  
16 Dakota Century Code are amended and reenacted as follows:

17 4. Accruing benefits from these resources can best be achieved for the people of the  
18 state through the development, execution, and periodic updating of  
19 comprehensive, coordinated, and well-balanced short-term and long-term plans  
20 and programs for the conservation and development of such resources by the  
21 departments and agencies of the state having responsibilities therefor. The plans  
22 and programs for the conservation and development of these resources may  
23 include implementation of a program to cost-share with local sponsors of water  
24 quality improvement projects.

25 5. Adequate implementation of such plans and programs shall be provided by the  
26 state through cost-sharing and cooperative participation with the appropriate  
27 federal and state departments and agencies and political subdivisions within the  
28 limitation of budgetary requirements and administrative capabilities, including  
29 consideration of cost-sharing for water quality improvement projects.

30 **SECTION 11. AMENDMENT.** Section 61-01-26.1 of the 1999 Supplement to the North  
31 Dakota Century Code is amended and reenacted as follows:

1           **61-01-26.1. Findings and declaration of policy - Water to eastern North Dakota a**  
2 **critical priority - Water supplementation study - Employment of staff.** The legislative  
3 assembly finds that many areas and localities in eastern North Dakota do not enjoy safe  
4 drinking water, ~~and that the water in these areas and localities contains iron, sulfates, alkali,~~  
5 ~~salt, nitrates, fluoride, and other hazardous and discoloring substances.~~ It is also found that  
6 other areas and localities in eastern North Dakota do not have sufficient quantities of water to  
7 ensure a dependable, long-term water supply. The legislative assembly further finds that  
8 supplementation of the water resources of eastern North Dakota ~~with water supplies from other~~  
9 available sources, including the Missouri River, may be the only alternative to provide eastern  
10 North Dakota with a dependable source of safe, good quality water and an adequate quantity of  
11 water.

12           It is further declared that effective development and utilization of the land and water  
13 resources of this state; the opportunity for greater economic security; the protection of health,  
14 property, enterprise, and the preservation of the benefits from the land and water resources of  
15 this state; and the promotion of the prosperity and general welfare of all of the people of North  
16 Dakota involve, necessitate, and require the exercise of the sovereign powers of the state and  
17 concern a public purpose. Therefore, in order to accomplish this public purpose, it is declared  
18 necessary that a means to supply and distribute water to the people of eastern North Dakota  
19 for all beneficial purposes including domestic, rural water, municipal, livestock, light industrial,  
20 ~~mining, agriculture, and other uses~~ must be developed. In furtherance of this public purpose,  
21 the supply and delivery of water to eastern North Dakota is established as a critical priority and  
22 the state water commission shall ~~continue to cooperate,~~ in cooperation with the Garrison  
23 diversion conservancy district ~~in addressing~~ and the communities and rural water systems in  
24 eastern North Dakota, address this critical priority by developing a plan and estimate of the  
25 costs for supplementing the water resources of eastern North Dakota with water supplies from  
26 other available resources, including the Missouri River.

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

1           **SECTION 12. AMENDMENT.** Section 2 of House Bill No. 1151, as approved by the  
2 fifty-seventh legislative assembly, is amended and reenacted as follows:

3           **SECTION 2.** A new section to chapter 61-02 of the North Dakota Century Code is  
4 created and enacted as follows:

5           **Devils Lake outlet - Eminent domain - Design and build construction.** In the  
6 construction of an outlet from Devils Lake, the commission:

- 7           1. Shall make a reasonable and diligent effort to acquire the property interests  
8           needed by negotiation. The commission is deemed to have made a reasonable  
9           and diligent effort if it has contacted or attempted to contact the owner of the  
10           property interest needed at least three times over a thirty-day period. If the  
11           commission is unable to acquire the interest needed by negotiation, then it may  
12           take possession of the interests needed after making a written offer to purchase  
13           and depositing the amount of the offer with the clerk of the district court of the  
14           county in which the property interest is located. The amount of the offer must be at  
15           least the average value per acre of comparable property. The clerk shall  
16           immediately notify the property owner in writing of the deposit. Within thirty days  
17           after receiving notice, the property owner may appeal to district court by serving  
18           notice of appeal upon the commission and the matter must be tried in the manner  
19           prescribed under chapter 32-15.
- 20           2. May issue, when it determines that it would be advantageous to the state or that it  
21           is necessary in order to construct the outlet in a timely manner, a request for  
22           proposals to design and build the outlet. The request for proposals must require  
23           that each proposal submitted contain a single price that includes the cost to design  
24           and build the outlet. Neither chapter 48-01.1 or 54-44.7, nor any other law  
25           requiring competitive bidding applies to the construction of the outlet if the  
26           commission determines to use the design and build procedure. The commission  
27           shall select the proposal that it determines is the most advantageous to the state.

28           **SECTION 13.** A new subsection to section 61-02-14 of the North Dakota Century Code  
29 is created and enacted as follows:

30           To consider cost-sharing for water quality improvement projects.

1           **SECTION 14.** A new section to chapter 61-02.1 of the North Dakota Century Code is  
2 created and enacted as follows:

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

- 4           1. The priorities for the statewide water development program for the 2001-03  
5 biennium include municipal, rural, and industrial projects; irrigation projects;  
6 general water management projects, including rural flood control, snagging and  
7 clearing, channel improvement, recreation, and planning studies; flood control  
8 projects; and weather modification projects. The state water commission may  
9 provide the funds necessary to construct these projects from money appropriated  
10 to the state water commission from the resources trust fund, the water  
11 development trust fund, or by issuing bonds in an amount not to exceed twenty  
12 million dollars plus the costs of issuance of the bonds, capitalized interest, and  
13 reasonably required reserves. The commission may utilize up to five million five  
14 hundred thousand dollars from the water development trust fund, the resources  
15 trust fund, or from bond proceeds to provide cost share for a flood control channel  
16 and levy project designed to provide protection from overland flooding to a city with  
17 a population in excess of eighty thousand as of the 2000 federal decennial census.  
18 The amount provided may not exceed fifty percent of the city's share of the cost to  
19 construct the project. Bonds may be issued utilizing the procedures set forth in  
20 chapter 61-02. The proceeds of any bonds issued under the authority provided in  
21 this section are appropriated to the state water commission for the purposes set  
22 forth in this section.
- 23           2. If the state water commission determines it is appropriate to do so, it may, in lieu of  
24 issuing or in combination with the issuance of bonds pursuant to sections  
25 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects  
26 set forth in those provisions, use funds appropriated to it from the resources trust  
27 fund or the water development trust fund. Regardless of the source, the amount of  
28 funds used may not exceed the limits set forth in section 61-02.1-02.

29           **SECTION 15.** A new subsection to section 61-02.1-04 of the 1999 Supplement to the  
30 North Dakota Century Code is created and enacted as follows:

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

17           **SECTION 16. LEGISLATIVE INTENT - STATEWIDE WATER PROJECT FUNDING**

18 **LIMIT.** Notwithstanding the amounts of \$28,572,333 included in the statewide water  
19 development projects line item in section 1 of this Act and \$20,000,000 included in section 14  
20 of this Act, and the amount appropriated in chapter 61-02.1, it is the intent of the fifty-seventh  
21 legislative assembly that no more than a total of sixty-seven million eight hundred thousand  
22 dollars, plus, if bonds are issued, the costs of issuance of the bonds, capitalized interest, and  
23 reasonably required reserves, may be expended for statewide water development projects for  
24 the 2001-03 biennium. Contracts for water projects to be paid from the water development  
25 trust fund may initially be issued up to an amount equal to seventy-five percent of the amount  
26 appropriated from that fund for projects. Contracts for the remaining twenty-five percent  
27 appropriated may only be issued to the extent uncommitted funds are available in the water  
28 development trust fund.

29           **SECTION 17. LINE OF CREDIT - APPROPRIATION.** The Bank of North Dakota shall  
30 extend a line of credit not to exceed \$25,000,000, which is appropriated for the biennium

1 beginning July 1, 2001, and ending June 30, 2003, to the state water commission for the  
2 purpose of interim financing until bonds are issued under chapter 61-02.1.

3 **SECTION 18. APPROPRIATION.** There is appropriated out of any moneys in the  
4 water development trust fund, not otherwise appropriated, or from bond proceeds, the sum of  
5 \$25,000,000, or so much of the sum as may be necessary, to the state water commission for  
6 the purpose of repaying the line of credit extended to the state water commission under section  
7 17 of this Act, for the biennium beginning July 1, 2001, and ending June 30, 2003.

8 **SECTION 19. TRANSFER.** Notwithstanding section 54-27-25, during the biennium  
9 beginning July 1, 2001, and ending June 30, 2003, the director of the office of management  
10 and budget may transfer \$9,733,820 from the water development trust fund to the general fund.

11 **SECTION 20.** Section 10 of chapter 535 of the 1999 Session Laws is amended and  
12 reenacted as follows:

13 **SECTION 10. STATEWIDE WATER DEVELOPMENT PROGRAM - LEGISLATIVE**  
14 **INTENT.** The state water commission shall develop a new comprehensive statewide water  
15 development program with priorities based upon expected funds available from the water  
16 development trust fund for water development projects. This program may include water  
17 quality improvement projects. It is the intent of the legislative assembly that the state water  
18 commission consider the delivery of water for usable purposes a priority for water development  
19 projects after the projects authorized in section 3 of this Act are completed.

20 **SECTION 21. AMENDMENT.** Section 11 of chapter 535 of the 1999 Session Laws is  
21 amended and reenacted as follows:

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

26 **SECTION 22. LEGISLATIVE INTENT - ADMINISTRATIVE EXPENSES.** It is the  
27 intent of the fifty-seventh legislative assembly that the water development trust fund not be  
28 used as a source of funding for state water commission administrative expenses after the  
29 2001-03 biennium.

30 **SECTION 23. FARGO FLOOD CONTROL - REQUIREMENTS.** Except for planning,  
31 the state water commission may not issue bonds or provide funding for Fargo flood control

Fifty-seventh  
Legislative Assembly

- 1 projects until applicable permits are issued, southeast Cass water resource district has
- 2 approved the project, and a public hearing process is held on the approved project plan. The
- 3 total authorization consists of \$500,000 for expenses for preliminary study and planning of the
- 4 project and \$5,000,000 for project construction expenses.