

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2022
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to provide a line of credit and an appropriation for repayment; to authorize the state water commission to issue and sell evidences of indebtedness for the construction of water-related projects; to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to construction of the Devils Lake outlet; to amend and reenact sections 54-27-25 and 61-02.1-02.1 of the North Dakota Century Code, relating to allocation of the tobacco settlement trust fund and funding statewide water development projects; to transfer funds from the water development trust fund to the general fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the water development trust fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state water commission for the purpose of defraying the expenses of the state water commission, for the biennium beginning July 1, 2003, and ending June 30, 2005, as follows:

Administrative and support services	\$2,076,235
Water and atmospheric resources	<u>157,782,619</u>
Total all funds	\$159,858,854
Less estimated income	<u>150,473,458</u>
Total general fund appropriation	\$9,385,396

SECTION 2. RESOURCES TRUST FUND. The sum of \$13,650,000, or so much of the sum as may be necessary, included in the total special funds appropriation line item in section 1 of this Act is from the resources trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 3. WATER DEVELOPMENT TRUST FUND. The sum of \$32,946,225, or so much of the sum as may be necessary, included in the total special funds appropriation line item in section 1 of this Act is from the water development trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 4. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding for grants or water-related projects, included in the water and atmospheric resources line item in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2005. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.

SECTION 5. SALE AND PURCHASE OF LAND AND BUILDING - AUTHORITY - CONTINUING APPROPRIATION.

1. The state water commission, on behalf of the state of North Dakota, may sell in one or more parcels the land and building known as the "state water commission maintenance

shop" located at 2603 East Broadway Avenue, Bismarck, North Dakota, and legally described as follows:

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

Commencing at the northwest corner of said section two; thence traveling in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet (744.60); thence turning a right angle to the left in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00), which shall be called the true point of beginning; thence continuing due east along said line for a distance of eight hundred forty-two and nine-tenths feet (842.90); thence turning a deflection angle of ninety degrees and twenty-two minutes (90 degrees 22') to the right and traveling in a southerly direction to a point of intersection with the north fifty foot railroad right-of-way line; thence traveling in a westerly direction along said north fifty foot railroad right-of-way line to a point of intersection with the west boundary of said section two; thence traveling in a northerly direction along the west boundary of said section two for a distance of four hundred seventy-two and one-tenth feet (472.10); thence turning a right angle to the right in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00); thence traveling in a northerly direction along a line which is parallel to the west boundary of said section two for a distance of one hundred fifty feet (150.00) to the point of beginning. Including all of the property bounded by the above described line, subject to existing rights-of-way and easements.

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

2. The conveyance authorized by this Act is exempt from sections 54-01-05.2 and 54-01-05.5. The conveyance may only be made after the property has been appraised and the property must be sold at public auction unless no bid equals or exceeds the minimum appraised value. The appraisal must be dated no earlier 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 or lease of land and the construction of a building and associated appurtenances to be used as a new maintenance facility on new or the existing water commission property. 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 state water commission 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 6. BUILDING SALE PROCEEDS. Proceeds of the sale of the state water commission maintenance shop located in east Bismarck, as provided in section 5 of this Act, must be used to purchase or lease land and construct a new maintenance shop building on new or the existing water commission property. 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 or leasing land and constructing a new maintenance shop building on new or the existing water commission property. If the proceeds from the sale are not available at the time the state water commission needs to purchase or lease land and construct the new building and associated

appurtenances on new or the existing water commission property, 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 transfers to the funds from which moneys were taken an amount equal to any funds utilized for the purchase or lease of land and construction of the new maintenance building on new or the existing water commission property. 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. 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 on new or the existing water commission property.

SECTION 7. LINE OF CREDIT - CONTINGENT APPROPRIATION. If determined necessary by the state water commission, the Bank of North Dakota shall extend a line of credit, not to exceed \$25,000,000, which is appropriated to the state water commission for the purpose of interim financing until bonds are issued under chapters 61-02 and 61-02.1, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 8. REPAYMENT OF LINE OF CREDIT - CONTINGENT APPROPRIATION. If the line of credit authorized in section 7 of this Act is extended to the state water commission by the Bank of North Dakota, there is appropriated out of any moneys in the water development trust fund, not otherwise appropriated, or from bond proceeds, the sum of \$25,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of repaying the line of credit, for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 9. BOND ISSUANCE AUTHORIZATION - PURPOSES. Notwithstanding the authority of the state water commission to issue evidences of indebtedness under chapters 61-24.3 and 61-24.6, the state water commission may arrange for the funding of water-related projects or works in this state, including those identified in the statewide water development plan, which are authorized and declared to be in the public interest, through the issuance of evidences of indebtedness under chapters 61-02 and 61-02.1 in an amount not to exceed \$60,000,000, plus the costs of issuance, capitalized interest, and required reserves, for the biennium beginning July 1, 2003, and ending June 30, 2005. Bonds issued pursuant to this section are not a general obligation of the state of North Dakota.

SECTION 10. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT. If the resources trust fund 2003-05 revenues are in excess of \$13,650,000, any excess is appropriated, subject to emergency commission approval, from the resources trust fund to the state water commission for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 11. AMENDMENT. Section 54-27-25 of 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. 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. 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 12. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Construction of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors.

SECTION 13. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-02.1. 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 twenty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. ~~The commission may utilize up to five million five hundred thousand dollars from the water development trust fund, the resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of eighty thousand as of the 2000 federal decennial census. The amount provided may not exceed fifty percent of the city's share of the cost to construct the project. 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 purposes set forth in this section.~~
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.~~

SECTION 14. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET. There is appropriated to the state water commission on a continuing basis from the water development trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds issued by the state water commission, as determined by the state water commission, the amount of funds required by the agreement between the state and the federal government to construct an outlet from Devils Lake to meet its cost-share obligations under the agreement and from any legally available funds to meet its indemnification obligations under the agreement.

SECTION 15. TRANSFER. Notwithstanding section 54-27-25, during the biennium beginning July 1, 2003, and ending June 30, 2005, the director of the office of management and budget shall transfer \$10,070,373 from the water development trust fund to the general fund.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2022.

Senate Vote: Yeas 41 Nays 0 Absent 6

House Vote: Yeas 67 Nays 26 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State