

**FIRST ENGROSSMENT
with Conference Committee Amendments**

ENGROSSED HOUSE BILL NO. 1021

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 a line of credit and an appropriation for repayment; to amend and
3 reenact section 61-02-23.3 of the North Dakota Century Code, relating to the operation of the
4 Devils Lake outlet; to provide legislative intent; to provide water commission authority to issue
5 bonds; to provide an exemption from payment of fees; and to authorize a cash advance from
6 the general fund.

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

8 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this
9 section represent the base level funding component appropriated to the state water
10 commission in section 3 of this Act as follows:

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

16 **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The
17 amounts identified in this section represent the funding adjustments or enhancements to the
18 base funding level for the state water commission which are included in the appropriation in
19 section 3 of this Act as follows:

20 Administrative and support services	\$92,903
21 Water and atmospheric resources	<u>(33,963,759)</u>
22 Total all funds - Adjustments/enhancements	(\$33,870,856)
23 Less estimated income - Adjustments/enhancements	<u>(25,485,460)</u>
24 Total general fund - Adjustments/enhancements	(\$8,385,396)

1 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
2 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
3 treasury, not otherwise appropriated, and from special funds derived from federal funds and
4 other income, to the state water commission for the purpose of defraying the expenses of that
5 agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

6	Administrative and support services	\$2,169,138
7	Water and atmospheric resources	<u>123,818,860</u>
8	Total all funds	\$125,987,998
9	Less estimated income	<u>124,987,998</u>
10	Total general fund appropriation	\$1,000,000

11 **SECTION 4. RESOURCES TRUST FUND - APPROPRIATION.** The sum of
12 \$54,013,116, or so much of the sum as may be necessary, included in the estimated income
13 line item in section 3 of this Act is from the resources trust fund and must be used by the state
14 water commission for purposes authorized by the legislative assembly, for the biennium
15 beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the resources
16 trust fund that becomes available is appropriated to the state water commission for the purpose
17 of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending
18 June 30, 2007.

19 **SECTION 5. WATER DEVELOPMENT TRUST FUND - APPROPRIATION.** The sum
20 of \$29,963,873, or so much of the sum as may be necessary, included in the estimated income
21 line item in section 3 of this Act is from the water development trust fund and must be used by
22 the state water commission for purposes authorized by the legislative assembly, for the
23 biennium beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the
24 water development trust fund that becomes available is appropriated to the state water
25 commission for the purpose of defraying the expenses of that agency, for the biennium
26 beginning July 1, 2005, and ending June 30, 2007.

27 **SECTION 6. SALE AND PURCHASE OF LAND AND BUILDING - AUTHORITY -**
28 **CONTINUING APPROPRIATION.**

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

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

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

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

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

29 2. The conveyance authorized by this section is exempt from sections 54-01-05.2
30 and 54-01-05.5. The conveyance may only be made after the property has been
31 appraised and the property must be sold at public auction unless no bid equals or

1 exceeds the minimum appraised value. The appraisal must be dated no earlier
2 than eighteen months before the auction. If at the public auction no bid equals or
3 exceeds the minimum appraised value, the state water commission may negotiate
4 a price for the land with a purchaser.

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

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

16 **SECTION 7. BUILDING SALE PROCEEDS.** Proceeds of the sale of the state water
17 commission maintenance shop located in east Bismarck, as provided in section 6 of this Act,
18 must be used to purchase or lease land and construct a new maintenance shop building. If the
19 proceeds from the sale are less than \$977,100, the state water commission may use other
20 funds appropriated to the state water commission for the purpose of purchasing or leasing land
21 and constructing a new maintenance shop building. If the proceeds from the sale are not
22 available at the time the state water commission needs to purchase or lease land and construct
23 the new building and associated appurtenances, the state water commission may use other
24 funds appropriated to the commission provided that, upon receipt of the proceeds of the sale,
25 the state water commission shall transfer to the funds from which money was taken an amount
26 equal to any funds utilized for the purchase or lease of land and construction of the new
27 maintenance building. If the state water commission uses other funds appropriated to the
28 commission because the funds from the sale of the land and building are insufficient, the state
29 water commission need not make a transfer of sale proceeds. No more than a total of
30 \$977,100 may be expended from the amounts appropriated under this Act to purchase land
31 and construct the new maintenance building and associated appurtenances.

1 **SECTION 8. GRANTS - WATER-RELATED PROJECTS - CARRYOVER**

2 **AUTHORITY.** Section 54-44.1-11 does not apply to funding for grants or water-related projects
3 included in the water and atmospheric resources line item in section 3 of this Act. However,
4 this exclusion is only in effect for two years after June 30, 2007. Any unexpended funds
5 appropriated from the resources trust fund after that period has expired must be transferred to
6 the resources trust fund and any unexpended funds appropriated from the water development
7 trust fund after that period has expired must be transferred to the water development trust fund.

8 **SECTION 9. LINE OF CREDIT - CONTINGENT APPROPRIATION.** If determined

9 necessary by the state water commission, the Bank of North Dakota shall extend a line of
10 credit, not to exceed \$25,000,000, which is appropriated to the state water commission, for the
11 biennium beginning July 1, 2005, and ending June 30, 2007.

12 **SECTION 10. REPAYMENT OF LINE OF CREDIT - CONTINGENT**

13 **APPROPRIATION.** If the line of credit authorized in section 9 of this Act is extended to the
14 state water commission by the Bank of North Dakota, there is appropriated out of any moneys
15 in the water development trust fund, the resources trust fund, bond proceeds, or other sources,
16 the sum of \$25,000,000, or so much of the sum as may be necessary, to the state water
17 commission for the purpose of repaying the line of credit, for the biennium beginning July 1,
18 2005, and ending June 30, 2007.

19 **SECTION 11. AMENDMENT.** Section 61-02-23.3 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **61-02-23.3. Construction and operation of the Devils Lake outlet - Authorization -**

22 **Agreement.** The state water commission may do all things reasonably necessary to construct
23 an outlet from Devils Lake, including executing an agreement with the federal government
24 wherein the state water commission agrees to hold the United States harmless and free from
25 damages, except for damages due to the fault or negligence of the United States or its
26 contractors. The state engineer may employ full-time personnel and may employ such other
27 personnel as are necessary for the operation and maintenance of the Devils Lake outlet within
28 the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1,
29 funds disbursed from the contract fund and appropriated for the purposes of this section may
30 be used for salaries, equipment, operations, and maintenance costs relating to the Devils Lake
31 outlet.

1 **SECTION 12. LEGISLATIVE INTENT - ADMINISTRATIVE EXPENSES.** It is the
2 intent of the fifty-ninth legislative assembly that the use of water development trust fund
3 moneys as a source of funding for state water commission administrative expenses be reduced
4 during the 2007-09 biennium and discontinued as a source thereafter.

5 **SECTION 13. LEGISLATIVE INTENT - NELSON COUNTY INFRASTRUCTURE.** It is
6 the intent of the fifty-ninth legislative assembly that the state water commission provide up to
7 \$500,000 for water-related damage to infrastructure in Nelson County.

8 **SECTION 14. BONDING AUTHORITY - WATER PROJECTS.** In addition to the
9 \$60,000,000 of bonding authority authorized in section 61-02.1-02.1, the state water
10 commission may issue an additional amount of bonds not to exceed \$7,000,000 plus the costs
11 of issuance of the bonds, capitalized interest, and reasonably required reserves during the
12 biennium beginning July 1, 2005, and ending June 30, 2007. The repayment provision of the
13 additional \$7,000,000 bond issuance must be the same as the \$60,000,000 bond issuance as
14 provided for in section 61-02.1-02.1.

15 **SECTION 15. EXEMPTION FROM PAYMENT OF FEES.** For purposes of charging
16 fees or requiring payment for services pursuant to sections 54-10-01, 54-12-08, and
17 54-44.1-15, the state auditor, attorney general, and the director of the office of management
18 and budget shall consider the funds appropriated to the state water commission from the water
19 development trust fund in the same manner as if the funds were appropriated from the general
20 fund for the 2005-07 biennium.

21 **SECTION 16. STATE WATER COMMISSION - CASH ADVANCE FROM STATE**
22 **GENERAL FUND.** Notwithstanding any other provision of law, the state water commission
23 may receive a cash advance of up to \$5,000,000 from the state general fund during the
24 biennium beginning July 1, 2005, and ending June 30, 2007. The cash advance may be made
25 available for the state water commission only to pay for administrative expenses if sufficient
26 funding is not available in the water development trust fund for these expenses. The cash
27 advance must be repaid upon the deposit of additional tobacco settlement collections in the
28 water development trust fund. The state water commission shall inform the office of
29 management and budget of any cash advance required pursuant to this section. Any cash
30 advance under this section must be repaid to the state general fund by June 30, 2007.