

Introduced by

Senators Grindberg, Wardner, Heckaman

Representatives Carlson, Hofstad, Onstad

1 A BILL for an Act to provide a declaration of water policy and goals and objectives for water
2 project development, the Mouse River enhanced flood control project, the Southwest pipeline
3 project, the Garrison diversion unit, and the Fargo-Moorhead flood control project; to create and
4 enact a new section to chapter 6-09.4 of the North Dakota Century Code, relating to an
5 infrastructure revolving loan fund; to amend and reenact sections 57-51.1-07, 61-24.7-01,
6 61-24.7-05, and 61-40-06 of the North Dakota Century Code, allocation of moneys in the oil
7 extraction tax development fund, the Red River water supply project, and oversight of the
8 western area water supply project; to repeal sections 61-24.7-02, 61-24.7-03, and 61-24.7-04 of
9 the North Dakota Century Code, relating to funding of the Red River valley water supply project;
10 and to provide a continuing appropriation.

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

12 **SECTION 1.** A new section to chapter 6-09.4 of the North Dakota Century Code is created
13 and enacted as follows:

14 **Infrastructure revolving loan fund - Continuing appropriation - Rules.**

- 15 1. The purpose of the infrastructure revolving loan fund is to provide loans for public
16 water-related infrastructure projects, including those for water supply, flood protection,
17 or other water project development.
- 18 2. An infrastructure revolving loan fund is established to make loans for the purposes
19 described in subsection 1. Moneys in the fund are appropriated on a continuing basis
20 for making loans in accordance with this section. Accounts may be established in the
21 fund as necessary for its management and administration.
- 22 3. The public finance authority shall manage and administer the infrastructure revolving
23 loan fund and individual accounts in the fund. For those purposes, the authority may
24 exercise all powers provided in this chapter.

- 1 4. An applicant for a loan must submit an application to the Bank of North Dakota on
2 forms prescribed by the Bank. The applicant must provide the following information:
3 a. The estimated cost of the project and the amount of the loan sought;
4 b. Other possible sources of funding in addition to loans sought from the
5 infrastructure revolving loan fund;
6 c. The proposed methods and sources of funds to be used for repayment of loans
7 received; and
8 d. Information showing the financial status and ability of the borrower to repay
9 loans.
- 10 Each project must be certified by the industrial commission under subsection 5 before
11 its consideration by the public finance authority.
- 12 5. The industrial commission shall consider the following information when evaluating
13 projects to certify to the public finance authority:
14 a. A description of the nature and purpose of the proposed infrastructure project
15 including an explanation of the need for the project and the reasons why it is in
16 the public interest;
17 b. The estimated cost of the project and the amount of loan sought;
18 c. Proposed sources of funding, in addition to loans sought from the infrastructure
19 revolving loan fund;
20 d. The need for the project as part of the overall infrastructure system;
21 e. The overall economic impact of the project; and
22 f. The extent to which completion of the project will provide a benefit to the state or
23 to political subdivisions within the state.
- 24 6. A loan made under this section must:
25 a. Bear interest at or below market rates or as otherwise specified in federal law;
26 b. Have a repayment term not longer than fifty years;
27 c. Be fully amortized no later than fifty years after project completion;
28 d. Be subject to repayment of principal and interest beginning not later than five
29 years after the facility financed with a loan has been completed; and
30 e. Be disbursed for specific project elements only after all applicable environmental
31 requirements have been met.

- 1 7. The director of the public finance authority, with the approval of the industrial
2 commission, shall adopt rules to implement a program to identify and assist with
3 development of projects eligible for loans under this section.
- 4 8. The director of the public finance authority may request the assistance of other
5 agencies of the state as may be necessary to the development of projects eligible for
6 loans under this section and as may be necessary for the administration of such
7 projects that have been certified by the industrial commission and such agencies of
8 the state are authorized and directed to provide such assistance.
- 9 9. A loan may be made to a statutory or home rule charter city to finance projects for the
10 purposes described in this section without regard to whether the city is eligible for
11 financing under a federal act or program or state law. The loan must be repayable
12 under the terms and conditions provided in this section and established by the public
13 finance authority and agreed to by the city. The loan must be repaid by the city from
14 the proceeds of special assessments, tax increments, or other local taxes, such as
15 sales taxes, lodging taxes, liquor taxes, admissions and recreation taxes, and food
16 and beverage taxes, authorized to be used for purposes of the project.

17 **SECTION 2. AMENDMENT.** Section 57-51.1-07 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-51.1-07. Allocation of moneys in oil extraction tax development fund.**

20 Moneys deposited in the oil extraction tax development fund must be transferred monthly by
21 the state treasurer as follows:

- 22 1. ~~Twenty~~Eighteen percent must be allocated and credited to the sinking fund
23 established for payment of the state of North Dakota water development bonds,
24 southwest pipeline series, and any moneys in excess of the sum necessary to
25 maintain the accounts within the sinking fund and for the payment of principal and
26 interest on the bonds must be credited to a special trust fund, to be known as the
27 resources trust fund. The resources trust fund must be established in the state
28 treasury and the funds therein must be deposited and invested as are other state
29 funds to earn the maximum amount permitted by law which income must be deposited
30 in the resources trust fund. The principal and income of the resources trust fund may
31 be expended only pursuant to legislative appropriation and are available to:

- 1 a. The state water commission for planning for and construction of water-related
2 projects, including rural water systems. These water-related projects must be
3 those which the state water commission has the authority to undertake and
4 construct pursuant to chapter 61-02; and
- 5 b. The industrial commission for the funding of programs for development of energy
6 conservation and renewable energy sources; for studies for development of
7 cogeneration systems that increase the capacity of a system to produce more
8 than one kind of energy from the same fuel; for studies for development of waste
9 products utilization; and for the making of grants and loans in connection
10 therewith.
- 11 2. Two percent must be allocated to the infrastructure revolving loan fund.
- 12 3. Twenty percent must be allocated to the common schools trust fund and foundation
13 aid stabilization fund as provided in section 24 of article X of the Constitution of North
14 Dakota.
- 15 ~~3.4.~~ Thirty percent must be allocated to the legacy fund as provided in section 26 of
16 article X of the Constitution of North Dakota.
- 17 ~~4.5.~~ Thirty percent must be allocated and credited to the state's general fund.

18 **SECTION 3.**

19 **Declaration of policy.**

20 The legislative assembly declares that major water development and water management
21 goals must be set forth and implemented in order to protect the long-term interests, economic
22 vitality, and future benefits of the state and its citizens; that such water development and water
23 management goals are essential for the economic growth and quality of life across the entire
24 state; that rights to the use and enjoyment of waters of the Missouri River flowing through this
25 state cannot be restricted by the federal government; that it is necessary to develop and utilize
26 waters of the Missouri River for municipal, domestic, rural, and industrial purposes in this state;
27 that flood control works are necessary to protect the lives and property of the citizens of this
28 state; that major flood control works in and around major cities and other cities are necessary to
29 address the record and damaging floods that have occurred; that regional water supply and
30 rural water projects must be completed in order to provide a long-term, dependable quality and
31 adequate quantity water supply for municipal, domestic, rural, and industrial uses; that irrigation

1 provides a significant opportunity to further the agricultural opportunities in the state; and that an
2 infrastructure loan fund will enable these goals and policies to be achieved and implemented,
3 and will provide significant economic and financial benefits to the people of this state.

4 **SECTION 4.**

5 **Legislative intent - Reports to legislative assembly.**

6 The legislative assembly declares and establishes the following goals and objectives:

- 7 1. That it is necessary for the long-term welfare and economic well-being of the Souris
8 River basin, and the entire state and its citizens, that the planning, design, and
9 construction of the Mouse River enhanced flood control project be completed and
10 implemented.
- 11 2. That the Red River valley water supply project is critical to provide a dependable water
12 supply for current and future generations in eastern North Dakota and is essential to
13 provide for the long term welfare, economic well-being, and quality of life for the entire
14 state.
- 15 3. That it is necessary for the long term welfare and economic well-being of the Red
16 River basin, and the entire state and its citizens, that the planning, design, and
17 construction of the Fargo-Moorhead diversion and flood control project be completed
18 and implemented.
- 19 4. That regional water supply and rural water systems are necessary to provide a
20 dependable and adequate quantity and quality water supply for municipal, domestic,
21 rural, and industrial uses.
- 22 5. That the state water commission and the southwest water authority shall begin the
23 process of reviewing capital repayment and revenues being returned to the resources
24 trust fund; payments necessary to meet obligations of existing bonds and other loans;
25 ownership of land and associated facilities; existing construction documents; liabilities;
26 contracts with cities, bulk users, companies, and other users; and other items, and
27 shall report to the legislative assembly those steps necessary for the transfer of
28 ownership and responsibility of the southwest pipeline project from the state water
29 commission to the southwest water authority.

1 6. That the state water commission and the Garrison diversion conservancy district shall
2 enter discussions with the bureau of reclamation concerning Garrison diversion unit
3 facilities.

4 7. That projects receiving state funds for construction and implementation not assert,
5 claim, or seek to prevent other opportunities, either public or private, to utilize waters
6 of the Missouri River for industrial uses in this state.

7 8. That local water management and flood control projects are necessary for the
8 economic well-being and quality of life of citizens in those local areas.

9 9. That irrigation development offers significant opportunities for agriculture in this state.

10 10. That an infrastructure loan fund for water development and management will provide
11 significant financial benefits to projects and the citizens of this state, and will provide
12 new capabilities to implement necessary water infrastructure projects across the state.

13 **SECTION 5.**

14 **Mouse River enhanced flood control project.**

15 1. The legislative assembly declares its intent to provide state funding for a share of the
16 non-federal or local cost of constructing the Mouse River enhanced flood control
17 project.

18 2. Any funds appropriated for the construction of the Mouse River enhanced flood control
19 project may be carried over to future bienniums.

20 3. State funding for the Mouse River enhanced flood control project may be appropriated
21 at the time and in the manner determined by the legislative assembly, either
22 concurrently or separately from federal and local funding for the Mouse River
23 enhanced flood control project.

24 **SECTION 6.**

25 **Southwest pipeline project - Report to legislative assembly.**

26 The state water commission and the southwest water authority shall begin the process of
27 reviewing capital repayment and revenues being returned to the resources trust fund; payments
28 necessary to meet obligations of existing bonds and other loans; ownership of land and
29 associated facilities; existing construction documents; liabilities; contracts with cities, bulk users,
30 companies, and other users; and other items, and shall report to the legislative assembly those

1 steps necessary for the transfer of ownership and responsibility of the southwest pipeline
2 project from the state water commission to the southwest water authority.

3 **SECTION 7.**

4 **Garrison diversion unit.**

5 The Garrison diversion unit has extensive federal facilities that have been constructed,
6 including the Snake Creek pumping plant, the McClusky canal, recreation areas, and other
7 facilities. It is the intent of the legislative assembly that the state water commission and Garrison
8 diversion conservancy district begin discussions with the bureau of reclamation concerning the
9 Garrison diversion unit facilities.

10 **SECTION 8.**

11 **Fargo-Moorhead flood control project.**

- 12 1. The legislative assembly declares its intent to provide state funding for a share of the
13 nonfederal or local cost of constructing the Fargo-Moorhead flood control project.
14 2. Notwithstanding any other law, any funds appropriated for the construction of the
15 Fargo-Moorhead flood control project may be carried over to future bienniums.
16 3. State funding for the Fargo-Moorhead flood control project may be appropriated at the
17 time and in the manner determined by the legislative assembly, either concurrently or
18 separately from federal and local funding for the Fargo-Moorhead flood control project.

19 **SECTION 9. AMENDMENT.** Section 61-24.7-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **61-24.7-01. Legislative findings and intent - Authority to issue bonds.**

- 22 4. The legislative assembly finds that the provision of water of sufficient quantity and
23 quality to supply homes, businesses, industries, wildlife, and recreation in the Red
24 River valley within this state is necessary for the protection of health, property, and
25 enterprises and for the promotion of prosperity and the general welfare of the people
26 of the Red River valley and that construction of the Red River valley water supply
27 project involves and requires the exercise of the sovereign powers of the state and
28 concerns a public purpose. Therefore, it is declared necessary and in the public
29 interest that the state by and through the state water commission provide a ~~one-third~~
30 share of the cost of constructing the Red River valley water supply project.

- 1 2. ~~In furtherance of the public purpose set forth in subsection 1, the state water~~
2 ~~commission may issue bonds under chapter 61-02 and the proceeds are appropriated~~
3 ~~for construction of the Red River valley water supply project authorized and funded in~~
4 ~~part by the federal government and designed to provide reliable sources of water of~~
5 ~~sufficient quantity and quality to supply homes, businesses, industries, wildlife, and~~
6 ~~recreation in the Red River valley within this state.~~
- 7 3. ~~This chapter does not affect the state water commission's authority to otherwise issue~~
8 ~~bonds pursuant to chapter 61-02 or section 61-24.3-01.~~

9 **SECTION 10. AMENDMENT.** Section 61-24.7-05 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **61-24.7-05. State funding plan.**

- 12 1. The legislative assembly declares its intent to provide state funding for one-third~~a~~
13 share of the total nonfederal or local cost of constructing the Red River valley water
14 supply project.
- 15 2. Any ~~general~~ funds appropriated for the construction of the Red River valley water
16 supply project may be carried over to future bienniums.
- 17 3. State funding for the Red River valley water supply project may be appropriated at the
18 time and in the manner determined by the legislative assembly, either concurrently or
19 separately from federal and local funding for the Red River valley water supply project.

20 **SECTION 11. AMENDMENT.** Section 61-40-06 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **61-40-06. Oversight of authority projects.**

23 The authority shall comply with the ~~policy~~policies of the state water commission ~~as the~~
24 ~~policy relates to bidding, planning, and construction of the project.~~ The policies must
25 include provisions for insurance, including general liability insurance, in adequate amounts. The
26 authority shall report to and consult with the state water commission regarding the operation
27 and financial status of the project, as requested by the state water commission. ~~In relation to~~
28 ~~initial construction of the system and debt repayment, the~~The authority shall present the overall
29 plan and ongoing contract plans and specifications for the project to the state water commission
30 for approval. The attorney general shall assist the authority at the request of the state water
31 commission. If the twenty-five million dollar zero interest loan from the state water commission

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1 has not been repaid, without the written consent of the state water commission the authority
2 may not sell, lease, abandon, encumber, or otherwise dispose of any part of property used in a
3 water system of the authority if the property is used to provide revenue.

4 **SECTION 12. REPEAL.** Sections 61-24.7-02, 61-24.7-03, and 61-24.7-04 of the North
5 Dakota Century Code are repealed.