

**FIRST ENGROSSMENT  
with Conference Committee Amendments**

Fifty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2188**

Introduced by

Senator Traynor

Representatives Brekke, Grosz, D. Johnson

1 A BILL for an Act to create and enact a new section to chapter 61-01 and chapter 61-02.1 of  
2 the North Dakota Century Code, relating to statewide water development goals and the  
3 issuance of bonds to finance construction of flood control projects, the southwest pipeline  
4 project, a Devils Lake outlet, and a statewide water development program; to amend and  
5 reenact subdivision d of subsection 5 of section 61-02-02 of the North Dakota Century Code,  
6 relating to the definition of works; to require the pledging of funds for certain water projects; to  
7 allocate funds from settlements with tobacco product manufacturers; to provide a statement of  
8 legislative intent; to provide for reports to the legislative council; to provide for development of a  
9 statewide water development program; to provide an appropriation; to provide an effective date;  
10 to provide an expiration date; and to declare an emergency.

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

12 **SECTION 1.** A new section to chapter 61-01 of the North Dakota Century Code is  
13 created and enacted as follows:

14 **Statewide water development goals.** The legislative assembly will support to the  
15 extent funds are available from the water development trust fund the comprehensive statewide  
16 water development program developed pursuant to section 2 of chapter 587 of the 1995  
17 Session Laws and to the state water management plan established under section 61-01-26. In  
18 order to implement the state water management plan, the legislative assembly will support the  
19 following:

20 1. During the 1999-2001 biennium:

21 a. Southwest pipeline project: Six million dollars in state funds and eleven  
22 million five hundred thousand dollars in federal funds, assuming Perkins  
23 County water system payment to the state water commission of four million  
24 five hundred thousand dollars.

- 1           b. Northwest area water supply project: Eight million two hundred thousand  
2           dollars in local funds and fourteen million eight hundred thousand dollars in  
3           federal funds, with an option being considered of the state water commission  
4           bonding the local cost-share with local repayment of the total principal,  
5           interest, and cost of issuance of the bonds to the state water commission.
- 6           c. Other municipal, rural, and industrial projects: Twenty-five million five  
7           hundred thousand dollars in local funds and thirty-nine million nine hundred  
8           thousand dollars in federal funds.
- 9           d. Grand Forks flood control: Twenty-five million dollars in local funds,  
10          twenty-five million dollars in state funds, and thirty-eight million five hundred  
11          thousand dollars in federal funds. The state total cost-share of fifty-two  
12          million dollars or so much of the total cost-share that is required may be  
13          bonded, requiring a loan repayment estimated at three million nine hundred  
14          thousand dollars per year with repayment beginning in 2001.
- 15          e. Devils Lake outlet to the Sheyenne River and to west Stump Lake:  
16          Seventeen million five hundred thousand dollars in state funds and thirty-two  
17          million five hundred thousand dollars in federal funds. The total state  
18          cost-share of seventeen million five hundred thousand dollars includes  
19          mitigation costs and will be bonded, requiring a local repayment estimated at  
20          one million five hundred thousand dollars per year, with the split between  
21          state and local loan repayment to be determined. Before bonds may be  
22          issued for a Devils Lake outlet, construction of the outlet must be approved by  
23          the state water commission and the federal government must have agreed to  
24          participate in construction of the outlet.
- 25          2. During the 2001-03 biennium:
- 26               a. Water to eastern North Dakota: Seventeen million dollars in federal funds  
27               appropriated under the Garrison Diversion Unit Reformulation Act of 1986  
28               [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or  
29               other federal Act. The local cost has not been determined and will be  
30               determined after project configuration is complete.

- 1            b. Southwest pipeline project: Five hundred thousand dollars in local funds, one  
2            million seven hundred thousand dollars in state funds, and twelve million five  
3            hundred thousand dollars federal funds.
- 4            c. Northwest area water supply project: Eight million seven hundred thousand  
5            dollars in local funds and sixteen million three hundred thousand dollars in  
6            federal funds.
- 7            d. Other municipal, rural, and industrial projects: Seventeen million seven  
8            hundred thousand dollars in local funds and thirty-two million eight hundred  
9            thousand dollars in federal funds.
- 10           e. Grand Forks flood control: Thirty-five million seven hundred thousand dollars  
11           in local funds, twenty-seven million dollars in state funds, and sixty-two million  
12           nine hundred thousand dollars in federal funds; annual bond payments of  
13           three million nine hundred thousand dollars. Components of the Grand Forks  
14           flood control project involve water treatment plant improvements. Those  
15           federal costs are reflected in subdivision d because of potential cost-sharing  
16           using Garrison diversion municipal, rural, and industrial funds. Other projects,  
17           such as greenway, are listed under subdivision g.
- 18           f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond  
19           repayments of one million five hundred thousand dollars per year.
- 20           g. General projects: Thirty-one million seven hundred thousand dollars in local  
21           funds, twenty-five million nine hundred thousand dollars in state funds, and  
22           thirty-nine million eight hundred thousand dollars in federal funds.
- 23           3. During the 2003-05 biennium:
- 24           a. Water to eastern North Dakota: Six million dollars in federal funds  
25           appropriated under the Garrison Diversion Unit Reformulation Act of 1986  
26           [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or  
27           other federal Act. The local cost has not been determined and will be  
28           determined after project configuration is complete.
- 29           b. Southwest pipeline project: One million dollars in local funds, five million  
30           dollars in state funds, and eleven million four hundred thousand dollars in  
31           federal funds.

- 1           c. Northwest area water supply project: Eleven million eight hundred thousand  
2                   dollars in local funds and twenty-one million eight hundred thousand dollars in  
3                   federal funds.
- 4           d. Other municipal, rural, and industrial projects: Seventeen million seven  
5                   hundred thousand dollars in local funds and thirty-two million eight hundred  
6                   thousand dollars in federal funds.
- 7           e. Grand Forks flood control: Annual bond payments of three million nine  
8                   hundred thousand dollars.
- 9           f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond  
10                  repayments of one million five hundred thousand dollars per year.
- 11          g. General projects: Twenty-four million dollars in local funds, eighteen million  
12                  four hundred thousand dollars in state funds, and five million five hundred  
13                  thousand dollars in federal funds.
- 14          4. During the 2005-07 biennium:
- 15           a. Water to eastern North Dakota: Eighty-four million dollars in federal funds  
16                  appropriated under the Garrison Diversion Unit Reformulation Act of 1986  
17                  [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or  
18                  other federal Act. The local cost has not been determined and will be  
19                  determined after project configuration is complete.
- 20           b. Southwest pipeline project: One million dollars in local funds, nine million five  
21                  hundred thousand dollars in state funds, and nineteen million five hundred  
22                  thousand dollars in federal funds.
- 23           c. Northwest area water supply project: Five million eight hundred thousand  
24                  dollars in local funds and ten million nine hundred thousand dollars in federal  
25                  funds.
- 26           d. Other municipal, rural, and industrial projects: Seventeen million seven  
27                  hundred thousand dollars in local funds and thirty-two million eight hundred  
28                  thousand dollars in federal funds.
- 29           e. Grand Forks flood control: Annual bond payments of three million nine  
30                  hundred thousand dollars.

- 1            f. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond  
2            repayments of one million five hundred thousand dollars per year.
- 3            g. General projects: Twenty-four million dollars in local funds, eighteen million  
4            four hundred thousand dollars in state funds, and five million five hundred  
5            thousand dollars in federal funds.
- 6            5. During the 2007-09 biennium:
- 7            a. Water to eastern North Dakota: Fifty-nine million dollars in federal funds  
8            appropriated under the Garrison Diversion Unit Reformulation Act of 1986  
9            [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or  
10           other federal Act. The local cost has not been determined and will be  
11           determined after project configuration is complete.
- 12           b. Northwest area water supply project: Three million seven hundred thousand  
13           dollars in local funds and seven million dollars in federal funds.
- 14           c. Other municipal, rural, and industrial projects: Seventeen million seven  
15           hundred thousand dollars in local funds and thirty-two million eight hundred  
16           thousand dollars in federal funds.
- 17           d. Grand Forks flood control: Annual bond repayments of three million nine  
18           hundred thousand dollars.
- 19           e. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond  
20           repayments of one million five hundred thousand dollars per year.
- 21           f. General projects: Twenty-four million dollars in local funds, eighteen million  
22           four hundred thousand dollars in state funds, and five million five hundred  
23           thousand dollars in federal funds.
- 24           6. During the 2009-11 biennium:
- 25           a. Water to eastern North Dakota: Two million dollars in federal funds  
26           appropriated under the Garrison Diversion Unit Reformulation Act of 1986  
27           [Pub. L. 99-294; 100 Stat. 418], Dakota Water Resources Act of 1998, or  
28           other federal Act. The local cost has not been determined and will be  
29           determined after project configuration is complete.

- 1            b. Northwest area water supply project: One million seven hundred thousand  
2            dollars in local funds and three million three hundred thousand dollars in  
3            federal funds.
- 4            c. Other municipal, rural, and industrial projects: Seventeen million seven  
5            hundred thousand dollars in local funds and thirty-two million eight hundred  
6            thousand dollars in federal funds.
- 7            d. Grand Forks flood control: Annual bond repayments of three million nine  
8            hundred thousand dollars.
- 9            e. Devils Lake outlet to Sheyenne River and to west Stump Lake: Bond  
10           repayments of one million five hundred thousand dollars per year.
- 11           f. General projects: Twenty-four million dollars in local funds, eighteen million  
12           four hundred thousand dollars in state funds, and five million five hundred  
13           thousand dollars in federal funds.
- 14        7. Beyond the year 2011:
- 15           a. Water to eastern North Dakota: The local cost has not been determined and  
16           will be determined after project configuration is complete.
- 17           b. Northwest area water supply project: Eight million seven hundred thousand  
18           dollars in local funds and sixteen million three hundred thousand dollars in  
19           federal funds.
- 20           c. Other municipal, rural, and industrial projects: One hundred thirty million two  
21           hundred thousand dollars in local funds and two hundred forty-one million two  
22           hundred thousand dollars in state funds. The anticipated three hundred  
23           forty-five million dollars in federal cost-share has been used in the previous  
24           bienniums and the remaining cost-share for projects has been identified as a  
25           potential state cost-share.
- 26           d. Grand Forks flood control: A total of fifty-eight million five hundred thousand  
27           dollars in bond repayments is anticipated.
- 28           e. Devils Lake outlet to Sheyenne River and to west Stump Lake: A total of  
29           fifteen million dollars in bond repayments.
- 30           f. General projects: Two hundred twenty million two hundred thousand dollars  
31           in local funds, one hundred fifty-six million four hundred thousand dollars in

1                   state funds, and thirty-four million three hundred thousand dollars in federal  
2                   funds.

3                   **SECTION 2. AMENDMENT.** Subdivision d of subsection 5 of section 61-02-02 of the  
4 North Dakota Century Code is amended and reenacted as follows:

5                   d. All works for the conservation, control, development, storage, treatment,  
6                   distribution, and utilization of water including, without limiting the generality of  
7                   the foregoing subdivisions, works for the purpose of irrigation, flood control,  
8                   watering stock, supplying water for public, domestic, industrial, and  
9                   recreational use, fire protection, and the draining of lands injured or in danger  
10                  of injury as a result of such water utilization.

11                  **SECTION 3.** Chapter 61-02.1 of the North Dakota Century Code is created and  
12 enacted as follows:

13                  **61-02.1-01. Legislative findings and intent - Authority to issue bonds.**

14                  1. The legislative assembly finds that some cities suffered serious economic and  
15                  social injuries due to the major flood disaster in 1997 and other recent floods and  
16                  are at significant risk for future flooding; and that construction of flood control or  
17                  reduction projects is necessary for the protection of health, property, and  
18                  enterprises and for the promotion of prosperity and the general welfare of the  
19                  people of the state and that construction of any such projects involves and requires  
20                  the exercise of the sovereign powers of the state and concerns a public purpose.  
21                  Therefore, it is declared necessary and in the public interest that the state by and  
22                  through the state water commission assist in financing the costs of constructing  
23                  flood control or reduction projects through the issuance of bonds.

24                  2. The legislative assembly finds that continued construction of the southwest  
25                  pipeline project is necessary for the protection of health, property, and enterprises  
26                  and for the promotion of prosperity and the general welfare of the people of the  
27                  state and that continued construction of the southwest pipeline project involves  
28                  and requires the exercise of the sovereign powers of the state and concerns a  
29                  public purpose. The legislative assembly also finds that current funding for the  
30                  southwest pipeline project has become uncertain, and therefore, it is declared  
31                  necessary and in the public interest that the state by and through the state water

1           commission assist in financing the costs of continued construction of the southwest  
2           pipeline project through the issuance of bonds.

3           3. The legislative assembly finds that the Devils Lake basin is suffering and facing a  
4           worsening flood disaster; and that construction of an outlet from Devils Lake is  
5           necessary for the protection of health, property, and enterprises and for the  
6           promotion of prosperity and the general welfare of the people of the state; and that  
7           construction of the outlet involves and requires the exercise of the sovereign  
8           powers of the state and concerns a public purpose. Therefore, it is declared  
9           necessary and in the public interest that an outlet from Devils Lake be constructed  
10           with financing from the state water commission to provide flood relief to the Devils  
11           Lake basin.

12           4. The legislative assembly finds that there is a critical need to develop a  
13           comprehensive statewide water development program to serve the long-term  
14           water resource needs of the state and its people and to protect the state's current  
15           usage of, and the state's claim to, its proper share of Missouri River water.

16           5. In furtherance of the public purpose set forth in subsection 1, the state water  
17           commission may issue bonds under chapter 61-02 and the proceeds are  
18           appropriated for flood control projects authorized and funded in part by the federal  
19           government and designed to provide permanent flood control or reduction to cities  
20           that suffered severe damages as a result of the 1997 flood or other recent floods  
21           and to repay the line of credit extended to the state water commission under  
22           section 4 of this Act. The commission may issue bonds for a flood control or  
23           reduction project only:

24           a. When:

25                   (1) A flood control or reduction project involves a city that suffered  
26                   catastrophic flood damage requiring evacuation of the major share of  
27                   its populace;

28                   (2) A flood control or reduction project includes interstate features and  
29                   requires acquisition of private property to build permanent flood  
30                   protection systems to comply with federal flood protection standards;

- 1                   (3) The governing body of a city provides a written certification to the state  
2                   water commission that the city has committed itself to contribute  
3                   one-half or more of the North Dakota project sponsor's share of the  
4                   nonfederal share of the cost to construct the project;
- 5                   (4) The United States army corps of engineers issues its approval of the  
6                   flood control or reduction project;
- 7                   (5) A project cooperation agreement, which contains provisions acceptable  
8                   to the state engineer and is approved by the governor, is entered by the  
9                   state of Minnesota or one of its political subdivisions in which the flood  
10                  control or reduction project is to be constructed;
- 11                  (6) A project cooperation agreement, which contains provisions acceptable  
12                  to the state engineer and is approved by the governor, is entered by the  
13                  state or one of its political subdivisions in which the flood control or  
14                  reduction project is to be constructed;
- 15                  (7) The governing body of the city has approved a financing plan for all  
16                  amounts of the nonfederal share of a flood control or reduction project  
17                  in excess of the amounts to be paid by the state;
- 18                  (8) That no order for injunctive relief has been issued by a court of  
19                  competent jurisdiction enjoining construction of the flood control or  
20                  reduction project; and
- 21                  (9) That the flood control or reduction project is designed to be  
22                  cost-effective and that any impact on residential neighborhoods is  
23                  minimized in an amount reasonably practicable as determined by the  
24                  state engineer and approved by the governor;
- 25                  b. When a flood control or reduction project in a city with a population as of the  
26                  1990 federal decennial census of at least eight thousand and not more than  
27                  ten thousand has received significant federal funding through federal grants  
28                  and funds from the United States army corps of engineers and the federal  
29                  emergency management agency; or
- 30                  c. When a flood control or reduction project in a city with a population as of the  
31                  1990 federal decennial census of at least four thousand five hundred and not

- 1                   more than six thousand has at least seventy percent of the land within the  
2                   boundaries of the city located within the one hundred year floodplain as  
3                   designated on a flood insurance rate map and the United States army corps  
4                   of engineers issues its approval of the flood control or reduction project.
- 5       6. In furtherance of the public purpose set forth in subsection 2, the state water  
6       commission may issue bonds under chapter 61-02 and the proceeds are  
7       appropriated for construction of the southwest pipeline project and to repay the line  
8       of credit extended to the state water commission under section 4 of this Act. The  
9       commission may only issue bonds under this chapter for continued construction of  
10       the southwest pipeline project when it is determined that the Perkins County water  
11       system will not make payment to the state water commission in the amount of four  
12       million five hundred thousand dollars or on January 1, 2000, whichever occurs  
13       earlier. If the Perkins County water system makes payment to the state water  
14       commission after January 1, 2000, the payment must be used to pay principal and  
15       interest on bonds issued for continued construction of the southwest pipeline  
16       project as provided in subsection 2 of section 61-02.1-04. If the Perkins County  
17       water system does not make payment to the state water commission, no benefits  
18       may accrue to the Perkins County water system.
- 19       7. In furtherance of the public purposes set forth in subsections 3 and 4, the state  
20       water commission may issue bonds under chapter 61-02 to finance the cost of one  
21       or more of the projects identified in this subsection, provided that:
- 22       a. (1) The state water commission may only issue bonds for construction of  
23       an outlet from Devils Lake when the United States authorizes  
24       construction of an outlet and either the state water commission or a  
25       federal agency has developed a plan addressing damage to basic  
26       infrastructure such as roads, culverts, and bridges; riverbank erosion;  
27       downstream flooding; and increased water treatment costs caused by  
28       or resulting from construction of the outlet;
- 29       (2) The state water commission or the project sponsor must sign a project  
30       cooperation agreement with the United States army corps of engineers;

- 1                   (3) The outlet from Devils Lake to west Stump Lake must comply with any  
2                                   environmental impact statement or National Environmental Policy Act  
3                                   provisions required under federal law; and
- 4                   (4) Bonds may not be issued if an order for injunctive relief has been  
5                                   issued by a court of competent jurisdiction enjoining construction of an  
6                                   outlet from Devils Lake to the Sheyenne River or to west Stump Lake.
- 7                   b. The state water commission may only issue bonds to finance the nonfederal  
8                                   cost-share of the Garrison diversion unit when the Congress of the United  
9                                   States enacts legislation for the completion of the Garrison diversion unit,  
10                                  which may include the delivery of water to the northwest area water supply  
11                                  project; southwest pipeline project; Turtle Lake irrigation district;  
12                                  Nesson-Valley irrigation district; Elk Charbon irrigation district; the Williston  
13                                  irrigation project; the Oakes irrigation project; other irrigation, municipal, rural,  
14                                  and industrial water supply projects; augmented streamflow and ground water  
15                                  recharge projects; development of a Red River valley water supply; and  
16                                  delivery of Missouri River water to the Sheyenne River.
- 17                   8. This chapter does not affect the state water commission's authority to otherwise  
18                                  issue bonds pursuant to chapter 61-02 or 61-24.3-01.
- 19                   9. Notwithstanding this section, the state water commission may not issue bonds  
20                                  authorized under subsection 5 or subdivision a of subsection 7 for a project unless  
21                                  federal funds have been appropriated for that project.
- 22                   10. Notwithstanding this section, if bonds are issued under this chapter, any bonds  
23                                  subsequently issued after the first issuance must meet the same conditions as the  
24                                  bonds initially issued.
- 25                   11. Notwithstanding this section, except for a project listed in subdivision a of  
26                                  subsection 7 the state water commission may not issue bonds under this chapter  
27                                  unless the local project sponsor has agreed to repay the local project sponsor's  
28                                  share of any bonds issued for the entire nonfederal share of the cost of a project.
- 29                   **61-02.1-02. Bond issuance amount limited.**
- 30                   1. The state water commission bonds issued for flood control or reduction projects  
31                                  meeting the requirements of subdivision a of subsection 5 of section 61-02.1-01

1           may not exceed forty-five percent and bonds issued for flood control or reduction  
2           projects meeting the requirements of subdivision b or c of subsection 5 of section  
3           61-02.1-01 may not exceed one-half of the North Dakota project sponsor's share of  
4           the nonfederal share of the cost to construct the flood control or reduction project  
5           or, in the aggregate, sixty million three hundred thousand dollars plus the costs of  
6           issuance of the bonds, capitalized interest, and reasonably required reserves,  
7           whichever is less. Of the sixty million three hundred thousand dollars authorized in  
8           this subsection for flood control or reduction projects under subsection 5 of section  
9           61-02.1-01, fifty-two million dollars must be allocated for flood control or reduction  
10           projects meeting the requirements of subdivision a of subsection 5 of section  
11           61-02.1-01, three million five hundred thousand dollars must be allocated for flood  
12           control or reduction projects meeting the requirements of subdivision b of  
13           subsection 5 of section 61-02.1-01, and four million eight hundred thousand dollars  
14           must be allocated for flood control or reduction projects meeting the requirements  
15           of subdivision c of subsection 5 of section 61-02.1-01.

16           2. The state water commission bonds issued as provided in subsection 6 of section  
17           61-02.1-01 for continued construction of the southwest pipeline project may not  
18           exceed, in the aggregate, four million five hundred thousand dollars plus the costs  
19           of issuance of the bonds, capitalized interest, and reasonably required reserves.

20           3. The state water commission bonds issued as provided in subsection 7 of section  
21           61-02.1-01 for a Devils Lake outlet to the Sheyenne River and to west Stump Lake  
22           or other projects listed in subdivision b of subsection 7 of section 61-02.1-01 may  
23           not exceed, in the aggregate, twenty million dollars, plus the costs of issuance of  
24           the bonds, capitalized interest, and reasonably required reserves. The state water  
25           commission may use all or part of the proceeds of bonds issued as provided in  
26           subsection 7 of section 61-02.1-01 and the proceeds are appropriated to match, in  
27           a ratio no greater than required by the federal government, any federal funds  
28           available for the projects identified in subsection 7 of section 61-02.1-01 and to  
29           repay the line of credit extended to the state water commission under section 4 of  
30           this Act. The commission may require any political subdivision affected by Devils  
31           Lake flooding to participate in the cost of construction of an outlet from Devils Lake

1           to the Sheyenne River and to west Stump Lake by providing matching funds in a  
2           percentage of the construction costs determined by the commission to be  
3           reasonable in light of the benefits to be received by that political subdivision in  
4           relation to benefits received by all benefited political subdivisions. Any local  
5           matching fund requirement must be determined by the commission and the  
6           affected political subdivisions must be informed of their matching fund obligation  
7           prior to issuance of bonds pursuant to this chapter.

8           4. For any project that requires federal participation, the state water commission may  
9           issue bonds equal to the estimated project costs less any local participation.  
10          Except for a project listed in subdivision a of subsection 7 of section 61-02.1-01, if  
11          the state water commission issues bonds for both the state and local cost-share,  
12          an agreement for the local repayment of the local cost-share must be a part of an  
13          agreement between the state water commission and the local project sponsor to  
14          issue bonds for the nonfederal share.

15          **61-02.1-03. Limitation of action.** An action may not be brought or maintained in any  
16          court in this state questioning the validity of any bonds issued as provided in this chapter unless  
17          the action is commenced within thirty days after the adoption of the resolution of the state water  
18          commission authorizing the sale of the bonds. The state water commission may commence a  
19          special proceeding any time after the effective date of this chapter in and by which the  
20          constitutionality and validity of the bonds to be issued pursuant to this chapter may be judicially  
21          examined, approved and confirmed, or disapproved and disaffirmed. Proceedings must comply  
22          as nearly as possible with the procedure required for declaratory judgment proceedings.

23          **61-02.1-04. Bonds payable from appropriations and other revenues.**

24          1. Principal and interest on bonds issued for flood control or reduction projects as  
25          provided in this chapter are payable from transfers to be made and appropriated  
26          by the legislative assembly from the water development trust fund as provided in  
27          section 61-02.1-05, then from transfers to be made and appropriated by the  
28          legislative assembly from revenues in the resources trust fund other than revenues  
29          from state taxes, then from appropriations of other available revenues in the then  
30          current biennium, and then from any other revenues the state water commission  
31          makes available during the then current biennium for that purpose, including any

1           federal moneys received by the state for the construction of flood control or  
2           reduction projects to pay bonds issued for that project. If sufficient funds from  
3           these sources are not available, then from transfers to be made and appropriated  
4           by the legislative assembly from the first available current biennial earnings of the  
5           Bank of North Dakota not to exceed six million five hundred thousand dollars per  
6           biennium prorated with any other bonds payable from transfers to be made and  
7           appropriated by the legislative assembly from the available current biennial  
8           earnings of the Bank of North Dakota, to be credited by the trustee to the fund  
9           established for paying principal and interest on the bonds under a trust indenture.

10          2. Principal and interest on bonds issued for continued construction of the southwest  
11          pipeline project are payable from transfers to be made and appropriated by the  
12          legislative assembly from the water development trust fund as provided in section  
13          61-02.1-05, then from transfers to be made and appropriated by the legislative  
14          assembly from revenues in the resources trust fund other than revenues from state  
15          taxes, then from appropriations of other available revenues in the then current  
16          biennium, or from payment from the Perkins County rural water system, and then  
17          from any other revenues the state water commission makes available during the  
18          then current biennium for that purpose, including any federal moneys received by  
19          the state for the construction of the southwest pipeline project to pay bonds issued  
20          for the project. If sufficient funds from these sources are not available, then from  
21          transfers to be made and appropriated by the legislative assembly from the first  
22          available current biennial earnings of the Bank of North Dakota not to exceed six  
23          million five hundred thousand dollars per biennium prorated with any other bonds  
24          payable from transfers to be made and appropriated by the legislative assembly  
25          from the available current biennial earnings of the Bank of North Dakota, to be  
26          credited by the trustee to the fund established for paying principal and interest on  
27          the bonds under a trust indenture.

28          3. Principal and interest on bonds issued under subsection 7 of section 61-02.1-01  
29          are payable from transfers to be made and appropriated by the legislative  
30          assembly from the water development trust fund as provided in section 61-02.1-05,  
31          then from transfers to be made and appropriated by the legislative assembly from

1 revenues in the resources trust fund other than revenues from state taxes, then  
2 from appropriations of other available revenues in the then current biennium, and  
3 then from any other revenues the state water commission makes available during  
4 the then current biennium for that purpose, including any federal moneys received  
5 by the state for the construction of an outlet to Devils Lake to pay bonds issued for  
6 that project, or financing a statewide water development program to pay bonds  
7 issued for that project. If sufficient funds from these sources are not available,  
8 then from transfers to be made and appropriated by the legislative assembly from  
9 the first available current biennial earnings of the Bank of North Dakota not to  
10 exceed six million five hundred thousand dollars per biennium prorated with any  
11 other bonds payable from transfers to be made and appropriated by the legislative  
12 assembly from the available current biennial earnings of the Bank of North Dakota,  
13 to be credited by the trustee to the fund established for paying principal and  
14 interest on the bonds under a trust indenture.

15 4. Obligations issued as provided in this chapter do not constitute a debt, liability, or  
16 obligation of the state of North Dakota or a pledge of the faith and credit of the  
17 state of North Dakota, but are payable solely from the sources as described in this  
18 chapter.

19 5. The state water commission shall include in its submission to the governor for  
20 inclusion by the governor in the biennial executive budget of the state for each  
21 year of the respective biennium during the term of any bonds issued as provided in  
22 this chapter an amount fully sufficient to pay the principal and interest required to  
23 be paid in each year of the biennium, if any, from moneys from nongeneral fund  
24 sources. Provided, that should the governor not include in the executive budget  
25 for any reason the amounts required to be included by this section, the state water  
26 commission shall request independently that the legislative assembly amend the  
27 executive budget appropriation so as to include the amounts.

28 **61-02.1-05. Water development trust fund.** Moneys received by the state pursuant  
29 to the 1998 settlement agreement with tobacco product manufacturers, or any successor  
30 agreement, and any earnings on these moneys, must be deposited in the water development

1 trust fund in the state treasury for use in paying for bonds issued as provided in this chapter  
2 and for other water projects as provided in 1999 House Bill No. 1475.

3         **SECTION 4. LINE OF CREDIT - APPROPRIATION.** The Bank of North Dakota shall  
4 extend a line of credit not to exceed \$84,800,000, which is hereby appropriated for the  
5 biennium beginning July 1, 1999, and ending June 30, 2001, to the state water commission for  
6 the purpose of interim financing until bonds are issued under chapter 61-02.1. Advances on  
7 the line of credit may be made only when a source of repayment has been identified and  
8 determined to be available.

9         **SECTION 5. CORPORATE CENTER - CONTRACT TO PLEDGE REVENUES.**

10 Before the issuance of any bonds for any flood control or reduction project in Grand Forks as  
11 provided in chapter 61-02.1, the state water commission shall require a contract be entered  
12 with the city of Grand Forks pledging revenue from the corporate center in that city as follows:

- 13         1. After all moneys pledged for the repayment of revenue bonds for the corporate  
14             center project have been paid, the city must pledge revenue from the project to the  
15             water development trust fund as repayment for the flood control or reduction  
16             project to facilitate economic development in this state. This contract must be in  
17             compliance with all applicable federal requirements.
- 18         2. If the corporate center is voluntarily sold, the city must pledge the proceeds of the  
19             sale, subject to the rights of bondholders and all applicable federal requirements,  
20             to the water development trust fund as repayment for the flood control or reduction  
21             project to facilitate economic development in this state. The corporate center may  
22             not be voluntarily sold without the prior approval of the budget section of the  
23             legislative council.
- 24         3. The revenue to be pledged must be in amounts similar to the amounts previously  
25             dedicated each year for the repayment of the revenue bonds.
- 26         4. The period during which revenue must be pledged under this section is from the  
27             date of the final payment of the revenue bonds until the end of the projected life of  
28             the corporate center, which must be not less than forty years from the date of initial  
29             occupancy.

1           5. Any refinancing of debt or any improvements to the corporate center requiring the  
2           incurring of indebtedness cannot be entered without prior approval of the budget  
3           section of the legislative council.

4           **SECTION 6. LEGISLATIVE INTENT.** It is the intent of the fifty-sixth legislative  
5           assembly that a total of six million dollars of funding be provided to the state water commission  
6           for the southwest pipeline project through a combination of funding sources. The potential  
7           funding source must include payment from the Perkins County rural water system, bonds  
8           issued by the state water commission, or other available resources.

9           **SECTION 7. APPROPRIATION.** There is hereby appropriated out of any moneys in  
10          the water development trust fund, not otherwise appropriated or from bond proceeds, the sum  
11          of \$84,800,000, or so much of the sum as may be necessary, to the Bank of North Dakota for  
12          the purpose of repaying the line of credit extended to the state water commission under  
13          section 4 of this Act, for the biennium beginning July 1, 1999, and ending June 30, 2001. It is  
14          the intent of the legislative assembly that the funds appropriated in this section are from  
15          transfers to be made and appropriated by the legislative assembly from the water development  
16          trust fund as provided in section 61-02.1-05.

17          **SECTION 8. EFFECTIVE DATE.** The authority of the commission to issue bonds as  
18          provided in subsection 2 of section 61-02.1-01 becomes effective on the date the state  
19          engineer certifies to the state water commission that the Perkins County water system will not  
20          make a payment to the state water commission in the amount of four million five hundred  
21          thousand dollars or January 1, 2000, whichever occurs earlier.

22          **SECTION 9. REPORTS TO LEGISLATIVE COUNCIL AND STANDING**  
23          **COMMITTEES - COMPREHENSIVE STATEWIDE WATER DEVELOPMENT PROGRAM**  
24          **AND STATE WATER MANAGEMENT PLAN IMPLEMENTATION - BOND ISSUANCE.** The  
25          state engineer shall report periodically to the budget section, any other interim committee  
26          designated by the legislative council, and to the house of representatives and the senate  
27          standing committees on natural resources and appropriations regarding implementation of the  
28          comprehensive statewide water development program and state water management plan and  
29          the issuance of bonds to finance construction of flood control projects, the southwest pipeline  
30          project, a Devils Lake outlet, and a statewide water development program during the

1 1999-2000 interim. The report must include information on the funding sources used to repay  
2 any bonds issued under chapter 61-02.1.

3 **SECTION 10. STATEWIDE WATER DEVELOPMENT PROGRAM - LEGISLATIVE**

4 **INTENT.** The state water commission shall develop a new comprehensive statewide water  
5 development program with priorities based upon expected funds available from the water  
6 development trust fund for water development projects. It is the intent of the legislative  
7 assembly that the state water commission consider the delivery of water for usable purposes a  
8 priority for water development projects after the projects authorized in section 3 of this Act are  
9 completed.

10 **SECTION 11. EXPIRATION DATE.** The authority of the commission to issue bonds as  
11 provided in chapter 61-02.1 is effective through June 30, 2001, and after that date is ineffective  
12 provided, however, that the commission may continue to exercise all other powers granted to it  
13 under this Act and to comply with any covenants entered into pursuant to this Act.

14 **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.