

SENATE BILL NO. 2165

Introduced by

Appropriations Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to create and enact a new chapter to title 61 of the North Dakota Century
2 Code, relating to the issuance of bonds to finance construction of flood control projects; to
3 amend and reenact subdivision d of subsection 5 of section 61-02-02 of the North Dakota
4 Century Code, relating to the definition of works; to provide an appropriation; to provide an
5 expiration date; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Subdivision d of subsection 5 of section 61-02-02 of the
8 North Dakota Century Code is amended and reenacted as follows:

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

15 **SECTION 2.** A new chapter to title 61 of the North Dakota Century Code is created and
16 enacted as follows:

17 **Legislative findings and intent - Authority to issue bonds.**

18 1. The legislative assembly finds that some cities suffered serious economic and
19 social injuries due to the major flood disaster in 1997 and are at significant risk for
20 future flooding. It further finds that construction of flood control or reduction
21 projects is necessary for the protection of health, property, and enterprises and for
22 the promotion of prosperity and the general welfare of the people of the state of
23 North Dakota and that construction of any such projects involves and requires the
24 exercise of the sovereign powers of the state and concerns a public purpose.

1 Therefore, it is declared necessary and in the public interest that the state of North
2 Dakota by and through the state water commission assist in financing the costs of
3 constructing flood control or reduction projects through the issuance of bonds.

4 2. In furtherance of this public purpose, the state water commission may issue bonds
5 under chapter 61-02 and the proceeds are appropriated for flood control projects
6 authorized and funded in part by the federal government and designed to provide
7 permanent flood control or reduction to cities that suffered severe damages as a
8 result of the 1997 flood. The commission may issue bonds for a flood control or
9 reduction project only when:

10 a. The flood control or reduction project involves a city that suffered catastrophic
11 flood damage requiring evacuation of the major share of its populace;

12 b. The flood control or reduction project includes interstate features and requires
13 acquisition of private property to build permanent flood protection systems to
14 comply with federal flood protection standards;

15 c. The board of commissioners of the city provides a written certification to the
16 state water commission that the city has committed itself to contribute
17 one-half or more of the North Dakota project sponsor's share of the
18 nonfederal share of the cost to construct the project; and

19 d. The United States army corps of engineers issues its approval of the flood
20 control or reduction project.

21 **Bond issuance amount limited.** The state water commission bonds issued for flood
22 control or reduction projects under this Act may not exceed one-half of the North Dakota project
23 sponsor's share of the nonfederal share of the cost to construct the flood control or reduction
24 project or, in the aggregate, fifty-two million dollars plus the costs of issuance of the bonds,
25 capitalized interest, and reasonably required reserves, whichever is less.

26 **Limitation of action.** An action may not be brought or maintained in any court in this
27 state questioning the validity of any bonds issued under this Act unless the action is
28 commenced within thirty days after the adoption of the resolution of the state water commission
29 authorizing the sale of the bonds. The state water commission may commence a special
30 proceeding any time after the effective date of this Act in and by which the constitutionality and
31 validity of the bonds to be issued pursuant to this Act may be judicially examined, approved,

1 and confirmed or disapproved and disaffirmed. Proceedings must comply as nearly as possible
2 with the procedure required for declaratory judgment proceedings.

3 **Bonds payable from appropriations and other revenues.**

4 1. Principal and interest on bonds issued under this Act are payable from transfers to
5 be made and appropriated by the legislative assembly from the first available
6 current biennial earnings of the Bank of North Dakota prorated with any other
7 bonds payable from transfers to be made and appropriated by the legislative
8 assembly from the first available current biennial earnings of the Bank of North
9 Dakota, to be credited by the trustee to the fund established for paying principal
10 and interest on the bonds under a trust indenture, or from appropriations of other
11 available revenues in the then current biennium, and any other revenues the state
12 water commission makes available during the then current biennium for that
13 purpose, including any federal moneys received by the state for the construction of
14 flood control or reduction projects to pay bonds issued for that project.

15 2. Obligations issued under the provisions of this Act do not constitute a debt, liability,
16 or 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 Act.

19 3. 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 year
21 of the respective biennium during the term of any bonds issued under this Act an
22 amount fully sufficient to pay the principal and interest required to be paid in each
23 year of the biennium, if any, from moneys from nongeneral fund sources.

24 Provided, that should the governor not include in the executive budget for any
25 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 **SECTION 3. EXPIRATION DATE.** The authority of the commission to issue bonds
29 under section 2 of this Act is effective through June 30, 2001, and after that date is ineffective.

30 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.