

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1021
(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 amend and reenact section 61-02-23.3 of the North Dakota Century Code, relating to the operation of the Devils Lake outlet; to provide legislative intent; to provide water commission authority to issue bonds; to provide an exemption from payment of fees; and to authorize a cash advance from the general fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

SECTION 3. 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 general 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 that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

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

SECTION 4. RESOURCES TRUST FUND - APPROPRIATION. The sum of \$54,013,116, or so much of the sum as may be necessary, included in the estimated income line item in section 3 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, 2005, and ending June 30, 2007. Any additional amount in the resources trust fund that becomes available is appropriated to the

state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 5. WATER DEVELOPMENT TRUST FUND - APPROPRIATION. The sum of \$29,963,873, or so much of the sum as may be necessary, included in the estimated income line item in section 3 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, 2005, and ending June 30, 2007. Any additional amount in the water development trust fund that becomes available is appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 6. 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 (774.60); 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 section 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. 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 the state water commission's 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 section, including title opinions.

SECTION 7. BUILDING SALE PROCEEDS. Proceeds of the sale of the state water commission maintenance shop located in east Bismarck, as provided in section 6 of this Act, must be used to purchase or lease land and construct a new maintenance shop building. 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. 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, the state water commission may use other funds appropriated to the commission provided that, upon receipt of the proceeds of the sale, the state water commission shall transfer to the funds from which money was taken an amount equal to any funds utilized for the purchase or lease of land and construction of the new maintenance building. If the state water commission uses other funds appropriated to the commission 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.

SECTION 8. 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 3 of this Act. However, this exclusion is only in effect for two years after June 30, 2007. 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 9. 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 biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 10. REPAYMENT OF LINE OF CREDIT - CONTINGENT APPROPRIATION. If the line of credit authorized in section 9 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, the resources trust fund, bond proceeds, or other sources, 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, 2005, and ending June 30, 2007.

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

61-02-23.3. Construction and operation 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. The state engineer may employ full-time personnel and may employ such other personnel as are necessary for the operation and maintenance of the Devils Lake outlet within the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund and appropriated for the

purposes of this section may be used for salaries, equipment, operations, and maintenance costs relating to the Devils Lake outlet.

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1021.

House Vote: Yeas 78 Nays 12 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State