

**ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2019-21 AND 2021-23 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH MARCH 17, 2021)**

	2019-21 Biennium	2021-23 Biennium
Beginning balance, excluding infrastructure revolving loan fund		\$343,043,424
Add estimated revenues and transfers		
Oil extraction tax collections	\$307,440,000 ¹	\$325,310,000 ¹
Bond proceeds from repayment of loans	13,568,805	74,500,000 ²
Repayments and reimbursements	4,492,000	13,126,800
Investment earnings/miscellaneous income		1,500,000
Total estimated revenues	325,500,805	414,436,800
Total available	\$652,243,424	\$757,480,224
Less funds designated for the infrastructure revolving loan fund (North Dakota Century Code Section 61-02-78)	\$0 ³	
Less estimated expenditures and transfers		
State Water Commission - Grants, projects, and project administration, pursuant to Senate Bill No. 2020 (2019) for the 2019-21 biennium and House Bill No. 1020 (2021) for the 2021-23 biennium	305,000,000 ⁴	605,920,859 ⁵
House Bill No. 1431 (2021) - Appropriation to the State Water Commission to provide funding for the Mouse River flood control project		74,500,000 ²
Total estimated State Water Commission expenditures and loans	305,000,000	680,420,859
Transfer to renewable energy development fund (Section 57-51.1-07)	\$3,000,000 ⁶	\$3,000,000
Transfer to energy conservation grant fund (Section 57-51.1-07)	1,200,000 ⁶	1,200,000
Total estimated transfers	4,200,000	4,200,000
Estimated ending balance, excluding funds designated for infrastructure revolving loan fund	\$343,043,424	\$72,859,365

¹Estimated oil extraction tax revenues - The allocations for the 2019-21 biennium and the 2021-23 biennium are based on the March 2021 legislative revenue forecast and legislative action through March 17, 2021. **Senate Bill No. 2328 (2021) provides an oil extraction tax credit for the use of an onsite flaring mitigation system, but the fiscal impact of the credit cannot be determined based on the fiscal note.**

²House Bill No. 1431 (2021) allocates \$74.5 million of bond proceeds which are deposited into the resources trust fund for the repayment of outstanding loans of the Western Area Water Supply Authority. The bill also provides an appropriation of \$74.5 million from the resources trust fund to the State Water Commission for the Mouse River flood control project.

³House Bill No. 1020 (2017) amended Section 61-02-78 to provide no more than \$26,000,000 of total resources trust fund revenue may be allocated to the infrastructure revolving loan fund. As a result, excess transfers of \$8,440,473 were returned to the resources trust fund during the 2017-19 biennium and there will be no more transfers to the infrastructure revolving loan fund. House Bill No. 1431 (2021) eliminates the infrastructure revolving loan fund within the resources trust fund; combines it with the community water development fund to establish a newly created water infrastructure revolving loan fund; and provides a continuing appropriation to the State Water Commission for the purpose of providing loans for water projects in a similar manner as the prior infrastructure revolving loan fund.

Infrastructure Revolving Loan Fund Share of Oil Extraction Tax Collections	
	Infrastructure Revolving Loan Fund Transfers
2013-15 biennium	\$11,407,864
2015-17 biennium	23,032,609
2017-19 biennium	(8,440,473)
Total	\$26,000,000 ¹
¹ Loans outstanding as of January 31, 2021, totaled \$25,606,099.	

⁴Sections 1 and 3 of Senate Bill No. 2020 (2019) appropriate \$778,482,206 or any additional funding that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2019-21 biennium.

⁵House Bill No. 1020 (2021) includes \$605,920,859 from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2021-23 biennium. This amount includes \$288,557,676 of new appropriations for the 2021-23 biennium and \$317,363,183 of water project funding continued from the 2019-21 biennium (carryover).

⁶The Legislative Assembly approved Senate Bill No. 2362 (2019), which changed the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands. The changes also restored the maximum allocation to the energy conservation grant fund from \$200,000 to \$1.2 million.

INFRASTRUCTURE REVOLVING LOAN FUND HISTORY

The infrastructure revolving loan fund was created by the Legislative Assembly in Senate Bill No. 2233 (2013), which became effective on January 1, 2015. The bill established an infrastructure revolving loan fund within the resources trust fund. The bill provided 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission with a fixed interest rate of 1.5 percent and administered by the Bank of North Dakota. Annually, the Bank receives .5 percent of the balance of issued loans to cover costs associated with administering the loans. The fund beginning balance and revenue earned in a biennium are carried over from biennium to biennium within the resources trust fund. House Bill No. 1020 (2017) provided the maximum to be allocated to the infrastructure revolving loan fund is **\$26 million**. House Bill No. 1431 (2021) eliminates the infrastructure revolving loan fund within the resources trust fund; combines it with the community water development fund to establish a newly created water infrastructure revolving loan fund; and provides a continuing appropriation to the State Water Commission for the purpose of providing loans for water projects in a similar manner as the prior infrastructure revolving loan fund.

RESOURCES TRUST FUND HISTORY

The resources trust fund was created pursuant to the passage of Initiated Measure No. 6 in the November 1980 general election. Initiated Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems; and
- Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Section 24 of Article X of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes be allocated as follows:

- 50 percent (of the 20 percent) to the common schools trust fund; and
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

The 1995 Legislative Assembly amended Section 57-51.1-07 to increase the percentage of oil extraction tax deposited into the resources trust fund from 10 to 20 percent. The general fund received 60 percent of oil extraction tax revenues, and the remaining 20 percent was allocated pursuant to Section 24 of Article X of the Constitution of North Dakota.

Section 57-51.1-07, as amended by Senate Bill No. 2129 (2011), provides that oil extraction tax revenues be distributed as follows:

- 20 percent to the resources trust fund;
- 20 percent allocated as provided in Section 24 of Article X of the Constitution of North Dakota;
- 30 percent to the legacy fund; and
- 30 percent to be allocated to the state's general fund with certain funds designated for deposit in the property tax relief sustainability fund, the strategic investment and improvements fund, and the state disaster relief fund as provided in House Bill No. 1451 (2011).

The Legislative Assembly in Senate Bill No. 2014 (2013) authorized quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up to \$3 million per biennium and of .5 percent of the amount credited to the resources trust fund to the energy conservation grant fund--up to \$1.2 million per biennium. Funds in the newly created energy conservation grant fund are appropriated on a continuing basis to the Department of Commerce for grants to political subdivisions for energy conservation projects in nonfederal public buildings. In addition, effective January 1, 2015, the Legislative Assembly, in Senate Bill No. 2233 (2013), established an infrastructure revolving loan fund within the resources trust fund. The bill provides 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission and administered by the Bank of North Dakota. House Bill No. 1020 (2017) reduced the allocation to the renewable energy development fund from 5 to 3 percent and the maximum allocation to the energy conservation grant fund from \$1.2 million to \$200,000 for the 2017-19 biennium, restored the maximum allocation to the energy conservation grant fund to \$1.2 million after July 31, 2019, and provided for a \$26 million maximum allocation of resources trust fund revenues to the infrastructure revolving loan fund.

The Legislative Assembly in Senate Bill No. 2020 (2015) directed the State Water Commission to refinance all remaining bonds through the Bank of North Dakota and to continue annual loan payments on the newly refinanced bonds. The State Water Commission refinanced the bonds with the Bank on July 29, 2015, in the amount of \$45,840,221 at a variable interest rate of 1.75 percent. The Bank loan will mature on June 30, 2030.

The Legislative Assembly in Senate Bill No. 2020 (2019) provided \$37.2 million to pay off the Bank of North Dakota loan. The bill contains an emergency clause, added in Senate Bill No. 2015 (2019); therefore, the State Water Commission paid off the Bank loan from the water development trust fund during the 2017-19 biennium.

