

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2001-03 BIENNIUM

Beginning balance - July 1, 2001		\$23,805,353
Add revenues		
Transfers to date from tobacco settlement trust fund	\$3,284,391 ¹	
Projected remaining transfers from tobacco settlement trust fund	20,340,561	
Total estimated revenues		<u>\$23,624,952 ²</u>
Total available		<u>\$47,430,305</u>
Less expenditures		
Transfer to the general fund (2001 HB 1023)	\$9,733,820 ³	
State Water Commission		
Bond payments (2001 HB 1023)	8,636,398 ⁴	
Water development projects (2001 HB 1023)	28,995,286 ⁵	
Section 404 of the Clean Water Act (2001 SB 2285)	800,000 ⁶	
State Department of Health		
Total maximum daily load and pollution control plans (2001 SB 2004)	99,756 ⁷	
Total expenditures		<u>\$48,265,260 ⁸</u>
Estimated ending balance - June 30, 2003		<u><u>(\$834,955) ⁹</u></u>

¹ Three 2001-03 biennium transfers have been made from the tobacco settlement trust fund as of March 15, 2002, totaling \$3,284,391. Total transfers of \$27,089,744 have been made from the tobacco settlement trust fund to the water development trust fund.

² Revenues - Interest earned on the water development trust fund is not retained in the fund but deposited in the state general fund. The tobacco settlement revenues for the water development trust fund were estimated to be \$27,514,610 for the 2001-03 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$3,889,658 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined. The revenues for the water development trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$25,917,197	\$23,805,353
2001-03	27,514,610	23,624,952
2003-05	23,072,046	20,674,860
2005-07	23,072,046	20,674,860
2007-17 (\$37,003,986/\$33,159,270 per biennium)	185,019,930	165,796,350
2017-25 (\$26,366,170/\$23,626,724 per biennium)	105,464,680	94,506,896
Total	\$390,060,509	\$349,083,271

³ Transfer to general fund - The 2001 Legislative Assembly transferred \$9,733,820, the amount for the State Water Commission administrative expenses, from the water development trust fund to the general fund. A general fund appropriation was then provided by the 2001 Legislative Assembly for the administrative expenses.

- ⁴ Senate Bill No. 2188 (1999) (North Dakota Century Code (NDCC) Section 61-02.1-02) authorized the State Water Commission to bond up to \$84.8 million for state water projects to be repaid from the water development trust fund. The March 2000 bonding provided a total of \$27.5 million, \$23 million for the Grand Forks flood control project and \$4.5 million for the Southwest Pipeline Project. The 2001-03 bond payments relating to the March 2000 bond issuance is approximately \$5.43 million, and the remaining \$3.2 million is the amount set aside for bond payments relating to possible 2001-03 bond issuances.
- ⁵ House Bill No. 1475 (1999) (NDCC Section 54-27-25) provides that money in the water development trust fund are to be used to address the long-term water development and management needs of the state. The authorization for water projects includes the \$28,572,333 included in the water projects line item in Section 1 of the bill and \$422,953 of additional operating costs relating to water projects.
- ⁶ The 2001 Legislative Assembly authorized \$800,000 of funding from the water development trust fund for the State Water Commission to assume jurisdiction over and administer the Section 404 program of the Clean Water Act. The appropriation becomes effective on the date the State Engineer certifies to the Governor that a program has been designed to effectively assume responsibility for the Section 404 program of the Clean Water Act and the State Water Commission is ready to assume those responsibilities.
- ⁷ The 2001 Legislative Assembly authorized \$99,756 from the water development trust fund to replace the general fund portion of the appropriation for two FTE positions and related operating expenses and equipment to develop total maximum daily loads and pollution control plans.
- ⁸ The State Water Commission is authorized to spend up to \$67.8 million from the water development trust fund, resources trust fund, and bond proceeds on new water development projects for the 2001-03 biennium. Section 14 of 2001 House Bill No. 1023 limits the bonding authority for the new projects to \$20 million plus the cost of issuing bonds. Contracts for water projects to be paid from the water development trust fund may initially be issued up to an amount equal to 75 percent of the amount appropriated from that fund. Contracts for the remaining 25 percent appropriated may only be issued to the extent uncommitted funds are available in the water development trust fund. The State Water Commission is also authorized in 2001 House Bill No. 1015 to spend up to \$5 million from the resources trust fund or bond proceeds for levees at Devils Lake, which increases the bonding cap to \$25 million and the water project cap to \$72.8 million.
- ⁹ If adequate money is not available in the fund to provide for the appropriations and transfers as current projections indicate, expenditures will need to be reduced to maintain a positive ending balance.

FUND HISTORY

North Dakota Century Code Section 54-27-25 created by 1999 House Bill No. 1475 established a water development trust fund to be used for the long-term water development and management needs of the state. This section creates a tobacco settlement trust fund for the deposit of all tobacco settlement money obtained by the state. Money in the fund must be transferred within 30 days of their deposit in the fund as follows:

- Ten percent to the community health trust fund.
- Forty-five percent to the common schools trust fund.
- Forty-five percent to the water development trust fund.

North Dakota Century Code Section 54-27-25 also provides that transfers that would otherwise be made to the common schools trust fund during the biennium must be made to the water development trust fund until the amount in the water development trust fund is sufficient to make required bond payments for bonds issued for water projects authorized by Section 61-02.1-01. Once the amount required for the biennium is transferred to the water development trust fund, an equal amount must be transferred to the common schools trust fund, if available, from the money deposited in the tobacco settlement trust fund during the biennium. Once an equal amount has been deposited in each fund, transfers from the tobacco settlement trust fund will be allocated equally for the remainder of the biennium--45 percent to the water development trust fund and 45 percent to the common schools trust fund. The State Engineer has stated that deposit of 45 percent of the tobacco settlement trust fund into the water development trust fund would be adequate during the 2001-03 biennium. Therefore, transfers to date for the common schools trust fund have not been redirected to the water development trust fund.

North Dakota Century Code Section 61-02.1-04, created by 1999 Senate Bill No. 2188, provides that the principal and interest on bonds issued for flood control projects, the Southwest Pipeline Project, and an outlet to Devils Lake must be repaid with money appropriated from the water development trust fund.