

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	<u>2001-03 Biennium</u>	<u>2003-05 Biennium</u>
Beginning balance	\$23,805,353	\$23,305,804
Add estimated revenues		
Transfers to date from tobacco settlement trust fund	\$23,998,745 ¹	
Remaining transfers from tobacco settlement trust fund		\$20,674,860
Total estimated revenues	<u>23,998,745²</u>	<u>20,674,860²</u>
Total available	\$47,804,098	\$43,980,664
Less estimated expenditures		
Transfer to the general fund	\$9,733,820 ³	\$10,070,373 ³
State Water Commission		
Water development projects	9,234,320 ⁴	27,521,452 ⁵
Bond payments	5,430,398 ⁶	5,424,773 ^{5,6}
State Department of Health		
Total maximum daily load and pollution control plans	99,756 ⁷	
Repayment of 2001-03 loans used for the state's matching share of federal disaster relief funding		
University of North Dakota (HB 1003)		1,193,146
North Dakota State University (HB 1003)		262,928
Parks and Recreation Department (SB 2021)		575,287
Total estimated expenditures	<u>24,498,294⁸</u>	<u>45,047,959⁹</u>
Estimated ending balance	<u>\$23,305,804</u>	<u>(\$1,067,295)</u>

¹ As of May 15, 2003, nine transfers have been made from the tobacco settlement trust fund totaling \$23,998,745. Total transfers of \$47,804,098 have been made to date from the tobacco settlement trust fund to the water development trust fund.

² Revenues - Interest earned on the water development trust fund is 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 \$3,515,865 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	23,998,745
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	\$349,457,064

- ³ Section 19 of 2001 House Bill No. 1023 provided for a transfer of \$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. Section 22 of 2001 House Bill No. 1023 provided legislative intent that the water development trust fund not be used as a source of funding for State Water Commission administrative expenses after the 2001-03 biennium. The 2003 Legislative Assembly authorized, in Section 15 of 2003 Senate Bill No. 2022, a transfer of \$10,070,373 from the water development trust fund to the general fund. The 2003-05 biennium appropriation for the State Water Commission's administrative expenses of \$9,385,396 is funded from the general fund.
- ⁴ House Bill No. 1475 (1999) (North Dakota Century Code (NDCC) Section 54-27-25) provides that money in the water development trust fund is to be used to address the long-term water development and management needs of the state. Section 4 of 2001 House Bill No. 1023 authorized \$37,631,684 to the State Water Commission from the water development trust fund, consisting of \$28,572,333 included in the water projects line item in Section 1 of the bill, \$422,953 of additional operating costs relating to water projects, and \$8,636,398 for bond payments. The 2001-03 biennium water project expenditures from the water development trust fund are estimated by the State Water Commission and the Office of Management and Budget to be \$9.2 million.
- ⁵ Senate Bill No. 2022 (2003) includes \$32,946,225 from the water development trust fund to the State Water Commission. The funding is for bond payments (approximately \$5.4 million), reimbursement to the State Department of Health for nonpoint sources of pollution control expenses (up to \$300,000), and water control projects (approximately \$27.2 million).
- ⁶ Senate Bill No. 2188 (1999) (NDCC Section 61-02.1-02) authorized the State Water Commission to borrow up to \$84.8 million for state water projects to be repaid from the water development trust fund. In March 2000 the State Water Commission issued bonds totaling \$27.5 million (\$23 million for Grand Forks flood control and \$4.5 million for the Southwest Pipeline Project). For the 2001-03 biennium, bond payments on the March 2000 issuance totaled \$5,430,398. The State Water Commission does not anticipate any new borrowing for water projects during the 2001-03 biennium. The 2003 Legislative Assembly authorized, in Senate Bill No. 2022, the State Water Commission to issue up to \$60 million in bonds during the 2003-05 biennium. Bond payments on the March 2000 issuance for the 2003-05 biennium will be approximately \$5.4 million. The State Water Commission does not anticipate issuing additional bonds during the first year of the 2003-05 biennium, thus any additional bond payments would not be due until the 2005-07 biennium.
- ⁷ Senate Bill No. 2004 (2001) appropriated \$99,756 from the water development trust fund to replace the general fund share of the cost of 2 FTE positions and related operating expenses and equipment to develop total maximum daily loads and pollution control plans.
- ⁸ The 2001 Legislative Assembly authorized the State Water Commission 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 limited 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 was 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 limit to \$25 million and the water project limit to \$72.8 million. The State Water Commission has available 2001-03 biennium spending authority from the water development trust fund and the resources trust fund and has indicated the actual ending balance may vary depending on the funding source used for remaining water project expenditures.
- ⁹ Senate Bill No. 2022 (2003) appropriated to the State Water Commission a total of \$32,946,225 from the water development trust fund. The funding is for bond payments (approximately \$5.4 million), reimbursement to the State Department of Health for nonpoint sources of pollution control expenses (up to \$300,000), and water control projects (approximately \$27.2 million). In addition, the Legislative Assembly authorized the State Water Commission to issue up to \$60 million in bonds during the 2003-05 biennium and appropriates \$13,650,000 from the resources trust fund for purposes authorized by the Legislative Assembly. Funding for water projects is contingent upon available funds in the water development trust fund. Based on current projections, water project funding from the water development trust fund will be reduced by \$1,067,295, from \$27,521,452 to \$26,454,157.

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 as follows, within 30 days of its deposit in the fund:

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 61-02.1-04. 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 54-27-25 was amended in 2003 Senate Bill No. 2022 removing the water development trust fund funding priority.

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.