

## ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$324,936,548		\$386,351,110
Add estimated revenues				
Transfer from general fund	\$61,414,562 <sup>1</sup>		\$0	
Investment income	0 <sup>2</sup>		12,500,000 <sup>3</sup>	
Total estimated revenues		61,414,562		12,500,000
Total available		\$386,351,110		\$398,851,110
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0 <sup>4</sup>		0 <sup>4</sup>
Estimated ending balance		\$386,351,110		\$398,851,110

<sup>1</sup>North Dakota Century Code Chapter 54-27.2, as amended by the Legislative Assembly in 2011 House Bill No. 1451, provides that any amount in the general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund except that, beginning July 1, 2011, the balance in the budget stabilization fund may not exceed 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. At the end of the 2009-11 biennium, the Office of Management and Budget transferred \$61,414,562 from the general fund to the budget stabilization fund pursuant to Chapter 54-27.2. This amount was based on 2011-13 biennium general fund appropriations of \$4,066,853,792 as approved by the Legislative Assembly during its 2011 regular legislative session resulting in a maximum balance allowed in the fund of \$386,351,110.

<sup>2</sup>Interest earned on the fund is deposited in the general fund because the balance in the fund is at the maximum allowed under Section 54-27.2-01.

<sup>3</sup>Due to the increase in general fund appropriations for the 2011-13 biennium approved by the Legislative Assembly during its November 2011 special session, the maximum balance allowed in the budget stabilization fund is now based on 2011-13 biennium general fund appropriations of \$4,236,686,460 resulting in a maximum balance allowed in the fund of \$402,485,214. Therefore, interest earned by the fund will be retained in the fund until the maximum balance is reached. Based on the fund's most recent three-year average return rate, interest earnings for the remainder of the 2011-13 biennium are estimated to be \$12.5 million.

<sup>4</sup>No transfers from the budget stabilization fund are anticipated.

### FUND HISTORY

The budget stabilization fund was established by the Legislative Assembly in 1987 House Bill No. 1596. Major provisions include:

- Section 54-27.2-01 establishes the budget stabilization fund and provides that any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section provides that any money in the fund in excess of 9.5 percent of the general fund budget as approved by the most recently adjourned Legislative Assembly must be deposited in the state general fund. The Legislative Assembly approved 2011 House Bill No. 1451 which decreased, effective July 1, 2011, the maximum balance allowed in the fund from 10 percent to 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 provides that any amount in the state general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund.
- Section 54-27.2-03 provides that the Governor may order a transfer from the budget stabilization fund to the general fund if the director of the Office of Management and Budget projects that general fund revenues for the biennium will be at least 2.5 percent less than estimated by the most recently adjourned Legislative Assembly. The amount transferred is limited to the difference between an amount 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by the Office of Management and Budget. Any transfer made must be reported to the Budget Section.

## ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		\$87,378,167		\$155,940,059
Add revenues				
Oil extraction tax collections	\$148,886,433		\$208,633,412 <sup>1</sup>	
Repayments and reimbursements	3,413,941		3,495,000	
Investment earnings/miscellaneous income	2,261,518		1,069,931	
Total revenues		154,561,892		213,198,343
Total available		\$241,940,059		\$369,138,402
Less expenditures and transfers				
State Water Commission - Grants, projects, and project administration (2009 HB 1020; 2011 SB 2020)	\$85,916,406 <sup>2</sup>		\$315,983,499 <sup>3</sup>	
State Water Commission - Beaver Bay embankment feasibility study (2009 SB 2305)	83,594 <sup>2</sup>			
State Water Commission - Western Area Water Supply Authority zero interest loan (2011 SB 2020)			25,000,000 <sup>3</sup>	
Bank of North Dakota - Western Area Water Supply Authority 5 percent interest loan (2011 HB 1206)			10,000,000 <sup>3</sup>	
State Water Commission - Defraying the expenses of the commission (2011 SB 2371)			18,154,903 <sup>4</sup>	
Total expenditures and transfers		86,000,000		369,138,402
Ending balance		\$155,940,059		\$0

<sup>1</sup>Estimated revenues - 2011-13 biennium - The estimated revenues for the 2011-13 biennium reflect actual revenues through October 2011 and estimated revenues for the remainder of the biennium based on the February 2011 revenue forecast.

<sup>2</sup>Sections 1 and 5 of House Bill No. 1020 (2009) appropriated \$188.4 million, or any additional amounts that become available, from the resources trust fund for defraying the expenses of the State Water Commission for the 2009-11 biennium. In addition, Senate Bill No. 2305 (2009) appropriated \$342,000 from the resources trust fund to the State Water Commission for conducting a Beaver Bay embankment feasibility study. The amounts shown are the actual expenditures relating to these appropriations.

<sup>3</sup>Sections 1 and 4 of Senate Bill No. 2020 (2011) appropriate \$332.4 million, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium. The Legislative Assembly added 1 FTE Water Development Division director position funded from the resources trust fund (\$231,899) and appropriated an additional \$500,000 from the resources trust fund for a remote metering device reimbursement program. The sections relating to the remote metering of water permits were vetoed by Governor Jack Dalrymple. The Legislative Assembly required that the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of funding appropriated to the commission for water and atmospheric resources. In addition, the Legislative Assembly in 2011 provided in House Bill No. 1206 the State Water Commission make available, from funding appropriated from the resources trust fund for projects, \$25 million for a zero interest loan to the Western Area Water Supply Authority. House Bill No. 1206 also appropriated \$10 million from the resources trust fund to the Bank of North Dakota for a 5 percent loan to the Western Area Water Supply Authority.

<sup>4</sup>The Legislative Assembly, during its special legislative session in November 2011, appropriated \$50 million from the resources trust fund to defray the expenses of the commission, subject to Budget Section approval as provided in Section 4 of Senate Bill No. 2020 relating to the appropriation of additional income in the resources trust fund and the water development trust fund. At this time, revenue estimates are sufficient to provide for \$18,154,903 of the \$50 million appropriation.

#### **FUND HISTORY**

The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. 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.
- Energy conservation programs.

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

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

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

- Twenty percent to the resources trust fund.
- Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- Thirty percent to the legacy fund.
- Thirty 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).

**ANALYSIS OF THE STATE DISASTER RELIEF FUND  
FOR THE 2007-09, 2009-11, AND 2011-13 BIENNIUMS**

	2007-09 Biennium		2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$0		\$37,623,216		\$34,675,167
Add revenues						
Transfer from the general fund	\$43,000,000 <sup>1</sup>					
Transfer from the permanent oil tax trust fund (2011 SB 2369)			\$22,000,000 <sup>2</sup>			
Transfer from the general fund (Section 17 of 2011 SB 2371)					\$48,700,000 <sup>3</sup>	
Interest income			199,420		250,000	
Federal funds - Volunteer hours adjustment and local share federal-to-federal mission assignments			612,263			
National Guard reimbursements			136,057			
Total revenues		43,000,000		22,947,740		48,950,000
Total available		\$43,000,000		\$60,570,956		\$83,625,167
Less estimated expenditures						
Emergency snow removal grants (2009 SB 2012; 2011 SB 2369)	\$5,376,784 <sup>4</sup>		\$9,000,000 <sup>5</sup>			
Disaster costs relating to disasters occurring prior to 2009			513,321 <sup>6</sup>		\$1,318,996 <sup>7,8</sup>	
Disaster costs relating to 2009 flooding			5,739,762 <sup>6</sup>		4,815,194 <sup>7,8</sup>	
Disaster costs relating to the January 2010 winter snowstorm			1,506,693 <sup>6</sup>		565,527 <sup>7,8</sup>	
Disaster costs relating to 2010 flooding			3,390,192 <sup>6</sup>		1,886,381 <sup>7,8</sup>	
Disaster costs relating to the April 2010 ice storm			2,854,089 <sup>6</sup>		1,142,381 <sup>7,8</sup>	
Disaster costs relating to the April 2011 blizzard			16,937 <sup>6</sup>			
Disaster costs relating to 2011 flooding			2,874,795 <sup>8,9</sup>		15,613,825 <sup>9,10</sup>	
Disaster costs relating to flooding in incorporated cities (2011 SB 2369)					3,200,000 <sup>9</sup>	
Disaster response coordination contract (2011 SB 2016)					400,000 <sup>11</sup>	
State disasters and flood mitigation efforts (2011 SB 2016; 2011 SB 2369)					4,800,000 <sup>9</sup>	
Required state share for presidentially declared disasters (Section 15 of 2011 SB 2371)					29,500,000 <sup>10</sup>	

	2007-09 Biennium		2009-11 Biennium		2011-13 Biennium	
Contingent appropriation for 2012 disaster event (Section 16 of 2011 SB 2371)					4,382,863 <sup>3</sup>	
Flood-impacted housing assistance grant program (Section 9 of 2011 SB 2371)					10,000,000 <sup>3</sup>	
Road grade raising projects (Section 14 of 2011 SB 2371)					6,000,000 <sup>3</sup>	
Total estimated expenditures and transfers		5,376,784		25,895,789		83,625,167 <sup>12</sup>
Estimated ending balance		\$37,623,216		\$34,675,167		\$0

**NOTE:** The amounts shown on this schedule reflect updated expenditure estimates by disaster provided by the Adjutant General as of October 2011.

<sup>1</sup>Section 5 of 2009 Senate Bill No. 2012 provided that the Office of Management and Budget (OMB) transfer \$43 million from the general fund to the state disaster relief fund during the 2007-09 biennium.

<sup>2</sup>Senate Bill No. 2369 (2011) provides for a \$22 million transfer from the permanent oil tax trust fund to the state disaster relief fund and authorizes the Adjutant General to use this funding for costs associated with state disasters and flood mitigation efforts.

<sup>3</sup>Section 17 of 2011 Senate Bill No. 2371 provides that OMB transfer \$48.7 million from the general fund to the state disaster relief fund during the 2011-13 biennium for the following purposes:

Relief Assistance	Transfer Amount	Appropriation Authority
Disaster-related expenses	\$32,700,000	Section 15 of Senate Bill No. 2371 provides appropriation authority of \$29.5 million from the state disaster relief fund to the Adjutant General for providing the required state share of funding for expenses associated with presidentially declared state disasters.  Section 16 of Senate Bill No. 2371 provides a contingent appropriation of \$5 million from the state disaster relief fund to the Adjutant General relating to grants to political subdivisions for a portion of the local share required to match federal emergency relief funding. The funding is contingent upon a 2012 disaster event exceeding \$50 million in damages across the state. <b>The transfer amount provided is currently anticipated to be \$617,137 less than the amount needed to provide the \$5 million in funding for possible 2012 disaster expenses.</b>
Flood-impacted housing assistance grant program	10,000,000	Section 9 of Senate Bill No. 2371 appropriates \$10 million from the state disaster relief fund to the Adjutant General for providing: <ul style="list-style-type: none"> <li>• Additional rebuilders loan program funding to the Bank of North Dakota.</li> <li>• Funding to political subdivisions for flood-impacted housing rehabilitation.</li> </ul> Funding must be used as deemed most effective in that community to assist homeowners in rehabilitation or replacement of their flood-damaged homes and to retain homeowners in the community.
Road grade raising grants	6,000,000	Section 14 of Senate Bill No. 2371 appropriates \$6 million from the state disaster relief fund to the Department of Transportation for grants to counties for road grade raising projects on federal aid-eligible roads.
Total	\$48,700,000	

<sup>4</sup>Section 6 of 2009 Senate Bill No. 2012 authorized up to \$20 million from the state disaster relief fund to be used for providing emergency snow removal grants to counties, cities, and townships in accordance with Section 7 of Senate Bill No. 2012. Section 7 of Senate Bill No. 2012 provided that a county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 50 percent of the costs incurred by the county, township, or city for the period January 2009 through March 2009 that exceed 200 percent of the average costs incurred for these months in 2004 through 2008. The Department of Emergency Services distributed these grants prior to June 30, 2009.

<sup>5</sup>Section 2 of 2011 Senate Bill No. 2369 authorized up to \$9 million from the state disaster relief fund to be used for providing emergency snow removal grants to counties, cities, and townships. Section 2 of Senate Bill No. 2369 provided that a county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 60 percent of the costs incurred by the county, township, or city for the period January 2011 through March 2011 that exceed 200 percent of the average costs incurred for these months in 2004 through 2008. The Department of Emergency Services distributed \$9 million in grants prior to June 30, 2011, and reported to the Budget Section regarding the grants awarded under this section on September 15, 2011.

<sup>6</sup>Section 6 of 2009 Senate Bill No. 2012 authorized up to \$23 million from the state disaster relief fund to be used for paying costs relating to the 2009 flood disaster, snow removal damage to roads, and other disasters in accordance with Section 8 of Senate Bill No. 2012. Section 8 of Senate Bill No. 2012 provides that a political subdivision receiving federal emergency relief funding relating to disasters occurring from January 2009 through June 2009 may apply to the Department of Emergency Services for an emergency relief grant of up to 50 percent of the local match required to receive the federal emergency relief funding.

<sup>7</sup>Section 1 of 2011 Senate Bill No. 2016 includes spending authority of \$7.8 million from the state disaster relief fund for expenses related to the 2009 flood disaster (\$3,369,258) and other unclosed state disasters (\$4,473,046) in the 2011-13 biennium.

<sup>8</sup>Section 5 of 2011 Senate Bill No. 2016 appropriates \$3.5 million from the state disaster relief fund to the Adjutant General for the purpose of providing the required state share of funding for defraying the expenses associated with presidentially declared disasters pursuant to North Dakota Century Code Section 37-17.1-27.

<sup>9</sup>Section 4 of 2011 Senate Bill No. 2369 appropriates \$22 million from the state disaster relief fund for flood-related costs for the remainder of the 2009-11 biennium and for the 2011-13 biennium. Subject to Emergency Commission and Budget Section approval, the Adjutant General may use the funding for city flood mitigation projects (up to \$3.2 million) and for disaster relief relating to 2011 spring flooding, road grade raising projects, 50 percent of the local match for disasters occurring from January 2011 through June 2011, and state expenses associated with presidentially declared disasters in the state. As of September 2011 the Adjutant General has received Emergency Commission and Budget Section approval for 2011-13 expenses of \$17.5 million for flood disasters, \$1.2 million for funding specific city flood mitigation projects, and \$4.8 million for road grade raising and matching grants to political subdivisions.

<sup>10</sup>Estimated 2011 flood costs total \$674 million as of October 2011. The estimated state share of these costs to be paid by the Department of Emergency Services is \$47.13 million, of which \$2.87 million was spent in the 2009-11 biennium, leaving \$44.26 million as the remaining state share. Prior to the November 2011 special legislative session, 2011-13 biennium appropriation authority of \$15.6 million was available for 2011 flood relief expenditures from the state disaster relief fund and the state disaster relief fund had an estimated ending balance of \$1.18 million. The Legislative Assembly in the November 2011 special legislative session provided a transfer and appropriation authority of \$29.5 million from the state disaster relief fund to the Adjutant General for providing the required state share of funding for expenses associated with presidentially declared state disasters. The amount of state matching funds needed to be paid by the end of the 2011-13 biennium is not yet known.

<sup>11</sup>In 2011 Senate Bill No. 2016, the Legislative Assembly provided authority to the Department of Emergency Services to utilize funding from the state disaster relief fund to contract for services to coordinate disaster response organizations with state and political subdivision disaster response efforts, including all aspects of disaster recovery from preparedness training through cleanup for declared or undeclared disasters.

<sup>12</sup>Total 2011-13 appropriation authority consists of:

\$22,000,000	see footnote 10
3,500,000	see footnote 8
7,842,304	see footnote 7
400,000	see footnote 11
29,500,000	see footnote 3

5,000,000 see footnote 3  
10,000,000 see footnote 3  
6,000,000 see footnote 3

\$84,242,304 The amount available in the state disaster relief fund is estimated to be \$617,137 less than the amount needed to provide for all funds appropriated from the fund. The exact amount of state matching funds required to be paid by the end of the 2011-13 biennium is not yet known and may be less than the full appropriation amount for the 2011-13 biennium.

#### **FUND HISTORY**

Section 37-17.1-27 (Section 4 of 2009 Senate Bill No. 2012) establishes a state disaster relief fund. In 2011 Senate Bill No. 2369, the Legislative Assembly amended Section 37-17.1-27 to limit use of money in the fund for only the required state share of funding for expenses associated with presidentially declared disasters in the state and to require Emergency Commission and Budget Section approval of the use of money in the fund. Any interest or other fund earnings must be deposited in the fund.