

# **ANALYSIS OF STATE TRUST FUNDS REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER**



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March 2013**

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**ANALYSIS OF THE BONDING FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$2,802,006		\$2,968,921
Add estimated revenues				
Investment income	\$300,000		\$300,000	
State bonding fund claims collections	55,000		50,000	
Game and fish bonds	6,400		7,000	
Total estimated revenues		361,400		357,000
Total available		\$3,163,406		\$3,325,921
Less estimated expenditures and transfers				
Claim liabilities/payments/writeoffs	\$135,000		\$150,000	
Claims-related expenses	10,000		20,000	
Investment expense	9,500		10,000	
Administration	39,985		45,199	
Total estimated expenditures and transfers		194,485		225,199
Estimated ending balance		\$2,968,921		\$3,100,722

**FUND HISTORY**

The state bonding fund was created in 1915 and is maintained for bond coverage of public employees. The state bonding fund is managed by the Insurance Commissioner, and the amount of coverage provided to each state agency, department, industry, and institution is determined by the commissioner based upon the amount of money and property handled and the opportunity for default. North Dakota Century Code Section 26.1-21-09 provides that premiums for bond coverage are to be determined by the Insurance Commissioner but can be waived if the state bonding fund's balance is in excess of \$2 million. No premium has been charged, possibly since 1953, because the bonding fund's balance has exceeded the minimum level established by the Legislative Assembly.

## ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$386,351,110		\$653,693,034
Add estimated revenues				
Investment income	\$16,134,104 <sup>1</sup>		\$0 <sup>4</sup>	
Transfer from general fund	251,207,820 <sup>2</sup>		0	
Total estimated revenues		267,341,924		0
Total available		\$653,693,034		\$653,693,034
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0 <sup>3</sup>		0 <sup>3</sup>
Estimated ending balance		\$653,693,034		\$653,693,034

<sup>1</sup>The Legislative Assembly in the November 2011 special session increased general fund appropriations for the 2011-13 biennium by \$169,832,688 from \$4,066,853,792 to \$4,236,686,460 resulting in a \$16.1 million increase in the maximum balance allowed in the budget stabilization fund. Therefore, interest and investment earnings of the fund will be retained in the fund until the cap is reached.

<sup>2</sup>North Dakota Century Code Chapter 54-27.2 provides 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 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. The amount shown is based on the estimated June 30, 2013, general fund balance of \$1,655,497,221 as of crossover and a maximum balance allowed in the fund of \$653,693,034 based on 2013-15 biennium general fund appropriations of \$6,880,979,308 as of crossover. The executive budget anticipated a June 30, 2013, transfer from the general fund of \$52,201,124 based on executive budget estimates of a June 30, 2013, general fund balance of \$121,183,167 after other recommended transfers to the highway fund, housing incentive fund, and property tax relief sustainability fund and the recommended 2013-15 biennium general fund appropriations of \$4,786,171,981.

<sup>3</sup>No transfers from the budget stabilization fund are anticipated.

<sup>4</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.

### 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 any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section currently provides 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 to 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 provides 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 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 (OMB) projects 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 OMB. Any transfer made must be reported to the Budget Section.

## ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS<sup>1</sup> (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$3,367,502		\$1,797,051
Add estimated revenues				
Investment income	\$23,105		\$32,394	
Rentals, royalties, and bonuses	1,180,253		1,267,086	
Total estimated revenues		1,203,358		1,299,480
Total available		\$4,570,860		\$3,096,531
Less estimated expenditures and transfers				
Administrative expenses	\$43,623		\$52,784	
Income payments to counties	5,186 <sup>2</sup>		5,718 <sup>2</sup>	
Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 49-10-02 <sup>3</sup> )	100,000		100,000	
Capitol Grounds Planning Commission operating expenses (2011 SB 2015; 2013 HB 1015)	25,000		25,000	
Office of Management and Budget Capitol projects (2011 SB 2015)	2,600,000 <sup>4</sup>			
Total estimated expenditures and transfers		2,773,809		183,502
Estimate ending balance		\$1,797,051		\$2,913,029

<sup>1</sup>The analysis reflects the legislative appropriations for the 2011-13 biennium and appropriations included in the 2013-15 biennium executive budget and does not include the land owned by the fund.

<sup>2</sup>The Legislative Assembly in 1999 approved Senate Bill No. 2088, which provides that the Board of University and School Lands is to pay a fee to the board of county commissioners of each county in which the state retains original grant lands. The total fees paid may not exceed 5 percent of the net revenue generated from the original grant lands in that county during the year preceding the payments. The board of county commissioners is to forward a prorated portion of any fees received to the organized townships in which the original grant lands are located. The funds are to be used for the repair, maintenance, and construction of roads and bridges. Any remaining funds are to be used by the county for repair, maintenance, and construction of roads and bridges in unorganized townships in which the original grant lands are located.

<sup>3</sup>Section 49-10-02 provides a continuing appropriation to the Capitol Grounds Planning Commission to expend up to \$100,000 per biennium of income and interest of the Capitol building fund. The amount that may be spent may not exceed 50 percent of the unencumbered balance of the fund on the first day of the biennium.

<sup>4</sup>Funding of \$2.6 million was appropriated from the Capitol building fund by the Legislative Assembly in 2011 for the following projects:

- Legislative wing brass and wood restoration (\$1,000,000).
- Capitol Café and hallway remodel (\$700,000).
- Capitol south entrance remodeling (\$900,000).

**ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$22,998,197		\$8,835,106
Add estimated revenues				
Transfer from the general fund				
Investment income	\$36,000		\$12,000	
Total estimated revenues		36,000		12,000
Total available		\$23,034,197		\$8,847,106
Less estimated expenditures and transfers				
Legal fees - Attorney General's office	\$2,500 <sup>1</sup>		\$2,500 <sup>1</sup>	
Centers of excellence grants funding distributions	14,116,471		6,918,924 <sup>1</sup>	
Economic impact studies	35,120 <sup>1</sup>		36,000 <sup>1</sup>	
Centers of Excellence Summit	10,000 <sup>1</sup>		10,000 <sup>1</sup>	
Other administrative expenses	35,000 <sup>1</sup>		35,000 <sup>1</sup>	
Total estimated expenditures and transfers		14,199,091		7,002,424
Estimated ending balance		<u>\$8,835,106<sup>2</sup></u>		<u>\$1,844,682<sup>3</sup></u>

<sup>1</sup>North Dakota Century Code Section 15-69-05(6), as amended by the Legislative Assembly in 2011 Senate Bill No. 2057, provides the Department of Commerce may use funds available within the centers of excellence fund to pay for the department's administrative expenses.

<sup>2</sup>The 2011-13 biennium ending balance includes \$8,556,021 that is obligated for centers of excellence proposals approved in previous bienniums.

<sup>3</sup>The 2013-15 biennium ending balance includes \$1,637,097 that is obligated for centers of excellence proposals approved in previous bienniums.

**FUND HISTORY**

Section 15-69-06 (2009 Senate Bill No. 2018) establishes a centers of excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of excellence program. Interest earned on money in the fund is retained in the fund. The Legislative Assembly in 2011 did not appropriate new funding to the centers of excellence fund for the 2011-13 biennium. Estimated expenditures for the 2011-13 biennium relate to centers of excellence awarded in prior bienniums. Pursuant to provisions of 2011 Senate Bill No. 2057, the centers of excellence fund will be repealed on August 1, 2023.

**ANALYSIS OF THE CENTERS OF RESEARCH EXCELLENCE FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$0		\$2,522,500
Add estimated revenues				
Transfer from the general fund	\$12,000,000 <sup>1</sup>			
Investment income	16,500		\$4,000	
Total estimated revenues		12,016,500		4,000
Total available		\$12,016,500		\$2,526,500
Less estimated expenditures and transfers				
Limited deployment-cooperative airspace project grant				
University of North Dakota (UND)	\$2,700,000 <sup>2</sup>			
North Dakota State University (NDSU)	1,300,000 <sup>2</sup>			
Centers of research excellence grants				
UND	994,000 <sup>3,4</sup>		\$6,000 <sup>3,4</sup>	
NDSU	1,500,000 <sup>3</sup>		1,500,000 <sup>3</sup>	
Base realignment grants				
UND	3,000,000 <sup>4</sup>			
Total estimated expenditures and transfers		9,494,000		1,506,000
Estimated ending balance		<u>\$2,522,500<sup>5</sup></u>		<u>\$1,020,500<sup>6</sup></u>

<sup>1</sup>The Legislative Assembly in 2011 appropriated \$12 million from the general fund for transfer to the centers of research excellence fund for providing funding for a limited deployment-cooperative airspace project grant, centers of research excellence grants, and base realignment grants for the 2011-13 biennium.

<sup>2</sup>The Legislative Assembly in 2011 provided the Department of Commerce use \$4 million of the funds transferred to the centers of research excellence fund for grants to the North Dakota University System's research institutions for the purpose of leveraging private and federal funding to advance state opportunities associated with a limited deployment-cooperative airspace project in the state during the 2011-13 biennium. The Department of Commerce has awarded \$2.7 million to UND and \$1.3 million to NDSU for the project. The Department of Commerce developed application criteria, reviewed submitted applications, and recommended applications for approval to the Centers of Excellence Commission.

<sup>3</sup>In 2011 Senate Bill No. 2057, the Legislative Assembly provides that the Department of Commerce may use \$8 million of the funds transferred to the centers of research excellence fund for centers of research excellence grants. The Centers of Excellence Commission may not award centers of research excellence grants of more than \$4 million to one research university or nonprofit foundation related to that research university. The centers of research excellence program established by the Legislative Assembly in 2011 replaces the centers of excellence program with the following modifications:

- Grant award determinations are made by the Centers of Excellence Commission and do not require Budget Section or Emergency Commission approval.
- Tourism was removed from the definition of an "industry cluster."
- Under centers of research excellence application and eligibility requirements, the requirement that research universities limit applications to two per round of centers funding is removed as well as the requirement relating to consideration of a center's ability to become financially self-sustaining from the award determination process.

- Under centers of research excellence postaward monitoring, an audit is required on all funds distributed to the centers after the second full fiscal year, after all funds distributed to the centers have been expended, and for all other years during the postaward monitoring. The centers may contract with an independent accountant for an agreed-upon procedures engagement. This was changed from the requirement of annual audits until the completion of the Centers of Excellence Commission's postaward monitoring, which lasted for no fewer than 6 years and no more than 10 years following center designation.
- The centers of research excellence program is considered an ongoing program of the Department of Commerce. (The centers of excellence program had an established expiration date.)

As of November 2012, a total of \$3,681,250 has been awarded for centers of research excellence grants:

NDSU	
Center for Life Sciences Research and Applications	\$1,350,000
Center for Technologically Innovative Processes and Products	320,000
Center for Technologically Innovative Processes and Products 2	1,011,250
UND	
Center for Avian Therapeutics for Infectious Diseases	700,000
Center for Gas Utilization	300,000
Total	\$3,681,250

The Department of Commerce anticipates awarding a total of \$4 million to NDSU for centers of research excellence grants for the 2011-13 biennium.

<sup>4</sup>Of the \$4 million available to UND through the centers of research excellence program, \$3 million is to be used for base realignment grants. The Legislative Assembly in 2011 provided the department award base realignment grants to enhance economic development and employment opportunities associated with the Grand Forks Air Force Base resulting from action by the federal Defense Base Closure and Realignment Commission, or grants for infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks Air Force Base. Any funds not committed within the first 18 months of the biennium may be used by the Centers of Excellence Commission for the centers of research excellence program. As of November 2012, a total of \$2,680,400 has been awarded for base realignment grants:

UND	
Global Hawk sensor operator part task trainer	\$878,204
Joint Distributed Common Ground System	125,706
North Dakota Unmanned Aircraft Systems Airspace Initiative (Phase 2)	255,440
Airspace Integration Team - UAS National Test Site	500,000
Enhanced Use Lease for Grand Forks Air Force Base	921,050
Total	\$2,680,400

The Department of Commerce anticipates awarding a total of \$3 million to UND for base realignment grants and \$1 million to the university for centers of research excellence grants for the 2011-13 biennium.

<sup>5</sup>The 2011-13 biennium estimated ending balance includes \$2,506,000 that is anticipated to be obligated for centers of research excellence proposals approved in the 2011-13 biennium.

<sup>6</sup>The 2013-15 biennium estimated ending balance includes \$1 million that is anticipated to be obligated for centers of research excellence proposals approved in the 2011-13 biennium.



**ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium <sup>1</sup>		2013-15 Biennium <sup>1</sup>	
Beginning balance		\$135,356		\$1,549
Add estimated revenues				
Investment income	\$761,170		\$275,528	
School construction loan income	1,151,061		1,900,000	
Total estimated revenues		1,912,231		2,175,528
Total available		\$2,047,587		\$2,177,077
Less estimated expenditures and transfers				
Investment expense	\$103,927		\$44,726	
Administrative expenses	6,755		7,000	
Transfer to the general fund	1,935,356		2,100,000	
Total estimated expenditures and transfers		2,046,038		2,151,726
Estimated ending balance		\$1,549		\$25,351

<sup>1</sup>The beginning and ending balances do not include the value of permanent assets of the coal development trust fund which must be maintained pursuant to North Dakota Century Code Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of December 31, 2012, the total value of permanent fund assets was \$64.9 million, of which \$35.1 million was school construction loans receivable, \$8.3 million was coal impact loans receivable, and \$21.5 million was either invested or was a receivable of investment or other earnings.

Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota, provide that the income from the coal development trust fund must be used first to replace any uncollectible loans made from the fund and any remaining income must be deposited in the general fund. The amounts shown on this analysis include only the income in excess of any allowance for uncollectible loans made from the fund and do not include any revenues or expenses affecting the permanent fund balance.

**FUND HISTORY**

The coal development trust fund originated in 1979 with passage of House Bill No. 1257, now codified as various sections of Chapter 57-62. In 1980 the voters of North Dakota approved constitutional measure No. 5, creating Article X, Section 21, of the Constitution of North Dakota, and establishing the coal development trust fund as a constitutional trust fund.

Section 57-62-02 provides that 30 percent of the coal severance tax must be deposited in the coal development trust fund. Section 57-62-02 provides that the Board of University and School Lands shall administer the fund and use money in the fund for loans to coal-impacted counties, cities, and school districts and for loans to school districts for school construction. Section 15.1-36-02 limits the outstanding principal balance of school construction loans from the coal development trust fund to \$50 million.

Section 57-61-01.5 provides that 70 percent of the money deposited in the coal development trust fund must be transferred to the lignite research fund. Consequently, 30 percent of the coal severance taxes deposited in the fund (9 percent of total coal severance taxes collected) remains in the coal development trust fund to be used for the purposes provided in Section 57-62-02.

# ANALYSIS OF THE COMMON SCHOOLS TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

## ASSETS, DISTRIBUTIONS, AND INVESTMENT RETURNS FOR THE COMMON SCHOOLS TRUST FUND

The following is a summary of actual and estimated assets, distributions, and investment returns for the common schools trust fund for the 1997-99 through 2013-15 bienniums:

Biennium	Fiscal Year	Beginning Assets (Excluding Land and Minerals Values)	Distributions	Interest, Dividends, and Surface and Mineral Rental Income (Net of Expenses)	Total Average Investment Return (Interest Income and Capital Gains)
1997-99	1998	\$400,689,879	\$23,200,000	\$24,965,697	13.57%
	1999	\$444,823,559	\$23,200,000	\$24,644,625	7.50%
1999-2001	2000	\$467,059,293	\$23,775,000	\$25,650,676	11.05%
	2001	\$521,509,978	\$23,775,000	\$27,382,227	2.03%
2001-03	2002	\$533,360,593	\$28,896,500	\$26,548,262	(1.34%)
	2003	\$522,905,814	\$28,896,500	\$26,620,380	4.57%
2003-05	2004	\$547,047,877	\$30,000,000	\$24,849,254	12.60%
	2005	\$614,738,548	\$30,000,000	\$26,137,010	8.58%
2005-07	2006	\$686,273,875	\$31,100,000	\$27,118,113	7.51%
	2007	\$761,901,287	\$31,100,000	\$31,378,257	12.82%
2007-09	2008	\$887,092,909	\$33,400,000	\$36,497,403	(4.22%)
	2009	\$908,928,685	\$33,400,000	\$36,184,299	(13.75%)
2009-11	2010	\$846,314,086	\$38,589,000	\$37,674,582	14.48%
	2011	\$1,221,501,801 <sup>1</sup>	\$38,589,000	\$46,044,054	17.99%
2011-13	2012	\$1,622,412,984 <sup>2</sup>	\$46,257,000	\$50,839,459	2.42%
	2013	\$1,917,110,586	\$46,257,000	<sup>3</sup>	<sup>3</sup>
2013-15	2014	<sup>3</sup>	\$65,163,000	<sup>3</sup>	<sup>3</sup>
	2015	<sup>3</sup>	\$65,163,000	<sup>3</sup>	<sup>3</sup>

<sup>1</sup>The increase in assets during fiscal year 2010 included income from mineral royalties and lease bonuses of \$249 million and oil extraction tax allocations of \$28 million.

<sup>2</sup>The increase in assets during fiscal year 2011 included income from mineral royalties and lease bonuses of \$148.9 million, oil extraction tax allocations of \$49.3 million, and \$190.9 million of investment income and capital gains.

<sup>3</sup>Article IX, Section 2, of the Constitution of North Dakota, was amended in November 2006 through voter approval of measure No. 1 (House Concurrent Resolution No. 3037 (2005)). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. The amendment became effective July 1, 2009, and distributions from the common schools trust fund are now based on a percentage of the five-year average value of trust assets, excluding the value of lands and minerals. Therefore, the Board of University and School Lands does not project asset values, income, or investment return because it is no longer relevant to the calculation of distribution amounts.

## MONEY DEPOSITED IN THE COMMON SCHOOLS TRUST FUND Select Constitutional Provisions

### Article IX, Section 1

This section provides that the following money must be deposited in a permanent trust fund, known as the common schools trust fund, and used to support the common schools of the state:

- All proceeds relating to public lands granted to the state by the federal government for the support of the common schools.
- All proceeds relating to property acquired by the state through escheat (property reverting to the state in the absence of legal heirs).
- All gifts, donations, and other property acquired by the state for the support of the common schools.
- The proceeds of all bonuses relating to the leasing of coal, gas, oil, or other mineral interests relating to common schools lands.

This section was included in the original Constitution of North Dakota enacted in 1889. In 1982 the section was amended to provide that bonuses relating to the leasing of coal, gas, oil, or other mineral interests relating to common schools lands were to be deposited in the common schools trust fund. In 2006 measure No. 1 approved by voters removed the reference to bonuses related to leasing and provided that revenues earned by a perpetual trust fund must be deposited in the fund.

**Article IX, Section 5**

This section provides that in all sales of common schools lands, the state must retain the mineral interests. Leases may be executed for the extraction and sale of the minerals.

This section was included in the original Constitution of North Dakota enacted in 1889. As originally enacted, the section prohibited the sale of common schools lands that were "coal lands" and did not address other minerals. In 1960 the section was amended to its current form which allows the sale of lands containing minerals but requires that the state retain the mineral interests. Minerals are defined to include oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ores, and colloidal or other clays.

**Article X, Section 24**

This section provides that 10 percent of oil extraction tax revenue must be deposited in the common schools trust fund.

This section was enacted in 1994 through voter approval of measure No. 1 (Senate Concurrent Resolution No. 4011 (1993)). The section has not been changed since enactment.

**Select North Dakota Century Code Provisions**

**Section 47-30.1-23**

This section provides that all funds received by the state under the Uniform Unclaimed Property Act, except amounts deducted for the payment of claims and certain administrative costs, must be deposited in the common schools trust fund.

**Section 54-27-25**

This section, which was enacted by the Legislative Assembly in 1999, creates a tobacco settlement trust fund to be used to deposit tobacco settlement money received by the state. Forty-five percent of the tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement and deposited in the tobacco settlement trust fund must be transferred to the common schools trust fund and become a part of the principal of the fund.

To date, \$143,482,884 of tobacco settlement money received by the state has been transferred to the common schools trust fund. The following is a summary of transfers to the common schools trust fund from the tobacco settlement trust fund:

1999-2001	\$23,805,353 (actual)
2001-03	\$23,998,745 (actual)
2003-05	\$20,977,123 (actual)
2005-07	\$19,722,653 (actual)
2007-09	\$27,672,929 (actual)
2009-11	\$18,248,834 (actual)
2011-13	\$18,057,247 (estimate)
2013-15	\$18,000,000 (estimate)
2015-17	\$20,741,314 (estimate)
2017-25 (\$23,626,724 per biennium)	\$94,506,896 (estimate)

## **DISTRIBUTIONS FROM THE COMMON SCHOOLS TRUST FUND**

### **Select Constitutional Provisions**

#### **Article IX, Section 1**

This section provides that revenues earned by the perpetual trust fund must be deposited in the fund, the costs of administering the fund may be paid out of the fund, and the perpetual trust funds must be managed to preserve their purchasing power and to maintain stable distributions to fund beneficiaries.

#### **Article IX, Section 2**

This section provides that payments to the common schools of the state include:

- Biennial distributions from each educational trust fund must be 10 percent of the five-year average value of the trust assets, excluding the value of land and minerals. This section was amended in November 2006 through voter approval of measure No. 1 (House Concurrent Resolution No. 3037 (2005)). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. Previously, distributions were based on the amount of interest and income earned by each trust during a fiscal year. The amendment became effective July 1, 2009, and distributions from the common schools trust fund for the 2009-11 and 2011-13 bienniums are based on the distribution formula.
- All fines for violation of state laws. (This money is not added to the trust fund but is added to the distributions from the common schools trust fund and distributed to schools.)
- All other amounts provided by law.

This section was included in the original Constitution of North Dakota enacted in 1889. The original law contained the following two provisions that were removed through voter approval of measure No. 3 in June 1982:

- Payments to the common schools must be distributed in proportion to the number of school-age children in each district.
- Any portion of the interest or income of the common schools trust fund not distributed during a fiscal year must be added to the permanent balance of the trust fund.

### **Select North Dakota Century Code Provisions**

#### **Section 15-01-02**

This section provides that the Board of University and School Lands has full control of:

- The selection, appraisal, rental, sale, disposal, and management of common schools lands.
- The investment of any funds derived from the sale of common schools lands.
- The proceeds of any other property required by law to be used for the support of the common schools.

### **INVESTMENT OF THE COMMON SCHOOLS TRUST FUND**

Section 15-03-04 provides that the Board of University and School Lands is to apply the prudent investor rule in investing the permanent funds under its control, including the common schools trust fund. The prudent investor rule means that in making investments, the board is to exercise the same judgment and care that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it.

## ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
		\$0		\$0
Beginning balance		\$0		\$0
Add estimated revenues and general fund transfers				
Transfers to date from the tobacco settlement trust fund	\$2,012,722 <sup>1</sup>		\$0	
Projected remaining transfers from the tobacco settlement trust fund	2,000,000 <sup>2</sup>		\$4,000,000 <sup>2</sup>	
Total estimated revenues		4,012,722 <sup>3</sup>		4,000,000 <sup>3</sup>
Total available		\$4,012,722		\$4,000,000
Less estimated expenditures and transfers				
State Department of Health (2011 HB 1004, 2013 SB 2004)				
Tobacco prevention and control, including the Tobacco Quitline and the tobacco cessation coordinator and operating expenses	\$3,210,178 <sup>4</sup>		\$3,220,354 <sup>4</sup>	
Dentists' loan program	200,000 <sup>5</sup>		340,000 <sup>5</sup>	
Physician and medical loan repayment program	0 <sup>6</sup>		0 <sup>6</sup>	
Veterinarian loan repayment program	300,000 <sup>7</sup>		0 <sup>7</sup>	
Women's Way program	302,544 <sup>8</sup>		400,500 <sup>8</sup>	
Dental grant program	0 <sup>9</sup>		25,000 <sup>9</sup>	
Total estimated expenditures and transfers		4,012,722		3,985,854
Estimated ending balance		\$0		\$14,146

<sup>1</sup>As of November 2012, \$2,012,722 has been transferred from the tobacco settlement trust fund for the 2011-13 biennium. Total transfers of \$31,885,085 have been made from the tobacco settlement trust fund to the community health trust fund.

<sup>2</sup>Revenues - Interest earned on the community health trust fund is deposited in the state general fund. Community health trust fund revenues have been estimated based on the average of actual revenues received into the community health trust fund in fiscal years 2011 and 2012.

<sup>3</sup>Initiated measure No. 3 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	62.8 million	22.6 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
<b>Total</b>	<b>\$548.7 million</b>	<b>\$110.4 million</b>	<b>\$197.2 million</b>	<b>\$197.2 million</b>	<b>\$43.9 million</b>

In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect full payment.

<sup>4</sup>North Dakota Century Code Section 54-27-25 provides money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with an emphasis on preventing or reducing tobacco usage. The Legislative Assembly in 2003 authorized the establishment of a telephone "Tobacco Quitline." The Legislative Assembly in 2007 increased the funding for the quitline to provide nicotine replacement therapy and cessation counseling. The Legislative Assembly in 2007 authorized 1 full-time equivalent (FTE) tobacco prevention coordinator position and related funding for salaries and wages and operating expenses for the position. The Legislative Assembly in 2011 did not approve direct funding for the quitline or the tobacco prevention coordinator position, but appropriated \$3,510,496 from the community health trust fund to the State Department of Health for tobacco prevention and control programs for the 2011-13 biennium. The department anticipates expending \$3,210,178 from the fund for the 2011-13 biennium. The 2013-15 executive budget recommendation provides \$3,220,354 from the community health trust fund to the department for tobacco prevention and control programs for the 2013-15 biennium.

In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure also provides that 80 percent of the funds allocated to the community health trust fund from the tobacco settlement trust fund be used for tobacco prevention and control. Based on estimated tobacco settlement trust fund transfers during the 2013-15 biennium, tobacco prevention and control expenditures from the community health trust fund are required to total \$3.2 million.

<sup>5</sup>The dentists' loan repayment program, which is administered by the Health Council, was established in 2001 Senate Bill No. 2276 (Chapter 43-28.1). Each year the Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds, not to exceed a total of \$80,000 per applicant, for the repayment of their educational loans. The funds are payable over a four-year period (\$20,000 per year). The dental loan repayment program is to provide the highest priority for acceptance into the program to dentists willing to serve the smallest and most underserved communities in North Dakota. Senate Bill No. 2152 (2007) provides a dentist practicing in Bismarck, Fargo, or Grand Forks must have received dental medical payments of at least \$20,000 in the form of medical assistance reimbursement or practiced at least two full workdays per week at a public health clinic or nonprofit dental clinic in order to qualify for the dentists' loan repayment program. The Legislative Assembly in 2011 appropriated \$440,000, of which \$180,000 is from the general fund and \$260,000 is from the community health trust fund, for the dentists' loan repayment program. The department anticipates expending \$200,000 from the fund for the dentists' loan repayment program for the 2011-13 biennium. The 2013-15 executive budget recommendation includes \$520,000, of which \$180,000 is from the general fund and \$340,000 is from the community health trust fund, for the dentists' loan repayment program, \$80,000 more than the 2011-13 biennium legislative appropriation. Dentists accepted into the program per biennium include:

<b>Biennium (Number of Dentists Accepted Into Program)</b>	<b>Communities Served</b>
2001-03 biennium (3)	Minot (2) Larimore
2003-05 biennium (6)	Fargo Community Health Center New Rockford Grand Forks Fargo Bismarck West Fargo
2005-07 biennium (4)	Fargo Community Health Center Bismarck (serving special populations) Mott Minot

<b>Biennium (Number of Dentists Accepted Into Program)</b>	<b>Communities Served</b>
2007-09 biennium (6)	Park River Bismarck Grand Forks Cando/Devils Lake Rugby Wishek
2009-11 biennium (6)	Bismarck Fargo Jamestown Larimore Valley City Williston
2011-13 biennium (6 to date)	Bowman Hazen Langdon/Walhalla Carrington Cavalier Williston

<sup>6</sup>Chapter 43-17.2 provides for the state community matching physician loan repayment program. A qualifying physician may receive up to \$22,500 per year for up to two years for a total of \$45,000. Section 43-12.2-01 provides for qualifying mid-level practitioners to receive loan repayments totaling up to \$30,000 over two years, of which \$15,000 is provided by the state. Communities must contribute an amount at least equal to the amount of the state contribution for the physicians and mid-level practitioners. The Legislative Assembly in 2009 Senate Bill No. 2227 removed the limit on the number of recipients and increased the limit on the maximum loan repayment from \$10,000 to \$30,000 for the medical personnel loan repayment program relating to mid-level practitioners. The Legislative Assembly in 2011 approved \$420,000, of which \$345,000 is from the general fund and \$75,000 is from the community health trust fund, for the medical personnel loan repayment program for the 2011-13 biennium. The department does not anticipate using funding from the community health trust fund for the physician and medical loan repayment program; however, the department anticipates \$299,289 will be provided from the general fund during the 2011-13 biennium. The 2013-15 executive budget recommendation does not include funding from the community health trust fund for the physician and medical loan repayment program; however, \$576,788 has been provided from the general fund, \$156,788 more than the 2011-13 biennium. Physicians and mid-level practitioners accepted into the program per biennium include:

<b>Biennium (Number of Physicians Accepted Into Program)</b>	<b>Communities Served</b>
2007-09 biennium (4)	Dickinson (2) Devils Lake Wishek
2009-11 biennium (5)	Dickinson (2) Jamestown Wahpeton Williston
2011-13 biennium (6 to date)	Williston (2) Fargo Linton Valley City Mayville

Biennium (Number of Mid-Level Practitioners Accepted Into Program)	Communities Served
2007-09 biennium (3)	Grafton Turtle Lake/McClusky Williston/Bowman
2009-11 biennium (2)	Oakes (2)
2011-13 biennium (3 to date)	Oakes (2) Mayville

<sup>7</sup>The Legislative Assembly in 2011 appropriated \$445,000, of which \$135,000 is from the general fund and \$310,000 is from the community health trust fund, for the veterinarian loan repayment program during the 2011-13 biennium. The department anticipates expending \$300,000 from the community health trust fund for the veterinarian loan repayment program for the 2011-13 biennium. The 2013-15 executive budget recommends \$485,000 from the general fund for the veterinarian loan repayment program, \$40,000 more than the legislative appropriation for the 2011-13 biennium.

<sup>8</sup>The Legislative Assembly in 2011 provided \$400,500 from the community health trust fund for the Women's Way program. The department anticipates expending \$302,544 from the fund for the Women's Way program for the 2011-13 biennium. The 2013-15 executive budget recommendation includes \$400,500 from the community health trust fund for the Women's Way program, the same as the legislative appropriation for the 2011-13 biennium.

<sup>9</sup>Senate Bill No. 2152 (2007) provided for a dental grant program. A dentist who has graduated from an accredited dental school within the previous five years and is licensed to practice in North Dakota may submit an application to the Health Council for a grant for the purpose of establishing a dental practice in North Dakota cities with a population of 7,500 or less. The Health Council may award a maximum of two grants per year with a maximum grant award of \$50,000 per applicant to be used for buildings, equipment, and operating expenses. The community in which the dentist is located must provide a 50 percent match. The grant must be distributed in equal amounts over a five-year period, and the dentist must commit to practice in the community for five years. The Legislative Assembly in 2011 appropriated \$30,000, of which \$20,000 is from the general fund and \$10,000 is from the community health trust fund, for the dental grant program during the 2011-13 biennium. The State Department of Health continues to make payments related to one grant awarded to a dentist in Larimore during the 2009-11 biennium and has not had any applicants during the 2011-13 biennium. The 2013-15 executive budget recommends \$25,000 from the community health trust fund for the dental grant program, \$5,000 less than the legislative appropriation for the 2011-13 biennium.

#### FUND HISTORY

Section 54-27-25 created by 1999 House Bill No. 1475 established the community health trust fund. 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 its deposit in the fund as follows:

- 10 percent to the community health trust fund.
- 45 percent to the common schools trust fund.
- 45 percent to the water development trust fund.

In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in this new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement relating to strategic contribution payments, which began in 2008 and continues through 2017, will be deposited beginning in 2009 into the newly created tobacco prevention and control trust fund. The measure also provides 80 percent of the funds allocated to the community health trust fund from the tobacco settlement trust fund be used for tobacco prevention and control.

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. Future tobacco settlement payments will be deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25, as amended by the measure.



**ANALYSIS OF THE ELECTRONIC HEALTH INFORMATION EXCHANGE FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$5,464,014 <sup>1,2</sup>		\$8,158,236
Add estimated revenues				
Transfer from the Bank of North Dakota	\$7,500,000 <sup>1</sup>			
Grant from the Office of the National Coordinator for Health Information Technology	0 <sup>2</sup>		\$1,771,681 <sup>3</sup>	
Funds from health information network participants				
Total estimated revenues		7,500,000		1,771,681
Total available		\$12,964,014		\$9,929,917
Less estimated expenditures and transfers				
Implementing a statewide health information technology and exchange network	\$4,763,134		\$3,521,429	
Regional Extension Center for Health Information Technology Services payments	42,644		126,415	
Total estimated expenditures and transfers		4,805,778		3,647,844
Estimated ending balance		\$8,158,236		\$6,282,073

<sup>1</sup>Section 8 of 2009 Senate Bill No. 2332 provided that the Industrial Commission transfer, during the 2009-11 biennium, as requested by the Health Information Technology Office Director, up to \$8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds.

Section 6 of 2011 House Bill No. 1021 amended Section 8 of 2009 Senate Bill No. 2332 to provide that the Industrial Commission transfer, during the 2009-11 or 2011-13 biennium, up to \$8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund or to the electronic health information exchange fund to meet any required match for federal funds or for ongoing operating expenditures of the health information exchange. During the 2009-11 biennium, \$500,000 was transferred and \$7.5 million during the 2011-13 biennium.

<sup>2</sup>In March 2010 the Information Technology Department (ITD) was awarded a four-year grant totaling \$5,343,733 from the Office of the National Coordinator for Health Information Technology which was deposited into the fund for implementing a statewide health information technology and exchange network. These funds are available for ITD to use through March 14, 2014, at a match rate of \$1 of state funds for each \$3 of federal funds. As of July 1, 2011, the federal balance was \$5,027,520. It is anticipated that the grant and match funds will provide for the costs of implementation and operating costs through March 2014.

<sup>3</sup>The 2013-15 executive budget recommendation anticipates the collection of \$1,771,681 from participants in the health information network. Participants include health care providers, insurers, and state agencies.

**FUND HISTORY**

North Dakota Century Code Section 54-59-27 (2009 Senate Bill No. 2332) establishes the electronic health information exchange fund. The fund consists of the money deposited in the fund from federal or other sources or money transferred into the fund as directed by the Legislative Assembly. The Health Information Technology Office is to administer the fund. The money in the fund is to be used to facilitate and expand the electronic health information exchange. Money in the fund may be used, subject to legislative appropriations, to provide services directly for grants and for costs of administration of the fund.

An application for a grant must be made to the Health Information Technology Office. The Health Information Technology Office is to determine the applicant's eligibility based upon criteria established by the Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee.

**ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$2,234,971		\$1,594,724
Add estimated revenues				
Pesticide registration fees	\$4,000,000 <sup>1</sup>		\$4,000,000 <sup>1</sup>	
Weed seed-free forage (2011 SB 2009; 2013 HB 1009)	48,922 <sup>2</sup>		48,922 <sup>2</sup>	
Rinsate collection fee (North Dakota Century Code Section 4-35.2-03)				
Fertilizer registration, inspection, and tonnage fees (Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06; 2013 HB 1227)	886,178 <sup>3,4</sup>		916,748 <sup>3,4</sup>	
Commercial feed registration, inspection, and tonnage fees (2013 HB 1009)			485,000 <sup>5</sup>	
Total estimated revenues		4,935,100		5,450,670
Total available		\$7,170,071		\$7,045,394
Less estimated expenditures and transfers				
Agriculture Commissioner				
Noxious weed control (2011 SB 2009; 2013 HB 1009)	\$2,003,582		\$1,892,926	
Pesticide disposal project (Safe Send) (2011 SB 2009; 2013 HB 1009)	591,732		595,110	
Pesticide and fertilizer programs (2011 SB 2009; 2013 HB 1009)	1,824,301		1,928,870	
Agriculture in the Classroom program (2011 SB 2009; 2013 HB 1009)	110,000		119,023	
Farmer's market (2011 SB 2004; 2013 HB 1009)	29,500		29,500	
Livestock pollution prevention (2011 SB 2009; 2013 HB 1009)	50,000		50,000	
Weed seed-free forage (2011 SB 2009; 2013 HB 1009)	48,922 <sup>2</sup>		48,922 <sup>2</sup>	
Dairy Coalition grant and livestock development duties (2011 SB 2009)	250,000 <sup>6</sup>			
Livestock development duties (2013 HB 1009)			359,141 <sup>6</sup>	
Department of Agriculture operating expenses (2011 SB 2009; 2013 HB 1009)	120,000		217,033	
Feed program expenses (2013 HB 1009)			142,599	
Wildlife Services program (2013 HB 1009)			384,400 <sup>7</sup>	
State Board of Animal Health (2013 HB 1009)			99,998 <sup>7</sup>	
Crop Protection Product Harmonization and Registration Board <sup>8</sup>				
Crop protection product registration, labeling, and grants (2011 SB 2009; 2013 HB 1009)	75,000		75,000	
Minor use pesticide registration (2011 SB 2009; 2013 HB 1009)	200,000		325,000	
State Department of Health				
Ground water testing (2011 HB 1004; 2013 SB 2004)	222,310		222,310	
North Dakota Stockmen's Association environmental services program (2011 HB 1004; 2013 SB 2004)	50,000		50,000	
Total estimated expenditures and transfers		5,575,347		6,539,832
Estimated ending balance		\$1,594,724		\$505,562

<sup>1</sup>The Legislative Assembly in 1999 approved Senate Bill No. 2009, which included a provision increasing the biennial pesticide registration fee by \$50, from \$300 to \$350, only for the 1999-2001 biennium. The \$350 pesticide registration fee was extended for the 2001-03 biennium (2001 House Bill No. 1009), the 2003-05 biennium (2003 Senate Bill No. 2319), and the 2005-07 biennium (2005 House Bill No. 1009). The \$350 pesticide registration fee was continued, without an expiration date, by 2007 Senate Bill No. 2323. The Legislative Assembly in 2009 approved House Bill No. 1009, which deposits all pesticide registration fees in the environment and rangeland protection fund rather than a portion in the general fund.

<sup>2</sup>House Bill No. 1270 (2009) allows the Agriculture Commissioner to certify forage acreage as being free of certain weeds and weed seed. The appropriation provided to the department for the program is the amount that is anticipated to be received from fees charged for certifications.

<sup>3</sup>House Bill No. 1321 (2011) repealed Section 19-20.2-08.1 that deposits certain inspection fees in the anhydrous ammonia storage facility inspection fund. The bill provided that the fee collections are to be deposited in the environment and rangeland protection fund, and anhydrous ammonia inspection storage facility inspection duties are to be transferred from the Insurance Commissioner to the Agriculture Commissioner.

<sup>4</sup>Senate Bill No. 2009 (2011) amended Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. House Bill No. 1321 (2011) also amended Section 19-20.1-06 to deposit a portion of fertilizer distribution inspection fees in the environment and rangeland protection fund rather than the general fund. House Bill No. 1227 (2013) increases late fees associated with fertilizer product and license renewals and is estimated to result in \$30,570 of additional deposits in the environment and rangeland protection fund.

<sup>5</sup>House Bill No. 1009 (2013) adds a new section to Chapter 19-13.1 to deposit the first \$485,000 of commercial feed inspection, licensing, and registration fees in the environment and rangeland protection fund rather than the general fund.

<sup>6</sup>House Bill No. 1009 (2013) provides for the Department of Agriculture to assume livestock development duties from the Dairy Coalition.

<sup>7</sup>House Bill No. 1009 (2013) provides for a portion of funding for the Wildlife Services program (\$384,400) and the State Board of Animal Health (\$100,000) to be paid from the environment and rangeland protection fund rather than the game and fish fund.

<sup>8</sup>Section 4-35-30, as created by 2001 House Bill Nos. 1009 and 1328, created the Crop Protection Product Harmonization and Registration Board. The duties of the board consist of:

- Identifying and prioritizing crop protection product labeling needs.
- Exploring the extent of authority given to North Dakota under the federal Insecticide, Fungicide, and Rodenticide Act.
- Identifying the data necessary to enable registration of a use to occur in a timely manner.
- Determining what research, if any, is necessary to fulfill data requirements for responsibilities of the board.
- Requesting the Agriculture Commissioner to pursue specific research funding options from public and private sources.
- Requesting the Agricultural Experiment Station to pursue specific research to coordinate registration efforts.
- Pursuing any opportunities to make more crop protection product options available to agricultural producers in this state through any means the board determines advisable.
- Administering a grant program through which agriculture commodity groups may apply for funds to be used to address issues related to the registration of crop protection products.

The members of the Crop Protection Product Harmonization and Registration Board consist of:

- The Governor or the Governor's designee (chairman).
- The Agriculture Commissioner or the commissioner's designee.
- The chairman of the House Agriculture Committee or the chairman's designee.
- The chairman of the Senate Agriculture Committee or the chairman's designee.
- A member of the House or Senate Agriculture Committee who is not a member of the faction in which the committee chairman is a member, appointed by the Legislative Management Chairman.
- A crop protection product dealer in the state appointed by the Governor from a list of three nominees submitted by the North Dakota Agricultural Association.
- A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Grain Growers Association.
- A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Oilseed Council.

- A representative of the crop protection product manufacturing industry appointed by the chairman of the Legislative Management (nonvoting).
- The Director of the Agricultural Experiment Station (nonvoting).

#### **FUND HISTORY**

Section 19-18-02.1, created by 1991 Senate Bill No. 2451, establishes the environment and rangeland protection fund. The fund contains collections from pesticide registration fees. During the 2007-09 biennium, the biennial fee was \$350 per pesticide product registered in the state. Of this amount, \$300 was deposited in the environment and rangeland protection fund and \$50 in the general fund. Pursuant to provisions of 2009 House Bill No. 1009, beginning with the 2009-11 biennium, the entire pesticide registration fee is deposited in the environment and rangeland protection fund rather than a portion in the general fund.

**ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$22,306,709		\$24,971,709
Add estimated revenues				
Premium collections	\$7,700,000		\$8,100,000	
Investment income (loss)	6,000,000		6,000,000	
Boiler inspection fees	550,000		625,000	
Loss claims and insurance recoveries	700,000		200,000	
Total estimated revenues		14,950,000		14,925,000
Total available		\$37,256,709		\$39,896,709
Less estimated expenditures and transfers				
Loss claims payments	\$5,000,000		\$9,000,000	
Claims-related payments	5,500,000		5,700,000	
Insurance Department administration and anhydrous ammonia inspection costs	1,465,000		1,656,507	
State Fire Marshal program (2011 SB 2003; 2013 HB 1003)	150,000		150,000	
North Dakota Firefighter's Association grant (2011 SB 2010)	170,000		0 <sup>1</sup>	
Total estimated expenditures and transfers		12,285,000		16,506,507
Estimated ending balance		\$24,971,709		\$23,390,202

**FUND HISTORY**

The state fire and tornado fund originated in 1919. The fund is maintained to insure the various political subdivisions and state industries against loss to public buildings and permanent fixtures. North Dakota Century Code Section 26.1-22-14 requires that if the fire and tornado fund balance is less than \$12 million, the Insurance Commissioner must increase assessments on policies.

<sup>1</sup>The 2013-15 executive budget recommendation included \$170,000 for grants to the North Dakota Firefighter's Association. The House removed this funding.

## ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$140,193,764		\$332,187,818
Add estimated revenues				
Oil extraction tax allocations	\$191,994,054 <sup>1</sup>		\$273,476,675 <sup>1</sup>	
Estimated reduction in oil extraction tax allocations pursuant to 2013 HB 1234			(12,710,000) <sup>1</sup>	
Estimated increase in oil extraction tax allocations pursuant to 2013 SB 2336			3,520,000 <sup>1</sup>	
Total available		\$332,187,818		\$596,474,493
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 <sup>2</sup>		\$0 <sup>2</sup>	
Estimated ending balance		\$332,187,818		\$596,474,493

<sup>1</sup>Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through February 2013 and estimated allocations for the remainder of the 2011-13 biennium and the 2013-15 biennium per the February 2013 revised revenue forecast. The estimated effect of proposed legislation on oil extraction tax allocations during the 2013-15 biennium is based on production levels used for the February 2013 legislative revenue forecast.

<sup>2</sup>Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2011-13 biennium or the 2013-15 biennium.

### FUND HISTORY

The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment, now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction tax revenue be allocated as follows:

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

The principal of the foundation aid stabilization fund may only be spent upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. North Dakota Century Code Section 54-44.1-12 provides that the director of the budget may order an allotment to control the rate of expenditures of state agencies. This section provides that an allotment must be made by specific fund and all departments and agencies that receive money from a fund must be allotted on a uniform percentage basis, except that appropriations for foundation aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund.

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2011, through January 31, 2013, \$320,489 of interest from the foundation aid stabilization fund has been allocated to the general fund.

**ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$420,036		\$396,784
Add estimated revenues				
Investment earnings	\$7,633		\$2,334	
Loan repayments - Principal and interest	1,070,901		1,026,297	
Total estimated revenues		1,078,534		1,028,631
Total available		\$1,498,570		\$1,425,415
Less estimated expenditures and transfers				
Department of Human Services increased payments to basic care and long-term care facilities (2011 HB 1325, 2013 HB 1012)	\$546,786 <sup>1</sup>		\$546,786	
Department of Human Services one-time grant to a government nursing facility that participated in the intergovernmental transfer payment program (\$200,000) and to a hospital in a city which also has a government nursing facility that participated in the intergovernmental transfer payment program (2011 SB 2012)	400,000			
Department of Human Services one-time grant to an assisted living facility that accepts low-income tenants (2013 HB 1012)			425,000	
State Department of Health one-time costs to establish a nurse aide registry (2011 HB 1041)	155,000			
State Department of Health operation and maintenance of the nurse aide registry			167,725 <sup>2</sup>	
Total estimated expenditures and transfers		1,101,786 <sup>2</sup>		1,139,511 <sup>2</sup>
Estimated ending balance		\$396,784		\$285,904

<sup>1</sup>House Bill No. 1325 (2011) provides a special funds appropriation of \$1,255,979, of which \$546,786 is from the health care trust fund and \$679,193 is from federal funds, to the Department of Human Services for increased payments to basic care and long-term care facilities due to establishment of a bed layaway program. House Bill No. 1012 (2013) continues funding for a portion of the bed layaway program from the health care trust fund.

<sup>2</sup>Section 6 of 2011 House Bill No. 1041 amends North Dakota Century Code Section 50-30-02 to provide money in the health care trust fund may not be included in draft appropriation Acts under Section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section.

**FUND HISTORY**

The health care trust fund was established by the Legislative Assembly in 1999 Senate Bill No. 2168 for providing nursing alternative loans or grants. The Legislative Assembly in 2001 House Bill No. 1196 provided money in the fund may be transferred to the long-term care facility loan fund for nursing facility renovation projects and used for other programs as authorized by the Legislative Assembly. Money was generated for the health care trust fund as a result of the Department of Human Services making government nursing facility funding pool payments to two government nursing facilities--McVilleville and Dunseith. Payments were made based on the average amount Medicare rates exceeded Medicaid rates for all nursing care facilities in the state multiplied by the total of all Medicaid resident days of all nursing homes. Federal Medicaid funds were available for these payments and required a state match. Payments were made to the two government nursing facilities and were subsequently returned to the state, less a \$50,000 transaction fee retained by each of the two government nursing facilities. Once returned to the state, the state's matching share was returned to its source, and the federal funds were deposited in the health care trust fund. Money in the fund is invested by the State Investment Board, and any investment earnings are retained in the fund. The federal government has eliminated this intergovernmental transfer program. As a result, North Dakota's final intergovernmental transfer payment was received in July 2004.

**ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY LOAN FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Transfer from the Bank of North Dakota	\$0		\$0	
Total estimated revenues		0		0
Total available		\$0		\$0
Less estimated expenditures and transfers				
Loans to health care providers and other purposes	\$0		\$0	
Total estimated expenditures and transfers		0		0
Estimated ending balance		\$0		\$0

This fund was established anticipating federal funds would be received through the Health Information Technology for Economic and Clinical Health Act (HITECH) for loans to health care providers. These funds were never made available; therefore, this fund has not been utilized.

**FUND HISTORY**

North Dakota Century Code Section 6-09-42 (2009 Senate Bill No. 2332) establishes a health information technology loan fund at the Bank of North Dakota for providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information technology exchange, and for other purposes as established by the Health Information Technology Office, in collaboration with the Health Information Technology Advisory Committee. This fund is a revolving loan fund. All money transferred into the fund, interest upon money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement. Annually, the Bank may deduct a service fee for administering the revolving loan fund.

An application for a loan must be made to the Health Information Technology Office. The Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee, may approve the application of a qualified applicant that meets the criteria established by the Health Information Technology Office Director. The Health Information Technology Office is to forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank is to make the loan from the revolving fund. A loan made under this fund must be repayable over a period that may not exceed 10 years.



**ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$894,196		\$0
Add estimated revenues				
Transfer from the Bank of North Dakota current earnings and accumulated undivided profits	\$5,000,000 <sup>1</sup>			
Principal payments	1,331,889		\$2,000,000	
Interest income	91,660		200,000	
Total estimated revenues		6,423,549		2,200,000
Total available		\$7,317,745		\$2,200,000
Less estimated expenditures and transfers				
Loans to health care entities <sup>2</sup>	\$7,272,609		\$2,100,000	
Bank of North Dakota fees	45,136		100,000	
Total estimated expenditures and transfers		7,317,745		2,200,000
Estimated ending balance		\$0		\$0

<sup>1</sup>Section 4 of 2011 House Bill No. 1021 provided that the Industrial Commission transfer up to \$5 million from the current earnings and accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund or the health information technology loan fund in the 2011-13 biennium. The Health Information Technology Office Director is to request transfers from the Bank of North Dakota only as necessary to meet cashflow needs of the funds and only upon certification by the Director of a demonstrated need for health information technology planning loans.

<sup>2</sup>The Health Information Technology Advisory Committee has approved the following loan applications since the program's inception during the 2009-11 biennium through January 21, 2013:

St. Andrew's Health Center (Bottineau)	\$625,000
Cooperstown Medical Center	200,000
Wishek Hospital	761,149
Towner County Medical Center (Cando)	694,911
Presentation Medical Center (Rolla)	625,000
West River Health Services (Hettinger)	1,250,000
Ashley Medical Center	625,000
Tioga Medical Center	931,320
St. Luke's Community Hospital and Clinics (Crosby)	541,776
Midgarden Family Clinic (Park River)	101,590
7-Day Clinic Walk-in Express Care (Fargo)	50,000
Linton Hospital	420,115
McKenzie County Health Care System	600,000
Garrison Memorial Hospital	800,000
Nelson County Health System	305,000
Southwest Healthcare System	605,500
St. Alexius Medical Center	1,250,000
Pediatric Therapy Partners	100,000
Valley Health	72,155
Knife River Care Center	125,000
Golden Acres Manor	98,648
<b>Total</b>	<b>\$10,782,164</b>

### **FUND HISTORY**

North Dakota Century Code Section 6-09-43 (2009 Senate Bill No. 2332) establishes a health information technology planning loan fund at the Bank of North Dakota for providing low-interest loans to health care entities to assist those entities in improving health information technology infrastructure. This fund is a revolving loan fund. As prescribed in Section 9 of the bill, \$5 million was transferred from the Bank to this fund during the 2009-11 biennium. All money transferred into the fund, interest upon money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement. Annually, the Bank may deduct a service fee for administering the revolving loan fund.

An application for a loan must be made to the Health Information Technology Office. The Health Information Technology Office Director, in collaboration with the Health Information Technology Advisory Committee, may approve the application of a qualified applicant that meets the criteria established by the Health Information Technology Office Director. The Health Information Technology Office is to forward approved applications to the Bank. Upon approval of the application by the Bank, the Bank is to make the loan from the revolving loan fund.

**ANALYSIS OF THE LEGACY FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$0		\$1,253,630,953
Add estimated revenues under current law				
30 percent of oil and gas gross production and extraction tax collections	\$1,108,376,160 <sup>1</sup>		\$1,481,076,825 <sup>2</sup>	
Transfer of oil and gas tax revenues from strategic investment and improvements fund	130,313,260 <sup>3</sup>		234,953,556 <sup>3</sup>	
Transfer of other revenue sources from strategic investment and improvements fund	9,141,533 <sup>4</sup>		47,395,163 <sup>4</sup>	
Investment earnings	5,800,000		18,800,000	
Total estimated revenues		\$1,253,630,953		\$1,782,225,544
Estimated revenue adjustments for bills under consideration as of crossover				
Reduces the oil extraction tax rate on new production (2013 HB 1234)				(38,130,000)
Closes stripper well property loophole for new well exemptions (2013 SB 2336)				10,560,000
Provides one-year exemption from oil and gas gross production tax for new gas gathering systems (2013 SB 2370)				(4,800,000)
Total available		\$1,253,630,953		\$3,003,486,497
Total estimated expenditures and transfers		0 <sup>5</sup>		0 <sup>5</sup>
Estimated ending balance		\$1,253,630,953		\$3,003,486,497

<sup>1</sup>The amount shown for the 2011-13 biennium reflects actual collections through February 2013 and the February 2013 legislative revenue forecast for oil price and production for the remainder of the 2011-13 biennium. This amount does not reflect any transfers from the strategic investment and improvements fund.

<sup>2</sup>Estimated revenues - The executive budget revenue forecast for the 2013-15 biennium projects oil and gas gross production tax and oil extraction tax revenues to total \$4,936,992,750 for the 2013-15 biennium, excluding the tribal share of oil produced on Indian reservations. Thirty percent of the projected revenues is \$1,481,076,825. This amount does not reflect any transfers from the strategic investment and improvements fund.

<sup>3</sup>Pursuant to North Dakota Century Code Section 15-08.1-08, if the unobligated balance of the strategic investment and improvements fund exceeds \$300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund. This amount does not reflect additional transfers from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue.

<sup>4</sup>This amount reflects transfers to the legacy fund from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue, pursuant to Section 15-08.1-08.

<sup>5</sup>The principal and earnings of the legacy fund may not be spent until after June 30, 2017.

**FUND HISTORY**

The legacy fund was created in 2010 when the voters of North Dakota approved a constitutional amendment--now Article X, Section 26, of the Constitution of North Dakota--to provide 30 percent of oil and gas gross production and oil extraction taxes on oil and gas produced after June 30, 2011, be transferred to the legacy fund. The principal and earnings of the legacy fund may not be spent until after June 30, 2017, and any expenditure of principal after that date requires a vote of at least two-thirds of the members elected to each house of the Legislative Assembly. Not more than 15 percent of the principal of the legacy fund may be spent during a biennium. The Legislative Assembly may transfer funds from any source to the legacy fund, and such transfers become part of the principal of the fund. The State Investment Board is responsible for investment of the principal of the legacy fund. Interest earnings accruing after June 30, 2017, are transferred to the general fund at the end of each biennium.

**ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$11,718,069		\$14,988,889
Add estimated revenues				
Separate two-cent coal severance tax	\$1,200,000		\$1,200,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,375,000		3,375,000	
Twenty percent of coal severance taxes deposited in the coal development trust fund (committed to clean coal projects) (result of passage of constitutional amendment passed by voters in June 1994)	1,350,000		1,350,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	1,443,560		849,700	
Five percent of the general fund share of coal conversion tax (2007 HB 1093)	2,500,000		2,500,000	
Revenue bonds/short-term loan	0 <sup>1</sup>		0 <sup>1</sup>	
Interest income and return of funds	25,000		25,000	
Total estimated revenues		9,893,560		9,299,700
Total available		\$21,611,629		\$24,288,589
Less estimated expenditures and transfers <sup>2,3</sup>				
Administration	\$750,000		\$850,000	
Lignite feasibility studies (nonmatching grants)	1,505,375		3,181,500	
Small research grants	1,120,000		1,200,000	
Lignite marketing	491,700		546,000	
Lignite litigation	855,665 <sup>4</sup>		1,318,500 <sup>4</sup>	
Demonstration projects	1,900,000		12,404,000	
Total estimated expenditures and transfers		6,622,740 <sup>5</sup>		19,500,000
Estimated ending balance		\$14,988,889		\$4,788,589

<sup>1</sup>Pursuant to North Dakota Century Code Section 54-17.5-04, the Industrial Commission may issue revenue bonds or borrow short-term funds from the Bank of North Dakota.

<sup>2</sup>The Industrial Commission has a policy stating that 18 percent of lignite research fund income will be used for small research projects, 56 percent for large demonstration research projects, 21 percent for marketing projects, and 5 percent for administration. The commission has further directed that no single large demonstration research project can receive more than 37.5 percent of available funds.

<sup>3</sup>The Industrial Commission has waived the fund allocation policy and has committed \$22 million through the 2011-13 biennium, with \$1,360,750 to be spent during the 2003-05 biennium, \$2,243,391 during the 2005-07 biennium, \$2.2 million during the 2007-09 biennium, \$3,972,090 during the 2009-11 biennium, and anticipated expenditures of \$678,851 during the 2011-13 biennium and \$11,544,918 in subsequent bienniums, for the Lignite Vision 21 Project. The objective of the Lignite Vision 21 Project is to construct new lignite-fired power plants in North Dakota. (These amounts are net of funds expended and then subsequently returned when projects did not proceed.)

<sup>4</sup>Lignite litigation - House Bill No. 1093 (2007) provides that \$500,000 of the amount allocated to the lignite research fund in Section 1 of the bill is to be used to pay for fees associated with lignite litigation that may be brought by the state to protect and promote the continued development of lignite resources. Activities associated with the litigation have been initiated with \$83,379 spent during the 2007-09 biennium, \$60,836 spent during the 2009-11 biennium, \$855,665 anticipated to be spent during the 2011-13 biennium, and \$1,318,500 during the 2013-15 biennium. The original \$500,000 will have been spent by the end of the 2011-13 biennium with additional funding being provided from nonmatching program funds. The state's portion of the litigation costs during the 2013-15 biennium will be from the nonmatching program funds. The lignite industry has agreed to pay \$500,000 of the litigation costs.

<sup>5</sup>The Legislative Assembly in 2011 appropriated \$19,971,300 for lignite research grants, but progress on the Lignite Vision 21 Project did not proceed as anticipated as a result of uncertainty at the federal level. The Industrial Commission anticipates spending for the Lignite Vision 21 Project to be made during the 2013-15 biennium. The Industrial Commission has continuing appropriation authority for all money deposited in the lignite research fund pursuant to Section 57-61-01.6.

#### **FUND HISTORY**

Section 57-61-01.5(2) and Article X, Section 21, of the Constitution of North Dakota, provide for 70 percent of the taxes collected and deposited in the coal development trust fund to be deposited in the lignite research fund. The remaining 30 percent of the funds deposited in the coal development trust fund are to be held in trust and administered by the Board of University and School Lands, which has the authority to invest the funds, and may, as provided by law, lend money from the fund to political subdivisions.

**ANALYSIS OF THE PROPERTY TAX RELIEF SUSTAINABILITY FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$295,000,000		\$341,790,000
Add estimated revenues				
Allocation of oil and gas tax revenues (North Dakota Century Code Section 57-51.1-07.5)	\$341,790,000		\$341,790,000	
Additional allocation of oil and gas tax revenues (Section 2 of 2013 SB 2036)			61,617,000	
Transfer from general fund for the property tax relief component of the integrated school aid formula for the 2015-17 biennium (Section 3 of 2013 HB 1015)			373,210,000	
Total estimated revenues		341,790,000		776,617,000
Total available		\$636,790,000		\$1,118,407,000
Less estimated expenditures and transfers				
Transfer to general fund (Section 14 of 2011 HB 1047) (Section 5 of 2013 HB 1013 and Section 5 of SB 2036)	\$295,000,000		\$341,790,000	
Total estimated expenditures and transfers		295,000,000		341,790,000
Estimated ending balance		<u>\$341,790,000</u>		<u>\$776,617,000</u>

**FUND HISTORY**

Section 57-64-05 (2009 Senate Bill No. 2199) establishes a property tax relief sustainability fund for property tax relief programs, pursuant to legislative appropriation. Senate Bill No. 2199 provided an initial transfer of \$295 million from the permanent oil tax trust fund to the property tax relief sustainability fund. Section 57-51.1-07.5 (2011 House Bill No. 1451) provides for an allocation of the state's share of oil and gas tax revenues of \$341,790,000 each biennium to the property tax relief sustainability fund after an allocation of \$200 million to the general fund. Senate Bill No. 2036 (2013) increases the allocation to the property tax relief fund to \$403,407,000 each biennium.

## ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
		\$		\$
Beginning balance		\$155,940,058		\$263,074,460
Add estimated revenues				
Oil extraction tax collections	\$383,988,108		\$546,953,350	
Estimated reduction in oil extraction tax allocations pursuant to 2013 HB 1234			(25,420,000) <sup>1</sup>	
Estimated reduction in oil extraction tax allocations pursuant to 2013 SB 2233			(54,695,000) <sup>1</sup>	
Estimated increase in oil extraction tax allocations pursuant to 2013 SB 2336			7,040,000 <sup>1</sup>	
Repayments and reimbursements	4,995,000		8,614,000	
Investment earnings/miscellaneous income	1,252,893		1,359,000	
Total estimated revenues		390,236,001 <sup>1</sup>		483,851,350 <sup>1</sup>
Total available		\$546,176,059		\$746,925,810
Less estimated expenditures and transfers				
State Water Commission - Grants, projects, and project administration, including expenditures approved by the Budget Section pursuant to 2011 SB 2020 and SB 2371 and 2013 HB 1020	\$273,101,599 <sup>2</sup>		\$700,875,000 <sup>3</sup>	
State Water Commission - Administration (House version of 2013 HB 1020)			17,294,707	
State Water Commission - Western Area Water Supply Authority \$25 million zero interest loan (2011 SB 2020)	0 <sup>2</sup>			
Bank of North Dakota - Western Area Water Supply Authority 5 percent interest loan pursuant to 2011 HB 1206	10,000,000 <sup>2</sup>			
State Water Commission - Projects (2013 HB 1269)			31,350,000	
Transfer to renewable energy development fund (2013 SB 2014)			3,000,000 <sup>4</sup>	
Transfer to energy conservation grant fund (2013 SB 2014)			2,734,767 <sup>4</sup>	
Total estimated expenditures and transfers		283,101,599 <sup>2</sup>		755,254,474
Estimated ending balance (shortfall)		\$263,074,460		(\$8,328,664)

<sup>1</sup>Estimated revenues - Based on actual revenues through February 2013 and estimated revenues for the remainder of the 2011-13 biennium and the 2013-15 biennium per the February 2013 legislative revenue forecast. The current estimate of revenues for the 2011-13 biennium is \$177,037,658 more than the estimate of \$213,198,343 made at the close of the 2011 special legislative session in November 2011. The increase is attributable to the following changes:

Increase in oil extraction tax collections	\$175,354,696
Increase in repayments and reimbursements	1,500,000
Increase in investment income	182,962
Net increase from revenue amount previously estimated for the 2011-13 biennium	\$177,037,658

The estimated effect of proposed legislation on oil extraction tax allocations during the 2013-15 biennium is based on production levels used for the February 2013 legislative revenue forecast.

<sup>2</sup>Sections 1 and 4 of 2011 Senate Bill No. 2020 appropriated \$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 full-time equivalent (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 the 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 House Bill No. 1206 provided the 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.

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 (2011 Senate Bill No. 2371), 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. The Budget Section approved the State Water Commission's requests pursuant to Senate Bill No. 2371 and Section 4 of Senate Bill No. 2020 to spend \$50 million of additional funding available in the resources trust fund for the following projects:

December 2011 Budget Section meeting	
City of Minot	\$2,500,000
City of Valley City	3,000,000
Souris River Joint Water Resource District	50,000
March 2012 Budget Section meeting	
Burleigh County property acquisitions	1,425,000
City of Minot	17,750,000
City of Burlington	1,039,000
Ward County	11,500,000
June 2012 Budget Section meeting	
Burleigh County storm water pump station	1,282,400
City of Sawyer property acquisitions	184,260
Mouse River additional engineering for flood protection plan	1,926,750
Future property acquisitions for flood control in McHenry and Ward Counties and the city of Minot as determined by the State Water Commission	9,342,590
<b>Total 2011-13 biennium requests approved by the Budget Section</b>	<b>\$50,000,000</b>

The State Water Commission estimates 2011-13 expenditures from the resources trust fund to total \$283.1 million.

<sup>3</sup>Sections 1 and 4 of 2013 House Bill No. 1020 appropriate \$700.9 million, or any additional amount that becomes available subject to Budget Section approval, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium. If funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds \$515 million, Section 11 of House Bill No. 1020 provides legislative intent that, of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the State Water Commission for the purpose of paying off or defeasing the commission's outstanding bond issues. Funding from the water development trust fund provided for bond payments (\$16.9 million) and contingent funding from the resources trust fund (\$60 million) totaling \$76.9 million would be available to defease State Water Commission outstanding bond issues of \$75,250,000 and pay related fees.

<sup>4</sup>The executive recommendation provides for transfers of one-half of 1 percent of the oil extraction tax revenue deposited in the resources trust fund to each the renewable energy development fund and a newly created energy conservation grant fund to provide energy conservation and efficiency grants to political subdivisions. The Senate in Senate Bill No. 2014 provides for quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up \$3 million per biennium. The Senate did not change the executive budget recommendation regarding transfers to the energy conservation grant fund.

#### 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:

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

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

- 20 percent to the resources trust fund.
- 20 percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- 30 percent to the legacy fund.
- 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 2011 House Bill No. 1451.

The 2013-15 executive budget recommendation provides for transfers of one-half of 1 percent of the oil extraction tax revenue deposited in the resources trust fund to each the renewable energy development fund and a newly created energy conservation grant fund to provide energy conservation and efficiency grants to political subdivisions. The Senate in Senate Bill No. 2014 provides for quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up \$3 million per biennium. The Senate did not change the executive budget recommendation regarding transfers to the energy conservation grant fund.

**ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$5,337,360		\$4,884,909
Add estimated revenues				
Premiums	\$3,446,987 <sup>1</sup>		\$1,725,000 <sup>2</sup>	
Interest and other revenue	180,000 <sup>3</sup>		240,000 <sup>3</sup>	
Total estimated revenues		3,626,987		1,965,000
Total available		\$8,964,347		\$6,849,909
Less estimated expenditures and transfers				
Administration	\$1,437,289		\$1,482,282	
Claims-related expenses	10,300 <sup>4</sup>		10,000 <sup>4</sup>	
Claims, litigation, and excess insurance	2,631,849		3,124,000	
Total estimated expenditures and transfers		4,079,438		4,616,282
Estimated ending balance		<u>\$4,884,909</u>		<u>\$2,233,627</u>

<sup>1</sup>In response to an actuarial review completed in April 2010 by Aon Risk Services, the Risk Management Division assessed \$3,750,021 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2011-13 biennium. Assessments are subject to a risk management discount program for agencies that adopt proactive loss control practices, with a maximum available discount of 15 percent. The amount shown for premiums reflects fiscal year 2012 discounts of \$147,884 and fiscal year 2013 discounts of \$155,150.

<sup>2</sup>In response to an actuarial review completed in 2012 by Aon Risk Services, the Risk Management Division is assessing a total of \$1,875,000 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2013-15 biennium. Assessments are subject to a risk management discount program for agencies that adopt proactive loss control practices, with a maximum available discount of 15 percent. The amount shown for premiums reflects fiscal year 2014 discounts of \$75,000 and estimated fiscal year 2015 discounts of \$75,000.

<sup>3</sup>Investment and other revenue relates to realized or projected gains from risk management investments, payments received from salvaged vehicles, and costs and attorney's fees collected for successful lawsuits.

<sup>4</sup>The amounts listed for claims-related expenses are for adjusting consulting services required for large or unusual claims.

**FUND HISTORY**

In September 1994 the North Dakota Supreme Court abolished the doctrine of sovereign immunity. As a result of this court decision, the Legislative Assembly in 1995 passed the Tort Claims Act (1995 Senate Bill No. 2080), which created a risk management fund and assigned the responsibility of administering a risk management program to the Office of Management and Budget.

**ANALYSIS OF THE SENIOR CITIZEN SERVICES AND PROGRAMS FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium Actual		2013-15 Biennium Estimated	
Beginning balance		\$0		\$0
Add estimated revenues				
Allocation from sales, use, and motor vehicle excise tax collections	\$3,517,179 <sup>1,2</sup>		\$3,914,000 <sup>1,2</sup>	
Increases allocation from three-fourths of one mill levy to one mill levy (2013 SB 2162)			1,200,000 <sup>1,2</sup>	
Total estimated revenues		3,517,179		5,114,000
Total available		\$3,517,179		\$5,114,000
Less estimated expenditures and transfers				
State Treasurer - County senior citizen matching grants	\$3,476,461 <sup>3</sup>		\$5,114,000	
Transfer to the general fund	40,718 <sup>4</sup>			
Total estimated expenditures and transfers		3,517,179		5,114,000
Estimated ending balance		\$0		\$0

<sup>1</sup>The allocation from sales, use, and motor vehicle excise tax collections is shown below:

Fiscal Year	Allocation From Sales, Use, and Motor Vehicle Excise Tax Collections	Percentage Increase (Decrease) From Previous Year
2008	\$1,163,721 (actual)	N/A
2009	\$1,243,493 (actual)	6.9%
2010	\$1,310,947 (actual)	5.4%
2011	\$1,399,652 (actual)	6.8%
2012	\$1,695,832 (actual)	21.2%
2013	\$1,821,347 (actual)	7.4%
2014	\$2,557,000 (estimate)	40.4%
2015	\$2,557,000 (estimate)	0.0%

<sup>2</sup>Senate Bill No. 2242 (2011) increased the amount of state general fund revenue to be allocated to the senior citizen services and programs fund from two-thirds of one mill levied statewide to three-fourths of one mill levied statewide effective for taxable years beginning after December 31, 2010. The bill also increased the amount of grants provided to counties that have approved a mill levy for senior citizen services and programs from two-thirds of the amount levied in the county for senior citizen programs to three-fourths of the amount levied in the county for senior citizen programs, limited to one mill. Senate Bill No. 2162 (2013) increases the amount of state general fund revenue to be allocated to the senior citizen services and programs fund from three-fourths of one mill levied statewide to one mill levied statewide effective for taxable years beginning after December 31, 2012. The bill also increases the amount of grants provided to counties that have approved a mill levy for senior citizen programs from three-fourths of the amount levied in the county for senior citizen programs to the amount levied up to one mill.

<sup>3</sup>The county senior citizen matching grants are shown below:

Fiscal Year	County Senior Citizen Matching Grants	Percentage Increase (Decrease) From Previous Year
2008	\$1,153,293 (actual)	N/A
2009	\$1,225,933 (actual)	6.3%
2010	\$1,298,462 (actual)	5.9%
2011	\$1,384,391 (actual)	6.6%
2012	\$1,687,098 (actual)	21.9%
2013	\$1,789,363 (actual)	6.1%
2014	\$2,557,000 (estimate)	42.9%
2015	\$2,557,000 (estimate)	0.0%

<sup>4</sup>Any funds remaining at the end of each biennium are transferred to the general fund.

#### FUND HISTORY

The Legislative Assembly in 2005 approved Senate Bill No. 2267, which created the senior citizen services and programs fund. Statutory provisions are contained in North Dakota Century Code Sections 57-15-56(5) and 57-39.2-26.2. Current statutory provisions provide that each year during July through December, the State Treasurer is to transfer to the fund the portion of sales, use, and motor vehicle excise tax collections that are equivalent to the amount generated from three-fourths of one mill levied statewide as reported by the Tax Commissioner. The Legislative Assembly in 2011 Senate Bill No. 2242 amended statutory provisions to increase the amount of collections to be allocated to the fund from two-thirds of one mill levied statewide to three-fourths of one mill levied statewide effective for taxable years beginning after December 31, 2010. The State Treasurer by March 1 of the following year, pursuant to a continuing appropriation, distributes money in the fund as grants to eligible counties for senior citizen programs. The grants are provided to counties that have approved a mill levy for senior citizen services and programs. Current statutory provisions provide that the amount of each county's annual grant is equal to three-fourths of the amount levied in dollars in the county for senior citizen programs, limited to one mill. The Legislative Assembly in 2011 Senate Bill No. 2242 amended statutory provisions to increase the amount of grants provided to counties from two-thirds of the amount levied for senior citizen programs to three-fourths of the amount levied for senior citizen programs, limited to one mill. The Legislative Assembly provided intent that counties match 50 percent of the state grant with funding from the county general fund or state aid distribution fund receipts. Any money remaining in the fund at the end of each biennium is transferred to the general fund, except in the 2005-07 biennium any remaining money in the fund at the end of the biennium was allocated to those counties that were levying the statutory maximum for senior citizen programs in proportion to the amounts generated by those levies in those counties.

**ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on four-tenths of 1 percent)		210,448,132 <sup>1</sup>		244,731,565
Estimated adjustments for bills under consideration as of crossover				
Increases compensation to sales and use tax permit holders (2013 HB 1464)				(69,000)
Changes tax base for manufactured housing from retail base to dealer's cost (2013 SB 2090)				(64,000)
Makes permanent the sales and use tax exemption for equipment used in telecommunications infrastructure development (2013 SB 2142)				(410,000)
Increases allocation to state aid distribution fund (2013 SB 2364)				11,590,000
Total available		\$210,448,132		\$255,778,565
Less estimated expenditures and transfers				
Payments to political subdivisions				
County share (53.7 percent)	\$113,010,647		\$137,353,090	
City share (46.3 percent)	97,437,485		118,425,475	
Total estimated expenditures and transfers		210,448,132		255,778,565
Estimated ending balance		\$0		\$0

**NOTE:** The amounts shown reflect the February 2013 revised revenue forecast.

<sup>1</sup>Total revenues of \$136,110,767 were anticipated to be deposited in the fund for the 2011-13 biennium based on the forecast at the close of the 2011 regular legislative session.

**FUND HISTORY**

North Dakota Century Code Section 57-39.2-26.1 provided, prior to January 1999, for a portion of sales, use, and motor vehicle excise tax collections equal to 60 percent of an equivalent one-cent sales tax to be deposited by the State Treasurer in the state aid distribution fund. The Tax Commissioner certified to the State Treasurer the portion of sales, use, and motor vehicle excise tax net revenues that were deposited in the state aid distribution fund. The state aid distribution fund had historically been allocated, subject to legislative appropriation, with 50 percent of revenues for state revenue sharing and 50 percent for personal property tax replacement.

The Legislative Assembly in 1997 amended Section 57-39.2-26.1 to provide that, effective January 1, 1999, deposits into the state aid distribution fund are based on an amount equal to 40 percent of an equivalent one-cent sales tax instead of an amount equal to 60 percent of an equivalent one-cent sales tax. In addition, a continuing appropriation was added which appropriates all revenues deposited in the state aid distribution fund for payments to political subdivisions. Senate Bill No. 2364 (2013) provides that effective June 1, 2014, deposits into the state aid distribution fund be based on an amount equal to 43.5 percent of an equivalent one-cent sales tax instead of an amount equal to 40 percent of an equivalent one-cent sales tax.

The Legislative Assembly in 1997 also changed the allocation of the state aid distribution fund from 50 percent for personal property tax replacement and 50 percent for revenue sharing to 53.7 percent for counties and 46.3 percent for cities. The allocation for each county includes townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy

District, the Southwest Water Authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within the cities. The allocation for each city includes park districts and other taxing districts within the city, excluding school districts. The county allocation to townships must be based on the same percentage allocation that a township received in calendar year 1996.

House Bill No. 1025 (2003), which became effective on August 1, 2003, revised the state aid distribution formula for cities and counties to account for population changes resulting from the 2000 federal census. The bill provides for total distribution percentages to cities and counties to remain at 53.7 percent to counties and 46.3 percent to cities; however, the allocation formula to specific counties and cities is:

<b>Population Category Through June 30, 2011</b>			
<b>Counties</b>	<b>Percentage</b>	<b>Cities (Based on Population)</b>	<b>Percentage</b>
17 counties with the largest population (allocated equally)	20.48%	80,000 or more	19.4%
17 counties with the largest population (allocated based on population)	43.52%	20,000 or more but less than 80,000	34.5%
Remaining counties (allocated equally)	14.40%	10,000 or more but less than 20,000	16.0%
Remaining counties (allocated based on population)	21.60%	5,000 or more but less than 10,000	4.9%
		1,000 or more but less than 5,000	13.1%
		500 or more but less than 1,000	6.1%
		200 or more but less than 500	3.4%
		Less than 200	2.6%
<b>Total</b>	<b>100.00%</b>		<b>100.0%</b>

Senate Bill No. 2253 (2011), which became effective July 1, 2011, revised the state aid distribution formula for cities to provide that distributions be based upon the proportion each city's population bears to the total population of all cities. The bill does not change the total distribution percentages to cities and counties which remain at 53.7 percent to counties and 46.3 percent to cities. The allocation formula for specific counties and cities is:

<b>Population Category Effective July 1, 2011</b>		
<b>Counties</b>	<b>Percentage</b>	<b>Cities</b>
17 counties with the largest population (allocated equally)	20.48%	Based upon the proportion each city's population bears to total population
17 counties with the largest population (allocated based on population)	43.52%	
Remaining counties (allocated equally)	14.40%	
Remaining counties (allocated based on population)	21.60%	
<b>Total</b>	<b>100.00%</b>	

**ANALYSIS OF THE STATE DISASTER RELIEF FUND  
FOR THE 2007-09, 2009-11, 2011-13, AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2007-09 Biennium Actual		2009-11 Biennium Actual		2011-13 Biennium Estimates		2013-15 Biennium Estimates	
Beginning balance		\$0		\$37,623,216		\$34,675,167		\$77,011,615
Add estimated 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		92,000		\$92,000	
Federal funds - Volunteer hours adjustment and local share federal-to-federal mission assignments			612,263					
National Guard reimbursements			136,057		3,240,000		1,060,000	
Oil and gas tax collections					22,000,000 <sup>4</sup>		22,000,000 <sup>4</sup>	
Total estimated revenues		43,000,000		22,947,740		74,032,000		23,152,000
Total available		\$43,000,000		\$60,570,956		\$108,707,167		\$100,163,615
Less estimated expenditures								
Emergency snow removal grants (2009 SB 2012; 2011 SB 2369)	\$5,376,784 <sup>5</sup>		\$9,000,000 <sup>6</sup>					
Costs relating to disasters occurring prior to 2009			513,321 <sup>7</sup>		\$873,458 <sup>8</sup>			
Costs relating to 2009 flooding			5,739,762 <sup>7</sup>		2,585,755 <sup>8</sup>		\$3,504,477 <sup>8</sup>	
Costs relating to the January 2010 winter snowstorm			1,506,693 <sup>7</sup>		87,675 <sup>3</sup>		231,816 <sup>3</sup>	
Costs relating to 2010 flooding			3,390,192 <sup>7</sup>		422,382 <sup>3</sup>		1,335,611 <sup>3</sup>	
Costs relating to the April 2010 ice storm			2,854,089 <sup>7</sup>		514,392 <sup>3</sup>		474,735 <sup>3</sup>	
Costs relating to the April 2011 blizzard			16,937 <sup>7</sup>					
Costs relating to 2011 flooding			2,874,795 <sup>7</sup>		12,248,197 <sup>3,9,10</sup>		8,353,361 <sup>3,9,10</sup>	
Costs relating to flooding in incorporated cities					2,050,119 <sup>10</sup>		1,149,881 <sup>10</sup>	
Disaster response coordination contract (2011 SB 2016; 2013 HB 1016)					400,000 <sup>11</sup>		200,000 <sup>11</sup>	

	2007-09 Biennium Actual		2009-11 Biennium Actual		2011-13 Biennium Estimates		2013-15 Biennium Estimates	
State disasters and flood mitigation efforts (2011 SB 2016; 2011 SB 2369)					287,240 <sup>10</sup>		4,512,760 <sup>10</sup>	
Contingent appropriation for 2012 disaster event (Section 16 of 2011 SB 2371)					0 <sup>3</sup>			
Flood-impacted housing assistance grant program (Section 9 of 2011 SB 2371)					6,226,334 <sup>3</sup>		3,773,666 <sup>3</sup>	
Road grade raising projects - Department of Transportation (Section 14 of 2011 SB 2371)					6,000,000 <sup>3</sup>			
Disaster recovery planning and technical services							1,500,000 <sup>13</sup>	
Total estimated expenditures and transfers		5,376,784		25,895,789		31,695,552 <sup>12</sup>		25,036,307
Estimated ending balance		<u>\$37,623,216</u>		<u>\$34,675,167</u>		<u>\$77,011,615</u>		<u>\$75,127,308<sup>14</sup></u>

<sup>1</sup>Section 5 of 2009 Senate Bill No. 2012 provided 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) provided a \$22 million transfer from the permanent oil tax trust fund to the state disaster relief fund and authorized 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 provided 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 2011 Senate Bill No. 2371 provided 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.
Flood-impacted housing assistance grant program	10,000,000	Section 16 of Senate Bill No. 2371 provided 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 was contingent upon a 2012 disaster event exceeding \$50 million in damages across the state. The state did not experience a disaster event exceeding \$50 million in 2012. Section 9 of Senate Bill No. 2371 appropriated \$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. 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.</li> </ul>



Relief Assistance	Transfer Amount	Appropriation Authority
Road grade raising grants	6,000,000	Section 14 of Senate Bill No. 2371 appropriated \$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>House Bill No. 1451 (2011) created a new section to North Dakota Century Code Chapter 57-51.1 to provide for the allocation of the state's share of oil and gas tax revenues designated for deposit in the general fund under Chapters 57-51 and 57-51.1 as follows:

- The first \$200 million is deposited in the general fund;
- The next \$341,790,000 is deposited in the property tax relief sustainability fund;
- The next \$100 million is deposited in the general fund;
- The next \$100 million is deposited in the strategic investment and improvements fund;
- The next \$22 million is deposited in the state disaster relief fund; and
- Any additional revenues are deposited in the strategic investment and improvements fund.

For the 2011-13 biennium, the deposit of \$22 million of oil and gas tax collections in the state disaster relief fund occurred in October 2012.

<sup>5</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 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>6</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 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>7</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 provided 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>8</sup>Section 1 of 2011 Senate Bill No. 2016 included 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>9</sup>Section 5 of 2011 Senate Bill No. 2016 appropriated \$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 presidential-declared disasters pursuant to Section 37-17.1-27.

<sup>10</sup>Section 4 of 2011 Senate Bill No. 2369 appropriated \$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 presidential-declared disasters in the state. In September 2011 the Adjutant General 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>11</sup>In 2011 Senate Bill No. 2016, the Legislative Assembly provided authority to the Department of Emergency Services to utilize funding of \$400,000 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. Legislative appropriations through crossover include funding of \$200,000 to continue disaster response coordination contract services during the 2013-15 biennium.

<sup>12</sup>Total 2011-13 state disaster relief fund appropriation authority provided to the Adjutant General 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
<u>42,700,000</u>	see Footnote 3
\$76,442,304	

<sup>13</sup>The executive budget recommends funding of \$1.5 million for contracted services to provide technical assistance and support to state and local government agencies with emergency management needs associated with preparedness, mitigation, and response and recovery.

<sup>14</sup>The Adjutant General estimates spending \$7,123,647 of funding appropriated for 2011 flood disasters during the 2015-17 biennium. After deducting this obligation, the estimated ending fund balance on June 30, 2015, is \$68,003,661.

#### **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 presidential-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.

**ANALYSIS OF THE STRATEGIC INVESTMENT AND IMPROVEMENTS FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
		\$249,074,431 <sup>1</sup>		\$827,816,481
Beginning balance (transferred from the lands and minerals trust fund)				
Add estimated revenues (based on current law)				
Production royalties	\$115,342,374 <sup>2</sup>		\$158,160,750 <sup>2</sup>	
Mineral leases	421,325 <sup>2</sup>		400,000 <sup>2</sup>	
Oil and gas bonuses	85,634,745 <sup>2</sup>		32,000,000 <sup>2</sup>	
Investment earnings	1,951,361 <sup>2</sup>		3,133,795 <sup>2</sup>	
Oil and gas tax collections	821,253,040 <sup>3</sup>		1,306,814,225 <sup>3</sup>	
Total estimated revenues		1,024,602,845		1,500,508,770
Estimated revenue adjustments for bills under consideration as of crossover				
Reduces the oil extraction rate on new production (2013 HB 1234)				(38,130,000)
Allocates portion of oil and gas gross production tax revenue to the outdoor heritage fund (2013 HB 1278) (executive budget recommendation)				(17,620,000)
Allocates portion of oil and gas gross production tax revenue to the abandoned oil and gas well plugging fund (2013 HB 1333)				(10,000,000)
Changes allocation of oil and gas gross production tax revenue to political subdivisions (2013 HB 1358)				(444,900,000)
Changes allocation to oil and gas impact grant fund (2013 SB 2013) (executive budget recommendation)				(114,000,000)
Provides additional allocation to oil and gas impact grant fund (2013 SB 2013)				(10,000,000)
Changes allocation to the property tax relief fund (2013 SB 2036)				(61,617,000)
Changes allocation of oil and gas gross production tax revenue to political subdivisions (2013 SB 2258 - defeated) (executive budget recommendation) (would have reduced revenue by an estimated \$233 million)				0
Closes stripper property loophole for new well exemptions (2013 SB 2336)				10,560,000
One-year exemption from oil and gas gross production taxes for new gas gathering systems (2013 SB 2370)				(8,400,000)
Total estimated revenue adjustments		\$0		(\$694,107,000)
Total estimated revenue after adjustments		\$1,024,602,845		\$806,401,770
Total available		\$1,273,677,276		\$1,634,218,251
Less estimated expenditures and transfers				
Transfer to legacy fund from oil and gas tax revenue	\$130,313,260 <sup>4</sup>		\$234,953,556 <sup>4</sup>	
Transfer to legacy fund from other revenue sources	9,141,533 <sup>4</sup>		47,395,163 <sup>4</sup>	
Transfer to the general fund (2011 SB 2015)	305,000,000			

Expanded school construction loan program (2013 HB 1319) (executive budget recommendation)			200,000,000
Funding to counties affected by energy development (2013 HB 1358)			206,000,000
Credit enhancement program for political subdivision infrastructure (2013 HB 1426)			1,000,000
Grants to airports (2013 SB 2006)			6,000,000
Unmanned aerial system (UAS) site operations (2013 HB 2018) (executive budget recommendation)			4,000,000
Enhanced use lease grant program (2013 SB 2018)			2,500,000
Provides funding for Science, Technology, Engineering, and Mathematics (STEM) network and workforce training region (2013 SB 2019)			3,000,000
Transfer to the special road fund (2013 SB 2221)			20,000,000
Medical facility infrastructure loans (2013 SB 2187)			12,000,000
Infrastructure development revolving loan fund (2013 SB 2339)			5,000,000
Administrative costs/other fees	1,406,002		1,740,000
<b>Total estimated expenditures and transfers</b>		<b>445,860,795</b>	<b>743,588,719</b>
Estimated ending balance		<b>\$827,816,481</b>	<b>\$890,629,532</b>
Restricted fund income			
Reserve relating to potential title disputes		<b>\$109,593,447<sup>5</sup></b>	<b>\$117,593,447<sup>5</sup></b>
Bank of North Dakota - Maintain guarantee reserve fund balance (2011 SB 2306, 2013 SB 2287)		<b>6,250,000<sup>6</sup></b>	<b>25,000,000<sup>6</sup></b>
<b>Ending balance - Undesignated</b>		<b>\$711,973,034</b>	<b>\$748,036,085</b>

<sup>1</sup>House Bill No. 1451 (2011) provided the lands and minerals trust fund be renamed the strategic investment and improvements fund, and as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund. The bill stated it is the intent of the Legislative Assembly that the fund be used for one-time expenditures relating to improving state infrastructure or initiatives to improve the efficiency and effectiveness of state government.

<sup>2</sup>The Department of Trust Lands' projections are based on actual revenues through October 2012 and the February 2013 legislative revenue forecast for oil price and production for the remainder of the 2011-13 biennium and the 2013-15 biennium.

<sup>3</sup>House Bill No. 1451 (2011) created a new section to North Dakota Century Code Chapter 57-51.1 to provide for the allocation of the state's share of oil and gas tax revenues designated for deposit in the general fund under Chapters 57-51 and 57-51.1 as follows:

- The first \$200 million is deposited in the general fund;
- The next \$341,790,000 is deposited in the property tax relief sustainability fund;
- The next \$100 million is deposited in the general fund;
- The next \$100 million is deposited in the strategic investment and improvements fund;
- The next \$22 million is deposited in the state disaster relief fund; and
- Any additional revenues are deposited in the strategic investment and improvements fund.

The amount shown for the 2011-13 biennium reflects actual collections through February 2013 and the December 2012 executive revenue forecast for oil price and production for the remainder of the 2011-13 biennium. The executive budget revenue forecast for the 2013-15 biennium projects oil and gas gross production tax and oil extraction tax revenues to total \$4,936,992,750 for the 2013-15 biennium, excluding the tribal share of oil produced on Indian reservations. The amount allocated to the strategic investment and improvements fund after allocations to the general fund, the property tax relief sustainability fund, and the state disaster relief fund is estimated to be \$959,814,225. These amounts do not reflect any transfers to the legacy fund.

<sup>4</sup>Pursuant to Section 15-08.1-08, if the unobligated balance of the strategic investment and improvements fund exceeds \$300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund.

<sup>5</sup>These funds represent oil and gas bonuses received from areas of the Yellowstone and Missouri Rivers and Lake Sakakawea where mineral rights are in dispute. Based on the outcome of legal settlements, these funds may need to be returned. Pursuant to action of the Board of University and School Lands, this portion of the fund balance is designated to be held in reserve pending the settlement of mineral ownership title disputes.

<sup>6</sup>Senate Bill No. 2306 (2011) provided guarantees on fuel production facility loans administered by the Bank of North Dakota be increased by \$10.5 million to \$12.5 million, and the value of all fuel production facility loan guarantees is increased by \$15 million, from \$10 million to \$25 million. Money in the strategic investment and improvements fund is available to the Bank to maintain 25 percent of the guarantee reserve fund balance not to exceed a total of \$6.25 million. Senate Bill No. 2287 (2013) provides that money in the strategic investment and improvements fund is available to the Bank to maintain 100 percent of the guarantee reserve fund balance not to exceed a total of \$25 million. Any money transferred from the strategic investment and improvements fund to maintain the guarantee reserve fund is available to reimburse lenders for guaranteed loans in default.

#### **FUND HISTORY**

House Bill No. 1451 (2011) provided the lands and minerals trust fund be renamed the strategic investment and improvements fund, and as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund. The lands and minerals trust fund originated in 1977 when the Legislative Assembly transferred to the Board of University and School Lands possessory interest in properties obtained by the Bank of North Dakota, including tracts of real property and reserved mineral interests.

All income from the sale, lease, and management of the mineral interests relating to these properties is deposited in the strategic investment and improvements fund, pursuant to Section 15-08.1-08. The principal and interest of the fund may be used for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. Money in the fund may be included in draft appropriation Acts under Section 54-44.1-06 and may be appropriated by the Legislative Assembly, but only to the extent the money is estimated to be available at the beginning of the biennium in which the appropriations are authorized.

If the unobligated balance in the fund at the end of any month exceeds \$300 million, 25 percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. Unobligated balance in the fund is defined as the balance in the fund reduced by appropriations or transfers from the fund authorized by the Legislative Assembly, guarantee reserve fund requirements under Section 6-09.7-05, and any fund balance designated by the Board of University and School Lands relating to potential title disputes related to certain riverbed leases.

**ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING BOTH THE 1979 AND 1996 BOND RESOLUTIONS  
AND LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium <sup>1</sup>		2013-15 Biennium <sup>1</sup>	
Beginning balance		\$45,793,541		\$40,113,797
Add estimated revenues				
Fund earnings (net)	\$325,000 <sup>2</sup>		\$250,000 <sup>2</sup>	
Total available		\$46,118,541		\$40,363,797
Less estimated expenditures and transfers				
Funding for veterinary medical education program	\$465,307 <sup>3</sup>		\$465,307 <sup>6</sup>	
Funding for North Dakota University System information technology services	539,437 <sup>4</sup>		539,437 <sup>7</sup>	
Transfer to North Dakota Student Loan Guarantee Agency	5,000,000 <sup>5</sup>			
Total estimated expenditures and transfers		6,004,744		1,004,744
Estimated ending balance		<u>\$40,113,797</u>		<u>\$39,359,053</u>

<sup>1</sup>This analysis reflects the estimated revenues, expenditures, and ending balance for **both the 1979 and 1996 bond resolutions**. Prior analyses of the student loan trust fund have not included information for the 1996 bond resolution. Prior to fiscal year 2012, permission was needed from the Ambac Assurance Corporation to use any assets from the 1996 bond resolution. However, there are no longer any bonds insured by the Ambac Assurance Corporation.

<sup>2</sup>The projected income for the 2011-13 and 2013-15 bienniums is based on interest rates as of December 1, 2012, and is net of the Industrial Commission and trustee expenses.

<sup>3</sup>The Legislative Assembly in 2011 provided \$465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. This represents a funding decrease of \$525,663 from the 2009-11 biennium program appropriation from the student loan trust fund. The Legislative Assembly in 2011 provided a general fund increase of \$510,000 for the program to offset the reduced funding from the student loan trust fund.

<sup>4</sup>The Legislative Assembly in 2011 provided \$539,437 of funding from the student loan trust fund for the University System information technology services pool for ConnectND positions within the University System. This represents a funding decrease of \$481,163 from the 2009-11 biennium program appropriation from the student loan trust fund. The Legislative Assembly in 2011 provided the information technology services pool with a general fund increase of \$590,000 to offset the reduced funding from the student loan trust fund.

<sup>5</sup>Pursuant to the provisions of the 1996 bond resolution, the Industrial Commission on October 23, 2012, authorized the transfer of \$5 million from the student loan trust fund to the North Dakota Student Loan Guarantee Agency to maintain the reserve requirements for projected alternative loan guarantees.

<sup>6</sup>The 2013-15 executive budget recommendation includes \$465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. This represents the same level of funding as provided in the 2011-13 biennium.

<sup>7</sup>The 2013-15 executive budget recommendation includes \$539,437 of funding from the student loan trust fund for the University System information technology services pool for ConnectND positions within the University System. This represents the same level of funding as provided in the 2011-13 biennium.

**FUND HISTORY**

The Legislative Assembly in 1971 authorized the Industrial Commission to acquire and hold all unpaid government-guaranteed or reinsured student loans and North Dakota student loans belonging to the state or any of its agencies. As a result, the student loan trust fund was created which enabled the state to sell tax-exempt bonds and use the proceeds for purchasing student loans made or acquired by the Bank of North Dakota.

The student loan trust fund does not make loans to students or service loans which it acquires. The Bank continues to service those loans which the student loan trust fund holds.

The student loan trust fund is comprised of funds held under two general bond resolutions. The first general bond resolution includes funds from bonds issued in 1979, 1988, 1989, 1992, and 2004. The second general bond resolution--referred to as the 1996 bond resolution--includes funds from bonds issued in 1996, 1997, 1998, and 2000. All bond issuances prior to 2004 were insured by Ambac Assurance Corporation. There are no longer any outstanding bonds insured by Ambac Assurance Corporation.

Under both of the bond resolutions, assets may only be used for:

- Purchase of student loans.
- Payment of debt service to bondholders.
- Providing financial assistance to the North Dakota Student Loan Guarantee Agency.
- Payment of any rebate liability to the federal government.
- Administration of the student loan trust fund.

After all bonds in the 1979 and 1996 bond resolutions have matured, been redeemed or defeased and all expenses paid, and the resolutions closed, any remaining assets held under the bond resolutions would be transferred to the Industrial Commission for use at its discretion and as allowed by law. As of June 30, 2012, \$3.2 million in bonds remains outstanding. In order to use assets held under the 1979 and 1996 general bond resolutions for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive a certification from the trustee of the bond (Bank of North Dakota) that sufficient reserves remain for bond payments and other related program costs. Prior to 2012, permission needed to be obtained from Ambac Assurance Corporation for any use of assets held in the 1996 general bond resolution. However, there are no longer any bonds insured by Ambac Assurance Corporation.

North Dakota Century Code Section 54-17-25 provides the Industrial Commission may issue subordinate or residual bonds when the commission determines that it is appropriate or expedient to do so.

**ANALYSIS OF THE TOBACCO PREVENTION AND CONTROL TRUST FUND  
FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
	Beginning balance		\$29,556,426	
Add estimated revenues				
Tobacco settlement revenues collected to date	\$11,392,521 <sup>1</sup>		\$0	
Projected tobacco settlement revenues	11,289,380 <sup>2</sup>		22,578,760 <sup>2</sup>	
Investment income	66,084		112,894	
Total estimated revenues		22,747,985 <sup>3</sup>		22,691,654 <sup>3</sup>
Total available		\$52,304,411		\$62,073,451
Less estimated expenditures and transfers				
Tobacco Prevention and Control Executive Committee expenditures (2011 HB 1025, 2013 SB 2024)	\$12,922,614 <sup>4</sup>		\$19,436,746 <sup>4</sup>	
State Department of Health - Stroke system of care (2013 SB 2004)			383,000	
Total estimated expenditures and transfers		12,922,614		19,819,746
Estimated ending balance		\$39,381,797		\$42,253,705

<sup>1</sup>As of November 2012, the state has received tobacco settlement payments totaling \$31,519,737 for the 2011-13 biennium, of which \$20,127,216 was deposited in the tobacco settlement trust fund and \$11,392,521 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of \$367,842,018, including \$305,053,125 under subsection IX(c)(1) of the Master Settlement Agreement and \$62,788,893 under subsection IX(c)(2) of the Master Settlement Agreement. Of the \$367,842,018, \$318,850,854 has been deposited into the tobacco settlement trust fund and \$48,991,164 has been deposited into the tobacco prevention and control trust fund.

<sup>2</sup>Tobacco prevention and control trust fund revenues have been estimated based on the average of actual revenues received into the tobacco prevention and control trust fund in fiscal years 2011 and 2012.

<sup>3</sup>Initiated measure No. 3 approved in the November 2008 general election provides if in any biennium the tobacco prevention and control trust fund does not have adequate funding for the comprehensive plan, money may be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the executive committee to adequately provide for the comprehensive plan. The Legislative Assembly in Section 39 of 2009 House Bill No. 1015 provided any money deposited in the water development trust fund under North Dakota Century Code Section 54-27-25 may only be spent pursuant to legislative appropriations.

The measure will result in the following estimated allocation of the revised estimated collections of the tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	62.8 million	22.6 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million



Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$548.7 million	\$110.4 million	\$197.2 million	\$197.2 million	\$43.9 million

<sup>4</sup>The Legislative Assembly in 2011 appropriated \$12,922,614 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee for the purpose of providing a level of funding that will meet the annual level recommended by the Centers for Disease Control and Prevention for North Dakota as published in its *Best Practices for Comprehensive Tobacco Control* for the 2011-13 biennium. The 2013-15 executive budget recommendation provides \$13,016,197 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee. The Senate increased the appropriation to the Tobacco Prevention and Control Executive Committee included in the executive budget recommendation by \$6,416,078 to provide funding at the Centers for Disease Control and Prevention-recommended level, as adjusted for inflation and estimated population increases.

### FUND HISTORY

The tobacco prevention and control trust fund was created as a result of voter approval of initiated measure No. 3 in the November 2008 general election. The measure added seven new sections to the North Dakota Century Code and amended Section 54-27-25 to establish the Tobacco Prevention and Control Advisory Committee and an executive committee, develop and fund a comprehensive statewide tobacco prevention and control plan, and create a tobacco prevention and control trust fund to receive tobacco settlement dollars to be administered by the executive committee. The measure provides for the advisory committee, appointed by the Governor, to develop the initial comprehensive plan and select an executive committee responsible for the implementation and administration of the comprehensive plan. The initiated measure became effective 30 days after the election (December 4, 2008).

Tobacco settlement payments received by the state under the Master Settlement Agreement are derived from two subsections of the Master Settlement Agreement. Subsection IX(c)(1) of the Master Settlement Agreement provides payments on April 15, 2000, and on April 15 of each year thereafter in perpetuity, while subsection IX(c)(2) of the Master Settlement Agreement provides for additional strategic contribution payments that began on April 15, 2008, and continue each April 15 thereafter through 2017. Section 54-27-25, created by 1999 House Bill No. 1475, did not distinguish between payments received under the separate subsections of the Master Settlement Agreement and provided for the deposit of all tobacco settlement money received by the state into the tobacco settlement trust fund. Money in the fund, including interest, is transferred within 30 days of deposit in the fund as follows:

- 10 percent to the community health trust fund.
- 45 percent to the common schools trust fund.
- 45 percent to the water development trust fund.

The measure provides for a portion of tobacco settlement dollars received by the state to be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement will continue to be deposited in the tobacco settlement trust fund and allocated 10 percent to the community health trust fund (with 80 percent used for tobacco prevention and control), 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement will be deposited into the tobacco prevention and control trust fund. Interest earned on the balance in this fund will be deposited in the fund. The fund will be administered by the executive committee created by the measure for the purpose of creating and implementing the comprehensive plan.

The measure also provides if in any biennium the tobacco prevention and control trust fund does not have adequate funding for the comprehensive plan, money may be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the executive committee to adequately provide for the comprehensive plan. The Legislative Assembly in Section 39 of 2009 House Bill No. 1015 provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation.

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the Master Settlement Agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. In 2009 tobacco settlement payments began to be deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25 as amended by the measure.

## ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
		\$0		\$0
Beginning balance		\$0		\$0
Add estimated revenues				
Tobacco settlement revenues collected to date	\$20,127,216 <sup>1</sup>		\$0	
Projected tobacco settlement revenues	20,000,000		40,000,000	
Total estimated revenues		40,127,216 <sup>2</sup>		40,000,000 <sup>2</sup>
Total available		\$40,127,216 <sup>3,4</sup>		\$40,000,000 <sup>3,4</sup>
Less estimated expenditures and transfers				
Transfers to the community health trust fund	\$4,012,722		\$4,000,000	
Transfers to the common schools trust fund	18,057,247		18,000,000	
Transfers to the water development trust fund	18,057,247		18,000,000	
Total estimated expenditures and transfers		40,127,216		40,000,000
Estimated ending balance		\$0		\$0

<sup>1</sup>As of November 2012, the state has received tobacco settlement payments totaling \$31,519,737 for the 2011-13 biennium, of which \$20,127,216 was deposited in the tobacco settlement trust fund and \$11,392,521 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of \$367,842,018, including \$305,053,125 under subsection IX(c)(1) of the Master Settlement Agreement and \$62,788,893 under subsection IX(c)(2) of the Master Settlement Agreement. Of the \$367,842,018, \$318,850,854 has been deposited into the tobacco settlement trust fund and \$48,991,164 has been deposited into the tobacco prevention and control trust fund.

<sup>2</sup>Revenues - House Bill No. 1475 (1999) (North Dakota Century Code Section 54-27-25) provides interest on the money in the tobacco settlement trust fund must be retained in the fund, and the principal and interest must be allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. The interest earned on the money in the tobacco settlement trust fund will increase the amount available for transfers to the other funds. However, because of uncertainty regarding the timing of the receipt of the tobacco settlement proceeds, interest earned on the balance of the tobacco settlement trust fund has not been included in this analysis. Tobacco settlement revenues collected to date have been transferred immediately to the proper trust funds; therefore, no interest has been earned by the tobacco settlement trust fund to date.

In the November 2008 general election, voters approved initiated measure No. 3 that amends Section 54-27-25 to provide a portion of tobacco settlement funds received by the state be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continue in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, which began in 2008 and continues through 2017, was deposited beginning in 2009 in the tobacco prevention and control trust fund. The amount received under subsection IX(c)(2) of the Master Settlement Agreement for 2008 was \$13,797,729, which, because it was received prior to passage of the measure, was allocated pursuant to Section 54-27-25 prior to amendment. Remaining tobacco settlement trust fund revenues have been estimated based on the average of actual revenues received into the tobacco settlement trust fund in fiscal years 2011 and 2012 and do not include anticipated strategic contribution payments, which are deposited in the tobacco prevention and control trust fund.

<sup>3</sup>In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending that the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect the

full payment. The total original estimated tobacco settlement collections, including payments to be received under both subsection IX(c)(1) and subsection IX(c)(2) of the Master Settlement Agreement, and the total actual and estimated collections as revised by the Office of Management and Budget are:

Biennium	1999 Original Estimated Collections	Actual and Office of Management and Budget Revised Estimated Collections
1999-2001	\$57,593,770	\$52,900,784
2001-03	61,143,578	53,636,363
2003-05	51,271,214	46,310,010
2005-07	51,271,214	43,828,118
2007-09	82,231,080	75,633,409
2009-11	82,231,080	64,013,596
2011-13	82,231,080	62,809,118
2013-15	82,231,080	62,578,760
2015-17	82,231,080	73,687,266
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
Total	\$866,801,136	\$745,412,752

<sup>4</sup>Initiated measure No. 3, approved by voters in the November 2008 general election, will result in the following estimated allocation of the revised estimated collections of the tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	62.8 million	22.6 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$548.7 million	\$110.4 million	\$197.2 million	\$197.2 million	\$43.9 million

### FUND HISTORY

Section 54-27-25, created by 1999 House Bill No. 1475, established a tobacco settlement trust fund for the deposit of all tobacco settlement money obtained by the state. Money in the fund, including interest, must be transferred within 30 days of its deposit in the fund:

- 10 percent to the community health trust fund.
- 45 percent to the common schools trust fund.
- 45 percent to the water development trust fund.

In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in a new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, relating to strategic contribution payments, which began in 2008 and continue through 2017, began to be deposited in 2009 into the newly created tobacco prevention and control trust fund.

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the Master Settlement Agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. In 2009 tobacco settlement payments began to be deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25 as amended by the measure.

**ANALYSIS OF THE STATE TUITION FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS  
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2011-13 Biennium		2013-15 Biennium	
	Beginning balance		\$1,262,358 <sup>1</sup>	
Add estimated revenues				
Fines for violation of state laws	\$11,349,496 <sup>2</sup>		\$10,000,000 <sup>2</sup>	
Transfers from the common schools trust fund	92,514,000		130,326,000	
Total estimated revenues		103,863,496		140,326,000
Total available		\$105,125,854		\$142,937,854
Less estimated expenditures and transfers				
State aid to schools	\$102,514,000 <sup>3</sup>		\$140,326,000	
Total estimated expenditures and transfers		102,514,000 <sup>1</sup>		140,326,000 <sup>1</sup>
Estimated ending balance		\$2,611,854 <sup>1</sup>		\$2,611,854 <sup>1</sup>

<sup>1</sup>Beginning/ending balance - North Dakota Century Code Section 15.1-28-03 provides for the distribution of money in the state tuition fund in August, September, October, November, December, January, February, March, and April of each fiscal year. Fine proceeds deposited in the tuition fund during May and June of each fiscal year are carried forward for distribution in August of the subsequent year.

<sup>2</sup>Fines for violation of state laws - Fine proceeds estimated to be deposited in the state tuition fund during the 2011-13 biennium are based on actual fines deposited into the fund through February 2013 and estimated fine proceeds for the remainder of the 2011-13 biennium. Fine proceeds estimated to be deposited in the state tuition fund during the 2013-15 biennium are based on the February 2013 legislative revenue forecast. The amount of state tuition fund distributions from fine proceeds is shown below.

<sup>3</sup>The Legislative Assembly in 2011 provided \$101,638,000 from the state tuition fund for state school aid payments during the 2011-13 biennium. In addition, Section 7 of 2011 Senate Bill No. 2013 provides that any money available in the state tuition fund in excess of the \$101,638,000 is appropriated to the Department of Public Instruction for distribution to school districts. The department anticipates distributing additional funds available for state school aid during the 2011-13 biennium.

Fiscal Year	Revenue From Fines	Percentage Increase (Decrease) From Previous Year
1998	\$3,384,890 (actual)	
1999	\$3,818,890 (actual)	12.8%
2000	\$4,866,644 (actual)	27.4%
2001	\$4,241,256 (actual)	(12.9%)
2002	\$4,778,756 (actual)	12.7%
2003	\$4,607,423 (actual)	(3.6%)
2004	\$4,721,407 (actual)	2.5%
2005	\$4,507,137 (actual)	(4.5%)
2006	\$4,506,316 (actual)	(0.01%)
2007	\$4,590,395 (actual)	1.9%
2008	\$4,692,048 (actual)	2.2%
2009	\$4,452,118 (actual)	(5.1%)
2010	\$4,593,325 (actual)	3.2%
2011	\$4,963,691 (actual)	8.1%

<b>Fiscal Year</b>	<b>Revenue From Fines</b>	<b>Percentage Increase (Decrease) From Previous Year</b>
2012	\$5,769,861 (actual)	16.2%
2013	\$5,579,635 (estimate)	(3.3%)
2014	\$5,000,000 (estimate)	(10.4%)
2015	\$5,000,000 (estimate)	0.0%

#### **FUND HISTORY**

The state tuition fund originated in 1889 with enactment of the Constitution of North Dakota. The original constitutional provisions have not changed significantly since enactment and are currently contained in Article IX, Section 2, of the Constitution of North Dakota, which provides that payments to the common schools trust fund of the state include:

- Interest and income from the common schools trust fund.
- All fines for violation of state laws.
- All other amounts provided by law.

Section 15.1-28-01 provides that the state tuition fund consists of the net proceeds from all fines for violation of state laws and leasing of school lands (included in transfers from the common schools trust fund) and the interest income from the state common schools trust fund. Section 15.1-28-03 directs the Office of Management and Budget, on or before the third Monday in January, February, March, April, August, September, October, November, and December of each year, to certify to the Superintendent of Public Instruction the amount of the state tuition fund. Prior to the 2007-09 biennium, the Superintendent apportioned the money in the state tuition fund among the school districts in the state based on the number of school-age children in the district. The Legislative Assembly in 2007 Senate Bill No. 2200 consolidated funding for the state school aid program, including per student payments, teacher compensation payments, special education average daily membership payments, revenue supplemental payments, and tuition apportionment payments, into a new state school aid funding formula with a new distribution methodology; therefore, beginning with the 2007-09 biennium, the Superintendent includes the money in the state tuition fund in state school aid payments to school districts as determined by Chapter 15.1-27.

## ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
Beginning balance		\$4,322,656 <sup>1</sup>		\$4,564,189
Add estimated revenues and other funds available for benefits				
Principal deposit pursuant to 2013 House Bill No. 1439			\$250,000	
Investment income	\$275,000 <sup>2</sup>		275,000 <sup>2</sup>	
Total estimated revenues and other funds		275,000		525,000
Total available		\$4,597,656		\$5,089,189
Less estimated expenditures and transfers				
Grants and related expenditures				
Administrative committee travel				
Veterans' Home equipment				
Vehicles - Vans				
Veterans' transportation programs				
Other veterans' programs				
Appeals Committee				
Stand Down (outreach to homeless veterans)				
Estimated income available for programs that benefit veterans		0 <sup>3</sup>	\$224,000 <sup>4</sup>	
Total estimated expenditures and transfers		33,467 <sup>3</sup>		224,000 <sup>4</sup>
Estimated ending balance		\$4,564,189		\$4,865,189

<sup>1</sup>The State Treasurer provided transfers totaling \$200,000 to the Administrative Committee on Veterans' Affairs for programs that benefit veterans or their dependents during the 2009-11 biennium. In addition, revenue from the sale of vans (\$8,000) and funding available from the 2007-09 biennium (\$8,292) was also available for programs during the 2009-11 biennium for a total of \$216,292, of which \$64,500 remained unspent as of June 30, 2011. This unexpended funding is available for benefits during the 2011-13 biennium and included in the beginning balance.

<sup>2</sup>The State Treasurer has not provided investment income estimates for the 2011-13 or 2013-15 bienniums. Investment income for the 2011-13 biennium and the 2013-15 biennium is estimated based on the average monthly change in the fund value through November 2012.

<sup>3</sup>Prior to July 2011, North Dakota Century Code Section 37-14-14 appropriated, on a continuing basis, all income of the veterans' postwar trust fund to the Administrative Committee on Veterans' Affairs for programs that benefit veterans or their dependents. The Legislative Assembly in 2011 House Bill No. 1468 amended Section 37-14-14 to provide that all income earned in a biennium is appropriated to the Administrative Committee on Veterans' Affairs on a continuing basis in the following biennium, and not in the biennium in which it is earned, for authorized programs. Therefore, the investment income earned by the fund during the 2011-13 biennium will not be available for programs until the 2013-15 biennium. The Legislative Assembly in 2011 House Bill No. 1468 also provided \$210,000 from the general fund to the Department of Veterans' Affairs to be used in lieu of income generated from the veterans' postwar trust fund for the programs that benefit veterans or their dependents during the 2011-13 biennium and \$50,000 from the general fund to the Department of Veterans' Affairs for the purchase of vans to transport veterans or their dependents. In addition, the Legislative Assembly in 2011 House Bill No. 1177 provided \$20,000 from the general fund for "stand down" events to coordinate benefits and provide services to needy veterans in the state. In addition to the \$210,000 provided from the general fund to be used in lieu of income generated from the veterans' postwar trust fund for programs, the Department of Veterans' Affairs has available \$64,500 of veterans' postwar trust fund income remaining from the 2009-11 biennium for a total of \$274,500 available for programs authorized by law to benefit and serve veterans or their dependents during the 2011-13 biennium.

Through February 15, 2013, the Department of Veterans' Affairs has spent \$168,246 of the \$210,000 provided from the general fund for benefits during the 2011-13 biennium, including \$157,251 for grants; \$29,000 of the \$50,000 provided from the general fund for vans; and \$5,000 of the \$20,000 provided from the general fund for "stand down" events. In addition, the Department of Veterans' Affairs has spent \$33,467 of the \$64,500 of veterans' postwar trust fund income remaining from the 2009-11 biennium for equipment and computers at the Veterans' Home.

<sup>4</sup>Pursuant to provisions of 2011 House Bill No. 1468, investment income earned during the 2011-13 biennium is not available for program expenditures until the 2013-15 biennium and the investment income earned during the 2013-15 biennium will be available during the 2015-17 biennium. The amount shown for income available for benefits does not include investment changes in market value. The amount is based on income earned through November 2012 and estimated through the remainder of the biennium based on average monthly income.

**NOTE:** Since the 1993-95 biennium, the **principal balance of the fund has been identified as \$4,101,849.** The fund balance of the veterans' postwar trust fund as of December 31, 2012, was \$4,451,348.

### **FUND HISTORY** **Established**

The fund was created by Section 6 of 1981 Senate Bill No. 2271:

**SECTION 6. TRANSFER OF VIETNAM BONUS FUNDS TO VETERANS' POSTWAR TRUST FUND.** All unobligated moneys in the Vietnam veterans' adjusted compensation funds in the state treasury after July 1, 1981, shall be transferred by the state treasurer to the veterans' postwar trust fund. Any obligations of such funds as a result of any amendment of section 37-25-10 by the forty-seventh legislative assembly shall be paid out of the veterans' postwar trust fund and the moneys necessary to meet those obligations are hereby appropriated.

#### **1988 Initiated Measure No. 4**

Initiated measure No. 4, approved by the voters in the November 1988 general election, provided the following:

- Established the veterans' postwar trust fund as a permanent fund.
- Required the State Treasurer to transfer \$740,000 per year for five years commencing July 1, 1989, from the state general fund or other sources as appropriated by the Legislative Assembly to the veterans' postwar trust fund to total \$3.7 million.
- Appropriated the income from the veterans' postwar trust fund on a continuing basis to the Administrative Committee on Veterans' Affairs to be spent for veterans' programs as authorized by law.
- Required the State Treasurer to invest the fund in legal investments as provided by Section 21-10-07.

The principal balance in the fund on December 8, 1988, was \$401,849.

Senate Bill No. 2009 (1989) transferred \$1,480,000, \$740,000 on July 1, 1989, and \$740,000 on July 1, 1990, from the state general fund to the veterans' postwar trust fund. The bill also appropriated up to \$274,000 of investment income earned on the veterans' postwar trust fund balance to the Veterans' Home for its operating costs. Because of net budget reductions during the 1989-91 biennium, the transfer from the general fund to the veterans' postwar trust fund for the second year of the 1989-91 biennium was reduced by \$95,005, from \$740,000 to \$644,995.

Senate Bill No. 2001 (1991) transferred \$1,575,005 from the general fund to the veterans' postwar trust fund during the 1991-93 biennium. This amount restored the \$95,005 which was not transferred during the 1989-91 biennium because of net budget reductions. Because of budget allotments ordered by the Governor during the 1991-93 biennium, the transfer from the general fund to the veterans' postwar trust fund for the second year of the 1991-93 biennium was reduced by \$5,670, from \$740,000 to \$734,330.

House Bill No. 1001 (1993) transferred \$745,670 from the general fund to the veterans' postwar trust fund during the 1993-95 biennium. This was the final transfer required by the initiated measure and included \$5,670 to restore the reduction made during the 1991-93 biennium because of budget reductions.

#### **1996 Initiated Constitutional Measure No. 4**

Initiated constitutional measure No. 4, approved by the voters in the November 1996 general election, created the following new section to Article X of the Constitution of North Dakota:

The veterans' postwar trust fund shall be a permanent trust fund of the state of North Dakota and shall consist of moneys transferred or credited to the fund as authorized by legislative enactment. Investment of the fund shall be the responsibility of the state treasurer who shall have full authority to invest



the fund only in the same manner as the state investment board is authorized to make investments. All income received from investments is to be utilized for programs which must be of benefit and service to veterans, who are defined by legislative enactment, or their dependents, and such income is hereby appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon those programs selected at the discretion of the administrative committee on veterans' affairs.

**2011 House Bill No. 1468**

The Legislative Assembly in House Bill No. 1468 amended Section 37-14-14 to provide that all income earned in a biennium is appropriated to the Administrative Committee on Veterans' Affairs on a continuing basis in the following biennium, and not in the biennium in which it is earned, for authorized programs.

## ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2011-13 Biennium		2013-15 Biennium	
	Beginning balance		\$25,209,356	
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	\$9,057,247 <sup>1</sup>		\$0	
Projected remaining transfers from tobacco settlement trust fund	9,000,000 <sup>2</sup>		18,000,000 <sup>2</sup>	
Total estimated revenues		18,057,247 <sup>3</sup>		18,000,000 <sup>3</sup>
Total available		\$43,266,603		\$44,326,869
Less estimated expenditures and transfers				
State Water Commission (2011 SB 2020; 2013 HB 1020)				
Water projects	\$0 <sup>4</sup>		\$27,368,500 <sup>5</sup>	
Bond payments	16,939,734 <sup>4</sup>		16,881,500 <sup>5</sup>	
Total estimated expenditures and transfers		16,939,734		44,250,000
Estimated ending balance		\$26,326,869		\$76,869

<sup>1</sup>As of November 2012, \$9,057,247 has been transferred from the tobacco settlement trust fund for the 2011-13 biennium. Total transfers of \$143,482,884 have been made from the tobacco settlement trust fund to the water development trust fund.

<sup>2</sup>Revenues - Interest earned on the water development trust fund is deposited in the state general fund. Water development trust fund revenues have been estimated based on the average of actual revenues received into the water development trust fund in fiscal years 2011 and 2012.

<sup>3</sup>Initiated measure No. 3 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	62.8 million	22.6 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
<b>Total</b>	<b>\$548.7 million</b>	<b>\$110.4 million</b>	<b>\$197.2 million</b>	<b>\$197.2 million</b>	<b>\$43.9 million</b>

In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending that the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect full payment.

<sup>4</sup>The Legislative Assembly in 2011 provided a total of \$37,189,734, or any additional funding that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium. However, the expenditure of any funds in excess of the funding appropriated in the water and atmospheric resources line item in Section 1 of Senate Bill No. 2020 requires Budget Section approval. Bond payments for the 2011-13 biennium are estimated to total \$16,939,734. The remaining balance is available for State Water Commission projects; however, the State Water Commission does not anticipate expenditures for water projects from the water development trust fund during the 2011-13 biennium.

<sup>5</sup>Sections 1 and 4 of 2013 House Bill No. 1020 appropriate \$44,250,000, or any additional funding that becomes available subject to Budget Section approval, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium, including bond payments. Bond payments for the 2013-15 biennium are estimated to total \$16,881,500. The remainder of the funds appropriated totaling \$27.4 million is available for water projects. However, if funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds \$515 million, Section 11 of House Bill No. 1020 provides legislative intent that, of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the State Water Commission for the purpose of paying off or defeasing the commission's outstanding bond issues. Funding from the water development trust fund provided for bond payments (\$16.9 million) and contingent funding from the resources trust fund (\$60 million) totaling \$76.9 million would be available to defease State Water Commission outstanding bond issues of \$75,250,000 and pay related fees.

### **FUND HISTORY**

North Dakota Century Code Section 54-27-25, created by 1999 House Bill No. 1475, establishes 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 its deposit in the fund:

- 10 percent to the community health trust fund.
- 45 percent to the common schools trust fund.
- 45 percent to the water development trust fund.

In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in this new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continue in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement relating to strategic contribution payments, which began in 2008 and continue through 2017, will beginning in 2009 be deposited into the newly created tobacco prevention and control trust fund. The measure also provides that if in any biennium the tobacco prevention and control trust fund does not have adequate funding for the comprehensive plan, money may be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the Tobacco Prevention and Control Executive Committee to adequately provide for the comprehensive plan. The Legislative Assembly in Section 39 of 2009 House Bill No. 1015 provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation.

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. In 2009 tobacco settlement payments began to be deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25 as amended by the measure.

Section 61-02.1-04, created by 1999 Senate Bill No. 2188, provides 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.