ANALYSIS OF STATE TRUST FUNDS REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION

Prepared by the Legislative Council staff

62nd Legislative Assembly **January 2011**

INDEX

Description	Page No.
Bonding Fund	1
Budget Stabilization Fund	2
Capitol Building Fund	3
Centers of Excellence Fund	4
Coal Development Trust Fund	6
Common Schools Trust Fund	7
Community Health Trust Fund	10
Electronic Health Information Exchange Fund	15
Environment and Rangeland Protection Fund	17
Fire and Tornado Fund	19
Foundation Aid Stabilization Fund	20
Health Care Trust Fund	21
Health Information Technology Loan Fund	22
Health Information Technology Planning Loan Fund	23
Lands and Minerals Trust Fund	25
Legacy Fund	27
Lignite Research Fund	28
Permanent Oil Tax Trust Fund	30
Property Tax Relief Sustainability Fund	31
Resources Trust Fund	32
Risk Management Fund	34
Senior Citizen Services and Programs Fund	35
State Aid Distribution Fund	37
State Disaster Relief Fund	39
Student Loan Trust Fund	41
Tobacco Prevention and Control Trust Fund	43
Tobacco Settlement Trust Fund	45
Tuition Fund	48
Veterans' Postwar Trust Fund	50
Water Development Trust Fund	52

ANALYSIS OF THE BONDING FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS
(REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$2,515,053		$2,673,536
Add revenues				
Investment income	$300,000		$400,000	
State bonding fund claims collections	50,000		57,000	
Total revenues		350,000		457,000
Total available		$2,865,053		$3,130,536
Less expenditures and transfers				
Insurance Department administration (2007 SB 2010; 2009 HB 1010)	$41,518		$35,114	
Investment management expense	10,000		10,000	
State bonding fund claim losses - Net of subrogated and dismissed claims	125,000		125,000	
Claims-related expenditures	15,000		20,000	
Total expenditures and transfers		191,518		190,114
Ending balance		$2,673,535		$2,940,422

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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$324,936,548		$329,556,954
Add estimated revenues				
Transfer from general fund	$4,620,406[1]		$0	
Investment income	0[2]		0[2]	
Total estimated revenues		4,620,406		0
Total available		$329,556,954		$329,556,954
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0[3]		0[3]
Estimated ending balance		$329,556,954		$329,556,954

[1]North Dakota Century Code Chapter 54-27.2 provides that any amount in the general fund at the end of a biennium in excess of $65 million must be transferred to the budget stabilization fund except that, beginning July 1, 2009, the balance in the budget stabilization fund may not exceed 10 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the executive budget estimate of a June 30, 2011, general fund balance of $84,247,950 and the executive recommendation providing total 2011-13 biennium general fund appropriations of $3,295,569,541; therefore, the maximum balance in the fund is limited to $329,556,954.

[2]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.

[3]No transfers from the budget stabilization fund are anticipated.

FUND HISTORY

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

- Section 54-27.2-01 establishes the budget stabilization fund and provides that any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section currently provides that any money in the fund in excess of 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 2007 Legislative Assembly approved House Bill No. 1429 which increased, effective July 1, 2009, the maximum balance allowed in the fund from 5 percent to 10 percent of the general fund budget approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 provides that any amount in the state general fund at the end of a biennium in excess of $65 million must be transferred to the budget stabilization fund.
- Section 54-27.2-03 provides that the Governor may order a transfer from the budget stabilization fund to the general fund if the director of the Office of Management and Budget projects that general fund revenues for the biennium will be at least 2.5 percent less than estimated by the most recently adjourned Legislative Assembly. The amount transferred is limited to the difference between an amount 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by the Office of Management and Budget. Any transfer made must be reported to the Budget Section.

ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS[1] (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$1,333,302		$3,232,530
Add revenues				
Investment income	$52,027		$37,437	
Rentals, royalties, and bonuses	2,022,845		727,665	
Total revenues		2,074,872		765,102
Total available		$3,408,174		$3,997,632
Less expenditures and transfers				
Administrative expenses	$45,441		$54,984	
Income payments to counties	5,203[2]		6,295[2]	
Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 49-10-02[3])	100,000		100,000	
Capitol Grounds Planning Commission operating expenses (2009 HB 1015; 2011 SB 2015)	25,000		25,000	
Office of Management and Budget Capitol building projects (2011 SB 2015)			3,000,000[4]	
Total expenditures and transfers		175,644		3,186,279
Ending balance		$3,232,530		$811,353

[1]The analysis reflects the legislative appropriations for the 2009-11 and 2011-13 bienniums and does not include the land owned by the fund.

[2]The 1999 Legislative Assembly 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.

[3]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.

[4]Funding of $3 million from the Capitol building fund is included in the 2011-13 executive budget recommendation for the following projects:

- Exterior signage for the Capitol grounds ($400,000).
- Legislative wing brass and wood restoration ($1,000,000).
- Capitol Café and hallway remodel ($700,000).
- Capitol building south entrance remodeling ($900,000).

ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$15,079,298
Add revenues				
Transfer from the general fund	$15,000,000[1,2]		$15,000,000[1]	
Contingent transfer from the general fund	5,000,000[3]			
Unexpended 2009-11 appropriation relating to the Great Plains Applied Energy Research Center			5,000,000[4]	
Transfer from the general fund	4,450,000[5]			
Transfer from the permanent oil tax trust fund	6,620,541[6]			
Investment income	69,848		69,848	
Total revenues		31,140,389		20,069,848
Total available		$31,140,389		$35,149,146
Less expenditures and transfers				
Legal fees - Attorney General's office	$2,240[7]		$2,240[7]	
Centers of excellence grants funding distributions	16,000,851		25,622,141	
Economic impact studies	33,000[7]		33,000[7]	
Centers of Excellence Summit	15,000[7,8]		15,000[7,8]	
Other administrative expenses	10,000[7]		10,000[7]	
Total expenditures and transfers		16,061,091		25,682,381
Estimated ending balance		$15,079,298[9]		$9,466,765[9]

[1]The 2009 Legislative Assembly appropriated $15 million from the general fund for transfer to the centers of excellence fund for providing funding to centers of excellence for the 2009-11 biennium. The executive budget provides for a transfer of $15 million from the general fund to the centers of excellence fund for the 2011-13 biennium.

[2]Of the money appropriated by the 2009 Legislative Assembly for centers of excellence, Section 23 of 2009 Senate Bill No. 2018 requires $10 million be made available for centers of excellence enhancement grants during the biennium beginning July 1, 2009, and ending June 30, 2011. Through October 2010, the Centers of Excellence Commission has awarded $8.65 million of the $10 million appropriated for centers of excellence enhancement grants to the following projects:

University of North Dakota	
Center of Excellence for Unmanned Aircraft Systems Research, Education, and Training	$2,754,000
Grand Forks Air Force Base realignment business transition	200,000
North Dakota Unmanned Aircraft Systems Airspace Initiative	100,000
Unmanned aircraft systems software and curriculum development	600,000
North Dakota State University	
Research 1 expansion	4,000,000
Materials and Nanotechnology Center	1,000,000
Total	$8,654,000

The remaining balance available for centers of excellence enhancement grants during the 2009-11 biennium is expected to be fully awarded by the end of the biennium.

[3]The Legislative Assembly provided a contingent general fund appropriation of $5 million for transfer to the centers of excellence fund for providing additional centers of excellence funding for the 2009-11 biennium. The Office of Management and Budget was authorized to transfer this funding only if actual general fund revenues for the period July 1, 2009, through December 1, 2009, exceed estimated general fund revenues for that period by at least $5 million, as determined by the Office of Management and Budget, based on the legislative estimates made at the close of the 2009 legislative session. The conditions were met and the transfer was made.

[4]The 2011-13 executive budget provides for the continuation of the 2009-11 biennium $5 million general fund appropriation provided to the Department of Commerce for a grant to the Great Plains Applied Energy Research Center to the 2011-13 biennium. Any unexpended funds are to be transferred to the centers of excellence fund for centers of entrepreneurship excellence grants.

[5]The 2009 Legislative Assembly in House Bill No. 1015 provided $4.45 million from the general fund for transfer to the centers of excellence fund for 2007-09 centers of excellence awarded but not distributed project funding.

[6]The 2009 Legislative Assembly in Section 27 of Senate Bill No. 2018 authorized the Department of Commerce to continue any unspent funds appropriated for the centers of excellence program for the 2007-09 biennium to the 2009-11 biennium. The Office of Management and Budget was to transfer any unexpended funds from these appropriations to the centers of excellence fund at the end of the 2007-09 biennium. Pursuant to this directive, the Office of Management and Budget transferred $6,620,541--the amount remaining from the $15 million appropriation for the 2007-09 biennium--from the permanent oil tax trust fund to the centers of excellence fund.

[7]North Dakota Century Code Section 15-69-05(6) limits funds used for administrative expenses to 2.5 percent of the funds appropriated for the program for that biennium. The 2009 Legislative Assembly appropriated a total of $20 million for the program for the 2009-11 biennium which limited administrative expenses to $500,000 for the 2009-11 biennium. The 2011-13 executive budget appropriates a total of $15 million for the program for the 2011-13 biennium which limits administrative expenses to $375,000 for the 2011-13 biennium.

[8]The Centers of Excellence Summit was a forum held in Fargo on May 27, 2010. Section 15-69-05(6) authorizes the commission to spend a portion of its administrative costs for centers of excellence forums.

[9]The 2009-11 biennium estimated ending balance includes $14,794,298 that is expected to be obligated for centers of excellence proposals approved in the 2009-11 biennium and previous bienniums. From the 2009-11 appropriation, $285,000 is anticipated to be unawarded for centers of excellence grants. The entire 2011-13 estimated ending balance is expected to be obligated for centers of excellence proposals approved in the 2011-13 biennium and 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.

ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$155,172		$5,746
Add revenues				
Investment income	$1,075,097		$496,350	
School construction loan income	1,428,847		1,544,400	
Total revenues		2,503,944		2,040,750
Total available		$2,659,116		$2,046,496
Less expenditures and transfers				
Investment expense	$82,554		$71,964	
Administrative expenses	15,644		18,929	
Transfer to the general fund	2,555,172		1,950,000	
Total expenditures and transfers		2,653,370[1]		2,040,893[1]
Ending balance		$5,746		$5,603

[1]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 November 30, 2010, the total value of permanent fund assets was $62.9 million, of which $29.1 million was school construction loans receivable, $4.6 million was coal impact loans receivable, and $29.2 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) remain 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

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

The following is a summary of assets, distributions, and investment returns for the common schools trust fund for the 1997-99 through 2009-11 bienniums:

Biennium	Fiscal Year	Beginning Assets (Excluding Land and Minerals Values)	Distributions[1]	Interest, Dividends, and Surface and Mineral Rental Income (Less 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	$37,894,140	14.48%
	2011	$1,221,501,801[2]	$38,589,000	$44,000,000 (estimate)	12.00% (estimate)

[1]The executive recommendation for state school aid for the 2011-13 biennium includes distributions from the common schools trust fund totaling $92,514,000.

[2]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.

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 (1993 Senate Concurrent Resolution No. 4011). 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 1999 Legislative Assembly, 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, $125,544,392 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	$19,679,606 (estimate)
2011-13	$20,624,034 (estimate)
2013-17 ($20,741,314 per biennium)	$41,482,628 (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 (2005 House Concurrent Resolution No. 3037). 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, appraisement, 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$1,299,379		$0
Add estimated revenues and general fund transfers				
Transfers to date from the tobacco settlement trust fund	$2,081,687[1]		$0	
Projected remaining transfers from the tobacco settlement trust fund	2,291,559		4,583,118	
Contingent general fund transfer	671,987[2]			
Total estimated revenues		5,045,233[3]		4,583,118[3]
Total available		$6,344,612		$4,583,118
Less estimated expenditures and transfers				
State Department of Health (2009 SB 2004; 2009 SB 2227; 2011 HB 1004)				
Tobacco prevention and control	$2,302,098[4,5]		$3,510,496[4,5]	
Dentists' loan program	448,448[6]		260,000[6]	
Tobacco Quitline	1,069,000[5,7]			
Tobacco cessation coordinator and operating expenses	139,397[5,8]			
Physician and medical loan repayment program	127,500[9]		75,000[9]	
Veterinarian loan repayment program	245,776[10]		310,000[10]	
Women's Way program	304,332[11]			
Stroke registry and prevention program	472,700[12]		222,624[12]	
Colorectal cancer screening initiative, including carryover authority pursuant to Section 9 of 2009 SB 2004	338,233[13]			
Emergency medical services grants	300,000[14]			
Dental grant program	10,000[15]		10,000[15]	
Department of Human Services				
Breast and cervical cancer assistance (2009 HB 1012)	587,128[16]			
Total estimated expenditures and transfers		6,344,612		4,388,120
Estimated ending balance		$0		$194,998

[1]As of November 2010, two transfers totaling $2,081,687 have been made from the tobacco settlement trust fund for the 2009-11 biennium. Total transfers of $27,898,754 have been made from the tobacco settlement trust fund to the community health trust fund.

[2]Contingent general fund transfer - Section 4 of 2009 Senate Bill No. 2004 provides for a general fund transfer of up to $2,405,371 to the community health trust fund if money in the community health trust fund is not sufficient to provide for legislative appropriations for the biennium beginning July 1, 2009, and ending June 30, 2011. Due to anticipated expenditures being lower than appropriated and the 2009-11 biennium beginning balance being more than projected, the department anticipates general fund transfers necessary to meet anticipated expenditures will total $671,987.

[3]Revenues - Interest earned on the community health trust fund is deposited in the state general fund.

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.

Initiated measure No. 3 will result 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
Estimated 2009-11 biennium	68.3 million	24.5 million	19.7 million	19.7 million	4.4 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 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	$571.6 million	$118.3 million	$204.0 million	$204.0 million	$45.3 million

[4]Section 54-27-25 provides that 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 2009 Legislative Assembly appropriated $2.3 million to the State Department of Health for tobacco prevention and control programs. The 2011-13 executive budget recommendation provides $3,510,496 from the community health trust fund to the State Department of Health for tobacco prevention and control programs.

[5]Initiated measure No. 3 provides that at least 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 the estimated 2009-11 biennium transfers to the community health trust fund from the tobacco settlement trust fund of $4,373,246, a minimum of $3,498,597 (80 percent) is to be provided for tobacco prevention and control. Using the anticipated expenditures of $2,302,098 for tobacco prevention and control, $1,069,000 for the Tobacco Quitline, and $139,397 for the tobacco cessation coordinator and operating expenses, the anticipated expenditures for the 2009-11 biennium total $3,510,495, or 80.3 percent of the transfers to the community health trust fund from the tobacco settlement trust fund. Based on the estimated 2011-13 biennium transfers to the community health trust fund from the tobacco settlement trust fund of $4,583,118, a minimum of $3,666,494 (80 percent) is to be provided for tobacco prevention and control. The 2011-13 executive budget recommends appropriations of $3,510,496 for tobacco prevention and control from the community health trust fund, or $155,998 less than required by the initiated measure.

[6]The dentists' loan repayment program, which is administered by the Health Council, was established in 2001 Senate Bill No. 2276 (North Dakota Century Code 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 that 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 2009 Legislative Assembly appropriated $483,448 from the community health trust fund for the dentists' loan repayment program. The 2011-13 executive budget recommends $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, $43,448 less than the 2009-11 biennium. Dentists accepted into the program per biennium include:

Biennium (Number of Dentists Accepted Into Program)	Communities Served
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
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

In addition, the 2009 Legislative Assembly provided in Senate Bill No. 2358 an appropriation of $180,000 from the general fund for a loan repayment program for dentists in public health and nonprofit dental clinics. The bill created a new section to Chapter 43-28.1 and provides that if funds are appropriated, the Health Council is to select up to three dentists who provide or will provide dental services for three years in a public health clinic or nonprofit dental clinic that uses a sliding fee schedule to bill patients for loan repayment grants. The grant award is $60,000 per recipient and is paid over a two-year period. The department has accepted three dentists--one each from Bismarck, Fargo, and Grand Forks--into the program during the 2009-11 biennium. The department anticipates the entire $180,000 general fund appropriation will be expended. The 2011-13 executive budget does not include funding for this loan repayment program for dentists in public health and nonprofit dental clinics.

[7]The 2003 Legislative Assembly authorized the establishment of a telephone "Tobacco Quitline." The 2007 Legislative Assembly increased the funding for the quitline to provide nicotine replacement therapy and cessation counseling. The 2009 Legislative Assembly appropriated $1,069,000 to fund the quitline for the 2009-11 biennium. The 2011-13 executive budget does not include direct funding for the quitline but includes $3,510,496 from the community health trust fund for tobacco prevention and control programs.

[8]The 2007 Legislative Assembly authorized one full-time equivalent tobacco prevention coordinator position and related funding for salaries and wages ($117,101) and operating expenses ($22,296) for the position. The 2009 Legislative Assembly appropriated $139,397 for the tobacco prevention coordinator position. The 2011-13 executive budget does not include direct funding for the tobacco prevention coordinator position but includes $3,510,496 from the community health trust fund for tobacco prevention and control programs.

[9]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 mid-level practitioners to receive up to $2,500 per year for up to four years for a total of $10,000. Communities must contribute an amount at least equal to the amount of the state contribution for the physicians and mid-level practitioners. The 2009 Legislative Assembly appropriated $75,000 from the general fund and $272,500 from the community health trust fund for the program, including $67,500 provided in Senate Bill No. 2227 which removes the limit on the number of recipients and increases 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 2011-13 executive budget recommends $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, $72,500 more than the 2009-11 biennium. Physicians and mid-level practitioners accepted into the program per biennium include:

Biennium (Number of Physicians Accepted Into Program)	Communities Served
2007-09 biennium (4)	Dickinson (2) Devils Lake Wishek
2009-11 biennium (6 to date)	Bottineau Dickinson (2) Jamestown Wahpeton Williston

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 to date)	Oakes (2)

[10]The 2009 Legislative Assembly appropriated $350,000 from the community health trust fund for the veterinarian loan repayment program. The 2011-13 executive budget recommends $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, $95,000 more than the 2009-11 biennium.

[11]The 2009 Legislative Assembly provided $404,332, of which $304,332 is from the community health trust fund and $100,000 is from the general fund, for the Women's Way program. The 2011-13 executive budget recommends $400,500 from the general fund for Women's Way program maintenance, $3,832 less than the 2009-11 biennium.

[12]The 2009 Legislative Assembly appropriated $472,700 from the community health trust fund for a stroke registry and prevention program. The 2011-13 executive budget recommends $473,324, of which $250,700 is from the general fund and $222,624 is from the community health trust fund, for a state stroke registry, $624 more than the 2009-11 biennium.

[13]The 2007 Legislative Assembly appropriated $150,000 from the community health trust fund and $50,000 from the general fund for a grant to the North Dakota Cancer Coalition to provide for a colorectal cancer screening initiative. The 2009 Legislative Assembly provided in Section 9 of Senate Bill No. 2004 that any unexpended funds from the 2007-09 appropriation may be expended during the 2009-11 biennium and appropriated an additional $300,000 from the community health trust fund for grants to continue the current program and to provide a colorectal cancer screening pilot initiative for low-income underinsured and uninsured men and women aged 50 to 64 living in counties with a population exceeding 15,000, including $34,225 for the department to contract for program management, data management, and outreach oversight. Unexpended funds from the 2007-09 biennium appropriation totaled $38,233, and the department anticipates spending these carryover funds in addition to the $300,000 appropriated for the 2009-11 biennium. The 2011-13 executive budget recommends $477,600 from the general fund for a colorectal cancer screening initiative.

[14]The 2009 Legislative Assembly appropriated $300,000 from the community health trust fund for emergency medical services training grants. The 2011-13 executive budget recommends $300,000 from the general fund for emergency medical services training grants.

[15]Senate Bill No. 2152 (2007) provides 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 2009 Legislative Assembly appropriated $10,000 from the community health trust fund for the dental grant program. To date in the 2009-11 biennium, the State Department of Health has provided funding to one dentist in Larimore and anticipates the entire $10,000 appropriation will be expended. The 2011-13 executive budget

recommends $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, $20,000 more than the 2009-11 biennium.

[16]The 2009 Legislative Assembly appropriated $790,015 to the Department of Human Services for providing the state matching funds for medical assistance coverage for women screened and found to have breast and cervical cancer. The department anticipates spending $587,128 of the funds appropriated for the 2009-11 biennium. The 2011-13 executive budget provides $790,015 from the general fund to the Department of Human Services for breast and cervical cancer assistance for the 2011-13 biennium.

FUND HISTORY

Section 54-27-25 created by House Bill No. 1475 (1999) 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:

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

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 continues through 2017, will be deposited beginning in 2009 into the newly created 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.

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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$5,600,000
Add estimated revenues				
Transfer from the Bank of North Dakota	$500,000[1]		$7,500,000[1]	
Grant from the Office of the National Coordinator for Health Information Technology	5,343,733[2]			
Funds from health care providers for participating in the health information exchange			5,596,266[3]	
Total estimated revenues		5,843,733		13,096,266
Total available		$5,843,733		$18,696,266
Less estimated expenditures and transfers				
Implementing a statewide health information technology and exchange network	$243,733		$18,696,266	
Total estimated expenditures and transfers		243,733		18,696,266
Estimated ending balance		$5,600,000		$0

[1]Section 8 of 2009 Senate Bill No. 2332 provides 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. The Health Information Technology Office director is to request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cashflow needs of the funds.

Section 6 of 2011 House Bill No. 1021 amends 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.

The Health Information Technology Office director requested a transfer of $500,000 from the Bank of North Dakota to the electronic health information exchange fund in December 2010. The director has not requested a transfer to the health information technology loan fund.

[2]In March 2010 the Information Technology Department was awarded a four-year grant totaling $5,343,733 from the Office of the National Coordinator for Health Information Technology for implementing a statewide health information technology and exchange network. Of the $5,343,733, $534,373 is for planning, $2,926,974 is for intrastate implementation, and $1,882,386 is for interstate implementation. Matching requirements for the grants are:

Year 1 (March 2010-September 2010)	$0 of state funds for each federal dollar
Year 2 (October 2010-September 2011)	$1 of state funds for each $10 of federal dollars
Year 3 (October 2011-September 2012)	$1 of state funds for each $7 of federal dollars
Year 4 (October 2011-September 2013)	$1 of state funds for each $3 of federal dollars

[3]The 2011-13 executive budget recommendation anticipates the collection of $5,596,266 from health care providers for participating in the health information exchange.

FUND HISTORY

North Dakota Century Code Section 54-59-27 (2009 Senate Bill No. 2332) establishes an 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$1,358,407		$1,186,698
Add estimated revenues				
Pesticide registration fees	$3,960,000[1]		$3,885,000[1]	
Weed seed-free forage (2009 HB 1270; 2009 HB 1009; 2011 SB 2009)	10,000[2]		48,922[2]	
Total estimated revenues		3,970,000		3,933,922
Total available		$5,328,407		$5,120,620
Less estimated expenditures and transfers				
Agriculture Commissioner				
Noxious weed control (2009 HB 1009; 2011 SB 2009)	$1,854,106		$2,003,582	
Pesticide disposal project (Safe Send) (2009 HB 1009; 2011 SB 2009)	605,699		591,732	
Pesticide programs (2009 HB 1009; 2011 SB 2009)	908,976		1,212,401	
Agriculture in the Classroom program (2009 HB 1009; 2011 SB 2009)	110,000		110,000	
Farmer's market	29,500		29,500	
Endangered species (2009 HB 1009; 2011 SB 2009)	212,196		161,572	
Livestock pollution prevention (2009 HB 1009; 2011 SB 2009)	50,000		50,000	
Crop Protection Product Harmonization and Registration Board[3]				
Crop protection product registration, labeling, and grants (2009 HB 1009; 2011 SB 2009)	50,000		50,000	
Minor use pesticide registration	0		150,000	
Weed seed-free forage (2009 HB 1270; 2009 HB 1009; 2011 SB 2009)	48,922[2]		48,922[2]	
State Department of Health				
Ground water testing (2009 SB 2004; 2011 HB 1004)	222,310		222,310	
North Dakota Stockmen's Association environmental services program (2009 SB 2004; 2011 HB 1004)	50,000		50,000	
Total estimated expenditures and transfers		4,141,709		4,680,019
Estimated ending balance		$1,186,698		$440,601

[1]The 1999 Legislative Assembly 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 2009 Legislative Assembly 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.

[2]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.

[3]North Dakota Century Code Section 4-35-30, as created by 2001 House Bill Nos. 1328 and 1009, 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$21,504,828		$30,222,224
Add estimated revenues				
Premium collections	$13,000,000		$7,000,000	
Investment income	6,000,000		6,000,000	
Boiler inspection fees	350,000		350,000	
Loss claims and insurance recoveries	300,000		200,000	
Anhydrous ammonia storage facility inspection fund (2007 SB 2010; 2009 HB 1010)	150,000		60,000	
Total estimated revenues		19,800,000		13,610,000
Total available		$41,304,828		$43,832,224
Less estimated expenditures and transfers				
Loss claims payments	$5,000,000		$6,000,000	
Claims-related payments	3,856,337		5,300,000	
Insurance Department administration and anhydrous ammonia inspection costs	1,746,267		1,600,000	
State Fire Marshal program (2007 SB 2003; 2009 HB 1003)	310,000		310,000	
North Dakota Firefighters Association grant (2007 SB 2010; 2009 HB 1010)	170,000		170,000	
Total estimated expenditures and transfers		11,082,604		13,380,000
Estimated ending balance		$30,222,224		$30,452,224

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.

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$65,750,547		$134,938,627
Add estimated revenues				
Oil extraction tax allocations	$69,188,080[1]		$99,906,177[1]	
Total available		$69,188,080		$99,906,177
Less estimated expenditures and transfers				
Transfer to foundation aid program	$0[2]		$0[2]	
Estimated ending balance		$134,938,627		$234,844,804

[1]Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through December 2010 and estimated allocations for the remainder of the 2009-11 biennium and the 2011-13 biennium per the November 2010 executive revenue forecast.

[2]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 2009-11 biennium or the 2011-13 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:

- Fifty percent (of the 20 percent) to the common schools trust fund.
- **Fifty 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, 2009, through November 30, 2010, $359,246 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$3,484,946		$238,644
Add estimated revenues				
Investment earnings	$28,944		$7,498	
Loan repayments - Principal and interest	1,099,260		1,107,884	
Total estimated revenues		1,128,204		1,115,382
Total available		$4,613,150		$1,354,026
Less estimated expenditures and transfers				
State Department of Health quick response unit pilot project (2009 SB 2004)	$50,000[1]			
Department of Human Services nursing facilities (medical assistance program) (2009 HB 1012)	4,124,506			
Department of Human Services remodeling of a nursing facility to assisted living and basic care grant (2009 HB 1327)	200,000			
Total estimated expenditures and transfers		4,374,506		0[2]
Estimated ending balance		$238,644		$1,354,026

[1]The 2009 Legislative Assembly appropriated $125,000 from the health care trust fund for the State Department of Health quick response unit pilot project for the 2009-11 biennium. The department anticipates spending $50,000 of the $125,000 appropriation for the 2009-11 biennium.

[2]Section 24 of 2009 House Bill No. 1012 amends North Dakota Century Code Section 50-30-02 to provide that money in the health care trust fund may not be included in draft appropriation acts under Section 54-44.1-06.

FUND HISTORY

The health care trust fund was established by the 1999 Legislative Assembly (Senate Bill No. 2168) for providing nursing alternative loans or grants. The 2001 Legislative Assembly in House Bill No. 1196 provided that 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--McVille 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Transfer from the Bank of North Dakota	$0[1]		$2,500,000[1,2]	
Total estimated revenues		0		2,500,000
Total available		$0		$2,500,000
Less estimated expenditures and transfers				
Loans to health care providers and other purposes	$0		$2,500,000	
Total estimated expenditures and transfers		0		2,500,000
Estimated ending balance		$0		$0

[1]Section 8 of 2009 Senate Bill No. 2332 provides 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. The Health Information Technology Office director is to request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cashflow needs of the funds.

Section 6 of 2011 House Bill No. 1021 amends 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.

The Health Information Technology Office director requested a transfer of $500,000 from the Bank of North Dakota to the electronic health information exchange fund in December 2010. The director has not requested a transfer to the health information technology loan fund.

[2]Section 4 of 2011 House Bill No. 1021 provides that the Industrial Commission is to transfer up to $5 million from the current earnings and the 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. This schedule reflects a transfer of $2.5 million from the Bank of North Dakota to this fund and a similar $2.5 million transfer to the health information technology planning loan fund for the 2011-13 biennium.

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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Transfer from the Bank of North Dakota current earnings and accumulated undivided profits	$5,000,000[1]		$2,500,000[2]	
Total estimated revenues		5,000,000		2,500,000
Total available		$5,000,000		$2,500,000
Less estimated expenditures and transfers				
Loans to health care entities	$5,000,000[3]		$2,500,000[2]	
Total estimated expenditures and transfers		5,000,000		2,500,000
Estimated ending balance		$0		$0

[1]Section 9 of 2009 Senate Bill No. 2332 provides that if the actual general fund revenues for the period July 1, 2009, through September 30, 2009, exceed estimated general fund revenues for that period by at least $22.5 million, as determined by the Office of Management and Budget (OMB), based on the legislative estimates made at the close of the 2009 legislative session and upon certification by the Health Information Technology Office director to the director of OMB of a demonstrated need for health information technology planning loans, the Industrial Commission is to transfer up to $5 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund. The Health Information Technology Office director is to request fund transfers from the Bank only as necessary to comply with federal requirements and to meet cashflow needs of the funds. The conditions have been met and the Health Information Technology Office director requested the $5 million be transferred into the fund.

[2]Section 4 of 2011 House Bill No. 1021 provides that the Industrial Commission is to 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. This schedule reflects a transfer of $2.5 million from the Bank of North Dakota to this fund and a similar $2.5 million transfer to the health information technology loan fund for the 2011-13 biennium.

[3]The Health Information Technology Advisory Committee has approved the following loan applications:

St. Andrew's Health Center (Bottineau)	$361,149
Cooperstown Medical Center	358,176
Wishek Hospital	361,149
Towner County Medical Center (Cando)	694,911
Presentation Medical Center (Rolla)	300,701
West River Health Services (Hettinger)	722,350
Ashley Medical Center	586,880
Tioga Medical Center	501,203
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
Total	$5,000,000

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. 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 LANDS AND MINERALS TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION AND JANUARY 2011 AGENCY REVENUE ESTIMATES)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$32,586,643		$213,931,550
Add estimated revenues				
Production royalties	$41,802,122		$71,832,000	
Mineral leases	704,742		694,412	
Oil and gas bonuses	173,852,266		40,000,000[1]	
Investment earnings	1,863,500		2,650,126	
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020; 1985 SB 2249)	464,174		203,727	
Total estimated revenues		218,686,804		115,380,265
Total available		$251,273,447		$329,311,815
Less estimated expenditures and transfers				
Payments to common schools trust fund - Developmentally disabled loan fund Nos. 2 and 3 (2005 SB 2013 - Continuing appropriation)	$697,344[2]		$306,065[2]	
Industrial Commission - Oil and Gas Division contingency (2009 SB 2014)	314,242[3]			
Transfer to the general fund (2009 SB 2013)	35,000,000		239,000,000	
Career and technical education and academic scholarship program			10,000,000[4]	
Office of Management and Budget - Heritage Center expansion (2007 SB 2341)	499,835[5]			
Administrative costs/other fees	830,476		800,000	
Total estimated expenditures and transfers		37,341,897		250,106,065
Estimated ending balance		$213,931,550		$79,205,750
Restricted fund income	$53,049,169[6]		$57,049,169[6]	
Ending balance - Undesignated		$160,882,381		$22,156,581

[1]The Land Department estimates $5 million will be collected in oil and gas bonuses per lease sale, with eight lease sales per biennium. This estimate assumes some land currently leased will become available for lease sales as lease contracts expire during the 2011-13 and 2013-15 bienniums.

[2]Payments to common schools trust fund - North Dakota Century Code Section 15-08.1-09 provides an annual continuing appropriation from the lands and minerals trust fund of the amount necessary to make payments of principal and interest to the common schools trust fund for loans made to developmentally disabled loan fund Nos. 2 and 3.

[3]Industrial Commission - Department of Mineral Resources contingency - Senate Bill No. 2014 (2009) provides a $515,207 contingency appropriation from the lands and minerals trust fund. If funds are required due to the average drilling rig count exceeding 100 active rigs for each month in any consecutive three-month period, the Oil and Gas Division may spend $319,041 of these funds and hire up to two full-time equivalent (FTE) positions, upon Emergency Commission approval. If funds are required due to receipt of an application for solution mining of potash or uranium, the Geological Survey Division may spend $196,166 of these funds and hire up to one FTE position, upon Emergency Commission approval. In June 2010 the Emergency Commission approved a request from the Industrial Commission to hire two FTE positions and expend $221,500 for salaries ($156,000) and operating expenses ($65,000). In September 2010 the Emergency Commission approved additional funding of $97,541 for operating expenses. The division anticipates spending $314,342 for the 2009-11 biennium.

[4]The 2011-13 executive budget provides a continuing appropriation from the lands and minerals trust fund for funding for the career and technical education and academic scholarship program enacted by the 2009 Legislative Assembly. The 2009 Legislative Assembly appropriated $3 million from the general fund for the program for the 2009-11 biennium.

[5]Office of Management and Budget - Senate Bill No. 2341 (2007) provided a contingent appropriation of $1.5 million from the lands and minerals trust fund to the Office of Management and Budget for the Heritage Center expansion project. The appropriation was only available when the State Historical Society certified to the Office of Management and Budget that $1.5 million of other funds had been received or pledged for the project. The State Historical Society certified to the Office of Management and Budget in May 2007 that $1.5 million of other funds had been received or pledged for the project. The Office of Management and Budget spent $1,000,164 of the $1.5 million for the Heritage Center expansion project during the 2007-09 biennium and anticipates spending the remainder of $499,835 on the project during the 2009-11 biennium.

[6]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.

FUND HISTORY

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 lands and minerals trust fund, pursuant to Section 15-08.1-08. The principal and interest of the trust fund may be used only for purposes approved by the Legislative Assembly.

ANALYSIS OF THE LEGACY FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
30 percent of oil and gas gross production and extraction tax collections			$612,468,299[1]	
Investment earnings			6,090,000	
Total estimated revenues				618,558,299
Total available				$618,558,299
Total estimated expenditures and transfers				0[2]
Estimated ending balance		$0		$618,558,299

[1]Estimated revenues - The executive budget revenue forecast for the 2011-13 biennium projects oil and gas gross production tax and oil extraction tax revenues to total $2,041,560,997 for the 2011-13 biennium. Thirty percent of the projected revenues is $612,468,299.

[2]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 that 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$14,187,178		$9,543,138
Add revenues				
Separate two-cent coal severance tax	$1,170,000		$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)	3,300,000		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)	1,315,000		1,350,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	1,160,000		2,295,000	
Five percent of the general fund share of coal conversion tax (2007 HB 1093)	2,325,000		2,500,000	
Revenue bonds/short-term loan	0[1]		0[1]	
Interest income and return of funds	85,960		80,000	
Total revenues		9,355,960		10,800,000
Total available		$23,543,138		$20,343,138
Less expenditures and transfers[2,3]				
Administration	$750,000		$850,000	
Lignite feasibility studies (nonmatching grants)	1,000,000		700,000	
Small research grants	1,300,000		1,200,000	
Lignite marketing	1,076,000		1,500,000	
Lignite litigation	416,621[4]		300,000	
Demonstration projects	9,457,379		15,421,300	
Total expenditures and transfers		14,000,000[5]		19,971,300
Ending balance		$9,543,138		$371,838

[1]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.

[2]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.

[3]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, $4,125,000 during the 2009-11 biennium, and $12,070,859 during the 2011-13 biennium, 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.)

[4]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 and $416,621 anticipated to be spent during the 2009-11 biennium.

[5]The 2009 Legislative Assembly appropriated $19,971,300 for lignite research grants; however, the Industrial Commission anticipates spending $14 million for lignite research grants during the 2009-11 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 PERMANENT OIL TAX TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$489,727,017		$620,101,616
Add estimated revenues				
Oil and gas production and extraction tax collections based on current law	$890,208,857[1]		$699,271,039	
Total estimated revenues		890,208,857		699,271,039
Adjustments in executive budget recommendation				
Increase cap on allocations to the oil and gas impact grant fund (2011 HB 1013)			(92,000,000)[2]	
Total adjustments				($92,000,000)
Total available		$1,379,935,874		$1,227,372,655
Less estimated expenditures and transfers				
Transfer to the general fund (2009 HB 1015; 2011 SB 2015)	$140,000,000		$232,000,000	
Transfer to centers of excellence fund (2009 SB 2018)	6,620,541[3]			
Higher education (2009 SB 2003; 2011 HB 1003)	12,691,145		2,320,000	
Grant assistance payments to tribally controlled community colleges (2009 HB 1394; 2011 HB 1003)	700,000		1,000,000	
Dickinson Research Center (2009 SB 2020)	925,000			
Department of Human Services - Medicaid management information system replacement project carryover authority	1,130,027		1,474,362	
Property tax relief - Transfer to general fund (2009 SB 2199)	295,000,000			
Property tax relief - Transfer to property tax relief sustainability fund (2009 SB 2199; 2011 SB 2015)	295,000,000		388,580,000	
Property tax relief (deficiency appropriation) (2011 SB 2023)	4,233,000			
Water project grants (2009 HB 1305)	2,526,445			
Prairie Public Broadcasting (2009 HB 1015)	1,008,100			
Transfer to highway fund for state, county, and township road projects (2011 SB 2015)			370,600,000	
Total estimated expenditures and transfers		759,834,258		995,974,362
Estimated ending balance		$620,101,616		$231,398,293

[1]Estimated collections reflect actual collections of $429,798,186 through October 2010 and **December 2010 revised revenue projections** of $460,410,671 for the remainder of the biennium.

[2]The executive budget recommends increasing the maximum biennial allocation to the oil and gas impact grant fund from the current level of $8 million to $100 million.

[3]Section 27 of 2009 Senate Bill No. 2018 allows the Department of Commerce to continue any unspent funds appropriated for the centers of excellence program for the 2007-09 biennium to the 2009-11 biennium. The Office of Management and Budget is to transfer any unexpended funds from the appropriations to the centers of excellence fund at the end of the 2007-09 biennium. Pursuant to this directive, the Office of Management and Budget transferred $6,620,541, the amount remaining from the $15 million appropriation for the 2007-09 biennium, from the permanent oil tax trust fund to the centers of excellence fund.

FUND HISTORY

North Dakota Century Code Section 57-51.1-07.2 (1997 Senate Bill No. 2366) establishes a permanent oil tax trust fund and provides that all revenues deposited in the general fund during a biennium and derived from taxes imposed on oil and gas under Chapter 57-51 (Oil and Gas Gross Production Tax) and Chapter 57-51.1 (Oil Extraction Tax) which exceed $71 million are to be transferred into the permanent oil tax trust fund. The State Treasurer is to transfer the interest earned on the fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly.

ANALYSIS OF THE PROPERTY TAX RELIEF SUSTAINABILITY FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$295,000,000
Add estimated revenues				
Transfer from the permanent oil tax trust fund (Section 11 of 2009 SB 2199; Section 5 of 2011 SB 2015)	$295,000,000		$388,580,000	
Transfer from permanent oil tax trust fund (Section 2 of 2011 SB 2023)	4,233,000			
Total estimated revenues		299,233,000		388,580,000
Total available		$299,233,000		$683,580,000
Less estimated expenditures and transfers				
Supplemental appropriation for mill levy reduction grants to school districts (Section 1 of 2011 SB 2023)	$4,233,000			
Mill levy reduction grants to school districts (Section 5 of 2011 SB 2013)			$341,790,000	
Total estimated expenditures and transfers		4,233,000		341,790,000
Estimated ending balance		$295,000,000		$341,790,000

FUND HISTORY

North Dakota Century Code 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.

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$87,378,167		$128,447,646
Add estimated revenues				
Oil extraction tax collections	$129,947,875		$199,812,353	
Repayments and reimbursements	3,504,000		3,509,000	
Investment earnings/miscellaneous income	2,217,604		1,101,820	
Total estimated revenues		135,669,479[1]		204,423,173
Total available		$223,047,646		$332,870,819
Less estimated expenditures and transfers				
State Water Commission - Grants, projects, and project administration	$94,258,000		$332,400,000	
State Water Commission - Beaver Bay embankment feasibility study	342,000		0	
Total estimated expenditures and transfers		94,600,000[2]		332,400,000[3]
Estimated ending balance		$128,447,646		$470,819

[1]Estimated revenues - 2009-11 - The estimated revenues for the 2009-11 biennium reflect actual revenues through October 2010 and estimated revenues for the remainder of the biennium based on the executive revenue forecast. The current estimate of revenues for the biennium is **$82,876,138 more than the estimate of $52,793,341** made at the close of the 2009 legislative session. The increase is attributable to the following changes:

Increase in oil extraction tax collections	$80,163,534
Increase in repayments and reimbursements	1,495,000
Increase in investment income	1,217,604
Net increase from revenue amount previously estimated for 2009-11	$82,876,138

[2]Sections 1 and 5 of House Bill No. 1020 (2009) appropriate $188.4 million, or any additional amounts that become available, from the resources trust fund for defraying the expenses of the State Water Commission for the 2009-11 biennium. In addition, Senate Bill No. 2305 (2009) appropriates $342,000 from the resources trust fund to the State Water Commission for conducting a Beaver Bay embankment feasibility study. The State Water Commission estimates 2009-11 expenditures from the resources trust fund to total $94.6 million.

[3]Sections 1 and 4 of Senate Bill No. 2020 (2011) appropriate $332.4 million, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium.

FUND HISTORY

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

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

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

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

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

North Dakota Century Code Section 57-51.1-07 provides that oil extraction tax revenues be distributed as follows:

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

ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$4,150,592		$2,758,826
Add estimated revenues				
Premiums	$2,444,966[1]		$3,450,021[2]	
Total estimated revenues		2,444,966		3,450,021
Total available		$6,595,558		$6,208,847
Less estimated expenditures and transfers				
Administration	$1,332,470		$1,437,289	
Claims-related expenses	10,300		10,300	
Claims and litigation	2,493,962		3,401,000	
Total estimated expenditures and transfers		3,836,732		4,848,589
Estimated ending balance		$2,758,826		$1,360,258

[1]In response to an actuarial review completed in 2008 by Aon Risk Services, the Risk Management Division is assessing a total of $2,649,997 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2009-11 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 2010 discounts of $102,393 and estimated fiscal year 2011 discounts of $102,638.

[2]In response to an actuarial review completed in April 2010 by Aon Risk Services, the Risk Management Division is estimated to assess a total of $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 estimated fiscal year 2012 discounts of $150,000 and estimated fiscal year 2013 discounts of $150,000.

FUND HISTORY

In September 1994 the North Dakota Supreme Court abolished the doctrine of sovereign immunity. As a result of this court decision, the 1995 Legislative Assembly 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Allocation from sales, use, and motor vehicle excise tax collections	$2,710,599[1]		$2,950,000	
Total estimated revenues		2,710,599		2,950,000
Total available		$2,710,599		$2,950,000
Less estimated expenditures and transfers				
State Treasurer - County senior citizen matching grants	$2,698,114[2]		$2,950,000	
Transfer to the general fund	12,485[3]			
Total estimated expenditures and transfers		2,710,599		2,950,000
Estimated ending balance		$0		$0

[1]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
2006	$995,253 (actual)	N/A
2007	$1,072,665 (actual)	7.8%
2008	$1,163,721 (actual)	8.5%
2009	$1,243,493 (actual)	6.9%
2010	$1,310,947 (actual)	5.4%
2011	$1,399,652 (actual)	6.8%
2012	$1,475,000 (estimate)	5.4%
2013	$1,475,000 (estimate)	0.0%

[2]The county senior citizen matching grants are shown below:

Fiscal Year	County Senior Citizen Matching Grants	Percentage Increase (Decrease) From Previous Year
2006	$989,415 (actual)	N/A
2007	$1,078,503 (actual)	9.0%
2008	$1,153,293 (actual)	6.9%
2009	$1,225,933 (actual)	6.3%
2010	$1,298,462 (actual)	5.9%
2011	$1,399,652 (estimate)	7.8%
2012	$1,475,000 (estimate)	5.4%
2013	$1,475,000 (estimate)	0.0%

[3]Any funds remaining at the end of each biennium are transferred to the general fund.

FUND HISTORY

The 2005 Legislative Assembly 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. 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 two-thirds of one mill levied statewide as reported by the Tax Commissioner. 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. The amount of each county's annual grant is equal to two-thirds of the amount levied in dollars in the county 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 that for 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on 4/10 of 1%)		117,600,364[1]		136,850,406
Total available		$117,600,364		$136,850,406
Less estimated expenditures and transfers				
Payments to political subdivisions				
County share (53.7%)	$63,151,395		$73,488,668	
City share (46.3%)	54,448,969		63,361,738	
Total estimated expenditures and transfers		117,600,364		136,850,406
Estimated ending balance		$0		$0

NOTE: The amounts shown reflect the revised 2009-11 revenue forecast (December 2010) and the executive budget revenue forecast for the 2011-13 biennium.

[1]Total revenues of $106,731,983 were anticipated to be deposited in the fund for the 2009-11 biennium based on the forecast at the close of the 2009 Legislative Assembly.

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 1997 Legislative Assembly 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.

The 1997 Legislative Assembly 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:

Population Category			
Counties	**Percentage**	**Cities (Based on Population)**	**Percentage**
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%
Total	100.00%		100.0%

ANALYSIS OF THE STATE DISASTER RELIEF FUND FOR THE 2007-09, 2009-11, AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2007-09 Biennium		2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$37,623,216		$21,826,914
Add revenues						
Transfer from the general fund	$43,000,000[1]					
Interest income			$250,000		$250,000	
National Guard reimbursements			69,055			
Total revenues		43,000,000		319,055		250,000
Total available		$43,000,000		$37,942,271		$22,076,914
Less estimated expenditures of Adjutant General under 2009 SB 2012						
Specifically authorized expenditures under Sections 6, 7, and 8						
Emergency snow removal grants	$5,376,784[2]					
Disaster costs relating to 2009 flooding			$5,268,457[3]			
Expenditures authorized by the Budget Section under Section 8						
Disaster costs relating to disasters occurring prior to 2009			2,522,948[4]			
Disaster costs relating to the January 2010 winter snowstorm			1,814,327[4,5]			
Disaster costs relating to 2010 flooding			2,660,904[4,5]			
Disaster costs relating to the April 2010 ice storm			3,453,906[4,5]			
Other agency expenditures under Section 4						
Disaster costs relating to 2009 flooding			202,329[4,6]			
Disaster costs relating to disasters occurring prior to 2009			192,486[4,6]			
Less estimated expenditures of Adjutant General (2011 SB 2016)						
Disaster costs relating to 2009 flooding					$2,900,000	
Disaster costs relating to the January 2010 winter snowstorm					500,000	
Disaster costs relating to 2010 flooding					3,043,000	
Disaster costs relating to the April 2010 ice storm					1,400,000	
Total estimated expenditures and transfers		5,376,784		16,115,357		7,843,000
Estimated ending balance		$37,623,216		$21,826,914		$14,233,914

[1]Section 5 of 2009 Senate Bill No. 2012 provided that the Office of Management and Budget transfer $43 million from the general fund to the state disaster relief fund during the 2007-09 biennium.

[2]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 2009 Senate Bill No. 2012. Section 7 of 2009 Senate Bill No. 2012 provided that a county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 50 percent of the costs incurred by the county, township, or city for the period January 2009 through March 2009 that exceed 200 percent of the average costs incurred for these months in 2004 through 2008. The Department of Emergency Services distributed these grants prior to June 30, 2009.

[3]Section 8 of 2009 Senate Bill No. 2012 provides that a political subdivision receiving federal emergency relief funding relating to disasters occurring from January 2009 through June 2009 may apply to the Department of Emergency Services for an emergency relief grant of up to 50 percent of the local match required to receive the federal emergency relief funding. The department expects to distribute $3,158,099 for these 50 percent local matching share grants. The

department expects to distribute $2,312,687 for flood mitigation assistance grants, hazard mitigation grants, mission assignments, and administrative costs relating to 2009 flooding pursuant to Section 6 of 2009 Senate Bill No. 2012.

[4]The Budget Section approved the following requests from the Adjutant General totaling $12,953,952, of which $10,452,085 is expected to be spent in the 2009-11 biennium, relating to the use of the state disaster relief fund pursuant to Section 8 of 2009 Senate Bill No. 2012:

- Request for funding to provide the state match for costs associated with disasters prior to 2009--$2,718,952 (March 2010).
- Request for funding to provide 10 percent match for the costs associated with the January 2010 winter snowstorm--$2,336,250 (March 2010).
- Request for funding to provide the state match for costs associated with 2010 flooding--$2,781,250 (June 2010).
- Request for funding to provide the state match for costs associated with the April 2010 ice storm--$2,000,000 (June 2010).
- Request for funding to provide the state match for costs associated with the April 2010 ice storm--$2,005,000 (December 2010).
- Request for funding to provide the state match for costs associated with 2010 flooding--$1,112,500 (December 2010).

[5]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.

[6]The Adjutant General has also used funding from the state disaster relief fund to pay for:

- 97 percent of the cost of repairing a parking lot damaged during staging for the 2009 flood event that did not qualify for Federal Emergency Management Agency reimbursement--$21,909.
- 97 percent of the cost of raising the grade level of a county road to protect the road from rising flood waters and ensure continued public use. The expenditure did not qualify for Federal Emergency Management Agency reimbursement--$180,420.
- The repayment of the federal share of home buyouts made through the hazard mitigation grant program in 1998 that were later deemed ineligible by Federal Emergency Management Agency inspectors--$192,486.

FUND HISTORY

North Dakota Century Code Section 37-17.1-27 (Section 4 of 2009 Senate Bill No. 2012) establishes a state disaster relief fund. Money in the fund is to be used subject to legislative appropriations for providing funding for defraying the expenses of state disasters, including providing funds required to match federal funds for expenses associated with presidential-declared disasters in the state. Any interest or other fund earnings must be deposited in the fund.

ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium[1]		2011-13 Biennium[1]	
Beginning balance		$19,272,800		$17,286,230
Add estimated revenues				
Fund earnings (net)	$25,000[2]		$25,000[2]	
Total available		$19,297,800		$17,311,230
Less estimated expenditures and transfers				
Funding for veterinary medical education program	$990,970[3]		$465,307[4]	
Funding for the North Dakota University System information technology services	1,020,600[5]		539,437[6]	
Total estimated expenditures and transfers		2,011,570		1,004,744
Estimated ending balance		$17,286,230[7]		$16,306,486[8]

[1]This analysis reflects the estimated revenues, expenditures, and ending balance for the 1979 bond resolution only. The estimated June 30, 2011, ending balance for the 1996 bond resolution is $28,240,000.

[2]The projected income for the 2009-11 and 2011-13 bienniums is based on interest rates as of December 1, 2010.

[3]The 2009 Legislative Assembly provided a $990,970 appropriation from the student loan trust fund for continuing the Kansas State University veterinary medical education program.

[4]The 2011-13 executive budget includes $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 executive budget provides a general fund increase of $510,000 for the program to offset the reduced funding from the student loan trust fund.

[5]The 2009 Legislative Assembly provided a $1,020,600 appropriation from the student loan trust fund to the University System information technology services pool for ConnectND positions within the University System. The positions were previously paid from Bank of North Dakota funding.

[6]The 2011-13 executive budget 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 a funding decrease of $481,163 from the 2009-11 biennium program appropriation from the student loan trust fund. The executive budget provides the information technology services pool with a general fund increase of $590,000 to offset the reduced funding from the student loan trust fund.

[7]Based on current fund earnings estimates, $1,986,570 of fund principal will be used during the 2009-11 biennium.

[8]Based on current fund earnings estimates and the 2011-13 executive budget recommendation, $979,744 of fund principal will be used during the 2011-13 biennium. The Industrial Commission estimates that sufficient funding will be available in the fund after the reduction of fund principal to fulfill required debt service payments.

FUND HISTORY

The 1971 Legislative Assembly 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 of North Dakota 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 issuances prior to 2004 with bonds outstanding are 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. In order to use assets held under the 1979 general bond resolution for a purpose other than those stated in the general bond resolution, the administrators 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. In order to use assets held under the 1996 general bond resolution for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive permission from the bond issuer, and the trustee of the bond (Bank of North Dakota) would have to certify that sufficient reserves remain for bond payments and other related program costs.

North Dakota Century Code Section 54-17-25 provides that 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$14,107,486		$25,901,527
Add estimated revenues				
Tobacco settlement revenues collected to date	$12,274,393[1]		$0	
Projected tobacco settlement revenues	12,274,393[2]		24,548,786[2]	
Investment income	127,255		213,616	
Total estimated revenues		24,676,041[3]		24,762,402[3]
Total available		$38,783,527		$50,663,929
Less estimated expenditures and transfers				
Tobacco Prevention and Control Executive Committee expenditures	$12,882,000[4]		$12,922,614[4]	
Total estimated expenditures and transfers		12,882,000		12,922,614
Estimated ending balance		$25,901,527		$37,741,315

[1]As of November 2010, the state has received two tobacco settlement payments totaling $33,091,258 for the 2009-11 biennium, of which $20,816,865 was deposited in the tobacco settlement trust fund and $12,274,393 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $305,399,942, including $265,189,809 under subsection IX(c)(1) of the Master Settlement Agreement and $40,210,133 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $305,399,942, $278,987,538 has been deposited into the tobacco settlement trust fund and $26,412,404 has been deposited into the tobacco prevention and control trust fund.

[2]Estimated payments for the remainder of the 2009-11 biennium and the 2011-13 biennium are based on the amount received in 2010.

[3]Initiated measure No. 3 approved in the November 2008 general election 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 executive committee to adequately provide for the comprehensive plan. The 2009 Legislative Assembly in Section 39 of House Bill No. 1015 provided that 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 appropriation.

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
Estimated 2009-11 biennium	68.3 million	24.5 million	19.7 million	19.7 million	4.4 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 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	$571.6 million	$118.3 million	$204.0 million	$204.0 million	$45.3 million

[4]Section 35 of House Bill No. 1015 (2009) appropriated $12,882,000 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 2009-11 biennium. The 2011-13 executive budget recommendation provides $12,922,614 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee.

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 begin on April 15, 2008, and continue each April 15 thereafter through 2017. Section 54-27-25, created by House Bill No. 1475 (1999), 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:

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

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 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 executive committee to adequately provide for the comprehensive plan. The 2009 Legislative Assembly in Section 39 of House Bill No. 1015 provided that 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.

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Tobacco settlement revenues collected to date	$20,816,865[1]		$0	
Projected tobacco settlement revenues	22,915,593		45,831,186	
Total estimated revenues		43,732,458[2]		45,831,186[2]
Total available		$43,732,458[3,4]		$45,831,186[3,4]
Less estimated expenditures and transfers				
Transfers to the community health trust fund	$4,373,246		$4,583,118	
Transfers to the common schools trust fund	19,679,606		20,624,034	
Transfers to the water development trust fund	19,679,606		20,624,034	
Total estimated expenditures and transfers		43,732,458		45,831,186
Estimated ending balance		$0		$0

[1]As of November 2010, the state has received two tobacco settlement payments totaling $33,091,258 for the 2009-11 biennium, of which $20,816,865 was deposited in the tobacco settlement trust fund and $12,274,393 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $305,399,942, including $265,189,809 under subsection IX(c)(1) of the Master Settlement Agreement and $40,210,133 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $305,399,942, $278,987,538 has been deposited into the tobacco settlement trust fund and $26,412,404 has been deposited into the tobacco prevention and control trust fund.

[2]Revenues - House Bill No. 1475 (1999) (North Dakota Century Code Section 54-27-25) provides that 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 that 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 Office of Management and Budget revised estimated collections and the average of actual revenues received into the tobacco settlement trust fund in fiscal years 2009 and 2010 and do not include anticipated strategic contribution payments, which are deposited in the tobacco prevention and control trust fund.

[3]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	68,281,244
2011-13	82,231,080	70,379,972
2013-17 ($82,231,080/$73,687,266 per biennium)	164,462,160	147,374,532
2017-25 ($58,591,490/$52,503,832 per biennium)	234,365,960	210,015,328
Total	$866,801,136	$768,359,760

[4]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
Estimated 2009-11 biennium	68.3 million	24.5 million	19.7 million	19.7 million	4.4 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 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	$571.6 million	$118.3 million	$204.0 million	$204.0 million	$45.3 million

FUND HISTORY

Section 54-27-25, created by House Bill No. 1475 (1999), 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:

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

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 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$1,149,701[1]		$1,171,036[1]
Add estimated revenues				
Fines for violation of state laws	$9,143,335[2]		$9,124,000[2]	
Transfers from the common schools trust fund	77,178,000		92,514,000	
Total estimated revenues		86,321,335		101,638,000
Total available		$87,471,036		$102,809,036
Less estimated expenditures and transfers				
State aid to schools	$86,300,000		$101,638,000	
Total estimated expenditures and transfers		86,300,000[1]		101,638,000[1]
Estimated ending balance		$1,171,036[1]		$1,171,036[1]

[1]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.

[2]Fines for violation of state laws - The amount of state tuition fund distributions from fine proceeds is shown below:

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	$4,550,010 (estimate)	(0.9%)
2012	$4,562,000 (estimate)	0.3%
2013	$4,562,000 (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 of Public Instruction 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 2007 Legislative Assembly in 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 of Public Instruction 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 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$4,167,369		$4,167,369
Add estimated revenues				
Investment income (loss)	$200,000[1]		$200,000[1]	
Total estimated revenues		200,000		200,000
Total available		$4,367,369		$4,367,369
Less estimated expenditures and transfers				
Grants and related expenditures	$166,431[2]			
Administrative committee travel				
Veterans' Home activities				
Vehicles - Vans				
Veterans' transportation programs	3,800[2]			
Other veterans' programs				
Appeals Committee	650[2]			
Stand Down (outreach to homeless veterans)	3,500[2]			
Additional anticipated expenditures	25,619[3]		$200,000[3]	
Total estimated expenditures and transfers		200,000		200,000
Estimated ending balance		$4,167,369		$4,167,369

[1]The State Treasurer anticipates $200,000 of investment income will be available from the veterans' postwar trust fund for the various programs supported by the fund during the 2009-11 biennium. The State Treasurer has not provided investment income estimates for the 2011-13 biennium, but anticipates the amounts will be similar to the 2009-11 biennium.

[2]Expenditures allocated and paid through December 31, 2010. The Administrative Committee on Veterans' Affairs receives and allocates funding on a quarterly basis, as it becomes available, to various programs.

[3]The Administrative Committee on Veterans' Affairs anticipates expending all of the funds that become available during the 2009-11 and 2011-13 bienniums.

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 November 30, 2010, was $4,211,644 and the market value of the fund was $4,340,960.

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 North Dakota Century Code 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.

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING THE 2011-13 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		$21,010,583		$25,614,113
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	$9,367,589[1]		$0	
Projected remaining transfers from tobacco settlement trust fund	10,312,017		20,624,034	
Total estimated revenues		19,679,606[2]		20,624,034[2]
Total available		$40,690,189		$46,238,147
Less estimated expenditures and transfers				
State Water Commission (2009 HB 1020; 2011 SB 2020)				
Water projects	$0[3]		$20,307,984[4]	
Bond payments	15,076,076[3]		16,881,750[4]	
Administrative expenses	0[3]		0[4]	
Total estimated expenditures and transfers		15,076,076		37,189,734
Estimated ending balance		$25,614,113		$9,048,413

[1]For the 2009-11 biennium, two transfers totaling $9,367,589 have been made from the tobacco settlement trust fund as of November 2010. Total transfers of $125,544,392 have been made from the tobacco settlement trust fund to the water development trust fund.

[2]Revenues - Interest earned on the water development trust fund is deposited in the state general fund.

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.

Initiated measure No. 3 will result 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
Estimated 2009-11 biennium	68.3 million	24.5 million	19.7 million	19.7 million	4.4 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 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	$571.6 million	$118.3 million	$204.0 million	$204.0 million	$45.3 million

[3]The 2009 Legislative Assembly provided a total of $30,843,001, or any additional amount that becomes available, from the water development trust fund for bond payments and water projects. Total 2009-11 biennium bond payments are estimated to total $15,076,076. The State Water Commission does not anticipate expenditures for water projects from the water development trust fund during the 2009-11 biennium.

[4]Sections 1 and 4 of Senate Bill No. 2020 (2011) appropriate $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. Bond payments for the 2011-13 biennium are estimated to total $16,881,750. The remaining balance of approximately $20.3 million will be available for State Water Commission projects.

FUND HISTORY

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

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

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 2009 Legislative Assembly in Section 39 of House Bill No. 1015 provided that 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 Senate Bill No. 2188 (1999), provides that the principal and interest on bonds issued for flood control projects, the Southwest Pipeline Project, and an outlet to Devils Lake must be repaid with money appropriated from the water development trust fund.