ND Legislative Council

FISCAL UPDATE

June 19, 2012

701-328-2916 www.legis.nd.gov lcouncil@nd.gov

The Legislative Council has completed its *2011-13 Biennium Report on Compliance with Legislative Intent* (June 2012). The report includes Legislative Council staff analysis of agency activities relating to budget issues and compliance with budget-related provisions approved by the Legislative Assembly in 2011. In addition, Legislative Council staff has completed an *Analysis of State Trust Funds for the 2009-11 and 2011-13 Bienniums* (June 2012). This report includes information on the status of selected special funds.

Selected items of potential interest include:

FLOOD AND DISASTER-RELATED FUNDING

Flood-impacted political subdivision infrastructure development grants - The Legislative Assembly provided a $30 million one-time general fund appropriation to the Department of Trust Lands for providing infrastructure development grants to flood-impacted political subdivisions. In April 2012, the department awarded grants totaling $25.6 million for 92 projects. The department is reserving the remaining $4.4 million for unanticipated and unknown future needs.

Floodway property acquisition and construction funding - In December 2011 and March 2012, the Budget Section approved the State Water Commission's requests to spend $37.2 million of additional funding available in the resources trust fund for floodway construction funding ($2.5 million) and property acquisitions ($34.7 million).

Rebuilders loan program for flood victims - Through March 2012, the Bank of North Dakota has approved and closed 829 rebuilders loans totaling approximately $24 million.

Disaster relief funding - Information regarding the status of the $87.7 million appropriated by the Legislative Assembly in 2011 to the Adjutant General to use for costs associated with state disasters and flood mitigation efforts for the 2011-13 biennium.

Minot State University Mouse River flooding impact - The university estimates the financial impact of the 2011 flood at nearly $8 million.

State Fair Association Mouse River flooding impact - The State Fair may seek funding of approximately $4.8 million from the Legislative Assembly in 2013 for flood-related repairs and extraordinary maintenance costs.

ENERGY-RELATED IMPACT FUNDING

Energy infrastructure and impact grant awards - Of the $130 million appropriated for energy infrastructure and impact grants, the Board of University and School Lands has awarded $67.8 million to-date for the 2011-13 biennium.

Grants to new major oil and gas-producing counties - The Legislative Assembly provided a one-time transfer of $5 million from the general fund to the oil and gas impact grant fund for distribution to new major oil and gas-producing counties. To date, the Department of Trust Lands has not provided any grants to new major oil and gas-producing counties.

Roadway projects in areas affected by oil and gas development - The Legislative Assembly appropriated $370.6 million from the highway fund for state highway projects ($228.6 million) and county and township roadway projects ($142 million) in areas affected by oil and gas development. The Department of Transportation used $84.5 million of the $228.6 million during the 2011 construction season for state highway projects. The department distributed $19.5 million of the $142 million during the 2011 construction season to counties for county and township road projects.

Housing incentive fund - Through April 2012, the Housing Finance Agency has received $6.5 million in contributions to the housing incentive fund. The agency has awarded $7.77 million, which includes $4.3 million of contributed funds and $3.4 million of funds raised by award recipients and will result in 428 new housing units.

Western Area Water Supply Authority - Information regarding the status of the Western Area Water Supply Authority established by the Legislative Assembly in 2011.

The entire reports are available on the legislative branch website. Click on Agency Reports for all agency analyses. Click on Fund Analyses for all special fund analyses. Printed copies of the reports are available in the Legislative Council office.

DEPARTMENT OF TRUST LANDS

Flood-impacted political subdivision infrastructure development grants - In Section 10 of 2011 Senate Bill No. 2371, the Legislative Assembly provided a $30 million one-time general fund appropriation to the Land Department for providing infrastructure development grants to flood-impacted political subdivisions. The Legislative Assembly provided that up to $110,000 of the appropriation may be used by the commissioner for salaries and operating expenses relating to administration of the program.

In Section 11 of 2011 Senate Bill No. 2371, the Legislative Assembly provided guidance for the flood-impacted political subdivision infrastructure development grants. The Energy Infrastructure and Impact Office director is to develop a plan for providing infrastructure grants to eligible political subdivisions, receive and review applications for infrastructure grants, and make recommendations to the Board of University and School Lands on grants to eligible political subdivisions. The Board of University and School Lands is to award and distribute infrastructure grants to eligible political subdivisions based on identified needs. Eligible political subdivisions include counties, as well as cities, school districts, and other political subdivisions located within such counties, that have received an individual assistance designation by the Federal Emergency Management Agency relating to a 2011 flood event. Individual assistance designated counties include Barnes, Benson, Burleigh, McHenry, Morton, Ramsey, Renville, Richland, and Ward. Funding received by eligible political subdivisions may be used for up to 50 percent of the costs not otherwise reimbursed through federal or other state funds to:

- Develop new community infrastructure, the need for which is directly related to the displacement of residents due to flooding. Infrastructure includes community-owned waterlines, sewer, curb, and gutter.
- Evaluate the extent of damage to community-owned infrastructure.
- Restore or repair flood-related damage to community-owned infrastructure.
- Expand landfill capacity or reimburse flood-related waste disposal costs.
- Raise roads or develop flood control structures.
- Acquire property needed for infrastructure.
- Acquire homes damaged by levy construction.
- Provide reimbursement for other flood-related expenses.

The Department of Trust Lands hired a temporary employee in December 2011 to manage the flood-impacted political subdivision infrastructure development grant program with the $110,000 appropriation provided for administration of the program. Grant guidelines were established to ensure grants addressed needs not provided by other state or federal response or insurance coverage. In April 2012, grant applications were evaluated in consultation with other state agencies involved in flood recovery efforts. The Department of Trust Lands evaluated 107 applications for assistance with projects with a 50 percent cost-share totaling $37.7 million. In late April 2012, the Department of Trust Lands awarded grants totaling $25.6 million for 92 projects. The projects require a 50 percent local cost-share. The Department of Trust Lands is reserving the remaining $4.4 million for unanticipated and unknown future needs. Grants were awarded by county as follows:

County	Number of Projects	Grants Awarded
Barnes	10	$500,000
Benson	15	467,806
Burleigh	5	2,685,606
McHenry	19	527,026
Morton	5	1,079,749
Ramsey	6	459,800
Renville	2	514,001
Richland	19	500,048
Ward	11	18,835,995
Total	92	$25,570,031

In Section 12 of 2011 Senate Bill No. 2371, the Legislative Assembly provided legislative intent that the money appropriated to and distributed by the Energy Infrastructure and Impact Office for flood-impacted political subdivision grants is to be used by grantees to address needs not funded by other state or federal response or insurance coverage.

STATE WATER COMMISSION

Floodway property acquisition and construction funding - Section 19 of 2011 Senate Bill No. 2371 approved during the November 2011 special legislative session provides $50 million from the resources trust fund for additional State Water Commission expenses. As provided in Section 4 of 2011 Senate Bill No. 2020, any expenditure of these funds requires Budget Section approval. In addition, Section 18 of Senate Bill No. 2371 provides the State Water Commission in its future plans place a high priority on providing funding for floodway property acquisitions and construction. The funding must be used to supplement federal hazard mitigation grant funds or other federal funds for acquiring property and for the construction of flood control projects in qualifying political subdivisions, including necessary funding for any state or local match requirements. Qualifying political subdivisions are cities or counties that are eligible for Federal Emergency Management Agency (FEMA) hazard mitigation grant funding or other comparable federal programs for flood mitigation and have received, or are located within counties that have received, an individual assistance designation by FEMA as a result of a flood event occurring during 2011.

In December 2011 and March 2012, the Budget Section approved the State Water Commission's requests pursuant to 2011 Senate Bill No. 2371 and Section 4 of 2011 Senate Bill No. 2020 to spend $37,264,000 of additional funding available in the resources trust fund for Minot and communities along the Mouse River ($2.5 million), the Souris River Joint Water Resource District disaster relief projects ($50,000), and for property acquisitions ($34,714,000). The State Water Commission anticipates using the $34,714,000 of the additional funding approved for the acquisition of 219 properties as follows:

Project	Property Acquisitions	Amount
City of Burlington	11	$1,039,000
Burleigh County	4	1,425,000
Valley City	31	3,000,000
Ward County	56	11,500,000
City of Minot	117	17,750,000
Total	219	$34,714,000

BANK OF NORTH DAKOTA

Rebuilders loan program - Section 1 of 2011 Senate Bill No. 2371 establishes a rebuilders loan program and loan fund at the Bank. The program is to provide loans to North Dakota residents affected by a presidentially declared disaster in the state in an area eligible for Federal Emergency Management Agency individual assistance for the purpose of the resident rebuilding the resident's flood-damaged home or purchasing a new home in the disaster-impacted community. Individual assistance designated counties include Barnes, Benson, Burleigh, McHenry, Morton, Ramsey, Renville, Richland, and Ward.

Section 7 of Senate Bill No. 2371 provides for a transfer of $30 million from the current and undivided profits of the Bank to the rebuilders loan program fund. Section 8 of Senate Bill No. 2371 provides for a contingent transfer of $20 million from the general fund to the rebuilders loan program fund if the $30 million transferred to the rebuilders loan program fund from the Bank is fully obligated prior to June 30, 2013.

Section 9 of Senate Bill No. 2371 appropriates $10 million from the state disaster relief fund to the Adjutant General for providing:

1. Additional rebuilders loan program funding to the Bank.
2. Funding to political subdivisions for flood-impacted housing rehabilitation. Funding must be used as deemed most effective in that community to assist homeowners in rehabilitation or replacement of their flood-damaged homes and to retain homeowners in the community.

As of March 2012, 540 loans totaling $15,947,259 have been closed, 289 additional loans totaling $8,146,210 have been approved but not closed, and 64 loans totaling $1,920,000 are being processed. The Bank anticipates using both the initial $30 million transfer of Bank profits and the contingent $20 million transfer from the general fund.

Of the 829 approved loans, 95 percent are for residents in the Minot area, 4 percent are for residents in the Bismarck area, and 1 percent is for residents in the Mandan area.

Twenty-one loan requests have been denied for various reasons, including no damage, no ownership in damaged property, or property is covered by flood insurance.

ADJUTANT GENERAL

Disaster relief funding - The Legislative Assembly in 2011 authorized the Adjutant General to use funding from the general fund and the state disaster relief fund for costs associated with state disasters and flood mitigation efforts for the 2011-13 biennium as follows:

	General Fund	State Disaster Relief Fund[1]	Total
Regular session			
Disaster response coordination contract (Section 4 of SB 2016)		$400,000	$400,000
Spending authority for expenses related to the 2009 flood disaster and other unclosed state disasters (Section 1 of SB 2016)		7,842,304	7,842,304
State share of funding for presidential-declared disasters pursuant to North Dakota Century Code Section 37-17.1-27 (Section 5 of SB 2016)		3,500,000	3,500,000
Emergency snow removal grants (Section 2 of SB 2369)		9,000,000	9,000,000
Disaster relief (Section 4 of SB 2369)		22,000,000	22,000,000
Special session			
State share of funding for presidential-declared disasters pursuant to Section 37-17.1-27 (Section 15 of SB 2371)		29,500,000	29,500,000
2012 disaster contingent appropriation (Section 16 of SB 2371)		5,000,000	5,000,000
Appropriations (Section 9 of SB 2371) for: • Additional rebuilders loan program funding to the Bank of North Dakota • Funding to political subdivisions for flood-impacted housing rehabilitation		10,000,000	10,000,000
Flood-damaged school infrastructure grants (Section 20 of SB 2371)	$500,000		500,000
Total	$500,000	$87,242,304	$87,742,304

[1]In Section 1 of 2011 Senate Bill No. 2369, the Legislative Assembly provided that expenditure of money in the state disaster relief fund is subject to Emergency Commission and Budget Section approval.

The status of funding provided for disaster relief is as follows:

- The Adjutant General has contracted with Lutheran Disaster Response at a cost of $400,000 for services to coordinate disaster response organizations with state and political subdivision disaster response efforts, including all aspects of disaster recovery from preparedness training through cleanup for declared or undeclared disasters.
- In December 2011, the Adjutant General requested and received Emergency Commission and Budget Section approval for expenses related to the 2009 flood disaster ($1,091,013) and other unclosed state disasters ($4,820,828) in the 2011-13 biennium as provided in Section 1 of 2011 Senate Bill No. 2016.
- In December 2011, the Adjutant General requested and received Emergency Commission and Budget Section approval for providing the required state share of funding for defraying the expenses associated with the 2011 flood event ($3.5 million) as provided in Section 5 of 2011 Senate Bill No. 2016.
- Pursuant to Section 2 of 2011 Senate Bill No. 2369, the Adjutant General provided $9 million from the state disaster relief fund for emergency snow removal grants to counties, cities, and townships. Section 2 of Senate Bill No. 2369 provided that a county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 60 percent of the costs incurred by the county, township, or city for the period January 2011 through March 2011 that exceed 200 percent of the average costs incurred for these months in 2004 through 2008. The Adjutant General distributed $9 million in grants prior to June 30, 2011, and reported to the Budget Section regarding the grants awarded under this section on September 15, 2011.
- In December 2011, the Adjutant General requested and received Emergency Commission and Budget Section approval for city flood mitigation projects ($3.2 million) and for

disaster relief relating to 2011 spring flooding ($14 million), and road grade raising projects ($4.8 million) as provided in Section 4 of 2011 Senate Bill No. 2369. As of April 2012, the Adjutant General has provided $671,526 for grants to Minnewauken for city flood mitigation projects and plans to provide the remaining $2,528,474 to Minnewauken for city flood mitigation projects in the 2011-13 biennium. The Adjutant General provided $2,874,795 for 2011 spring flooding disaster relief grants in the 2009-11 biennium under the emergency clause and plans to provide the remaining $11,125,205 for disaster relief grants in the 2011-13 biennium. As of April 2012, the Adjutant General has not provided funding for road grade raising projects, but plans to provide $4.8 million in grants in the 2011-13 biennium.

- In December 2011, the Adjutant General requested and received Emergency Commission and Budget Section approval for the required state share of expenses associated with January 2010 winter storm ($565,527), 2010 flood ($1,885,457), April 2010 ice storm ($1,142,381), and the 2011 flood ($11,705,205) as provided in Section 15 of 2011 Senate Bill No. 2371. Of the $29.5 million provided in Section 15 of 2011 Senate Bill No. 2371, $14,201,430 remains available for assistance subject to Emergency Commission and Budget Section approval.
- In December 2011, the Adjutant General requested and received Emergency Commission and Budget Section approval for providing additional rebuilders loan program funding to the Bank of North Dakota and funding to political subdivisions for flood-impacted housing rehabilitation ($10 million) as provided in Section 9 of 2011 Senate Bill No. 2371. As of April 2012, the Adjutant General has provided $2,174,150 to political subdivisions for flood-impacted housing rehabilitation grants and plans to provide the remaining $7,825,850 to political subdivisions for flood-impacted housing rehabilitation grants in the 2011-13 biennium. The Adjutant General does not anticipate providing any of the funds for additional rebuilders loan program funding.
- The Adjutant General provided $500,000 in flood-damaged school infrastructure grants to the Minot school district that experienced a 2011 flood event which resulted in multiple school facilities being damaged and unusable pursuant to Section 20 of 2011 Senate Bill No. 2371.

MINOT STATE UNIVERSITY

Mouse River flooding impact - Minot State University was impacted by flooding along the Mouse River during the summer of 2011.

Minot State University incurred several emergency flood fighting costs and expects future revenue impacts as a result of the flood. The following is a summary of the estimated financial impact of the flood:

Flood-Impacted Area	Estimated Financial Impact
Academic year 2011-12 enrollment decline of 7 percent - Effect on tuition	$800,000
Academic year 2011-12 enrollment decline of 7 percent - Effect on university and activity student fees	250,000
Academic year 2012-13 projected flat enrollment level - Effect on tuition	1,000,000
Emergency flood fighting efforts, including dike construction and removal	100,000[1]
Long-term flood restoration for campus infrastructure	2,200,000[2]
Emergency housing projects for faculty, staff, and students	3,600,000
Total	$7,950,000

[1]Does not include $300,000 of emergency flood fighting costs which the Federal Emergency Management Agency (FEMA) has approved for reimbursement

[2]Does not include $400,000 of campus restoration costs approved for reimbursement by FEMA.

Minot State University anticipates requesting a deficiency appropriation from the 63rd Legislative Assembly for flood-related costs that are not approved for reimbursement from FEMA. The institution has taken action to reduce operating costs, including the implementation of a partial hiring freeze and delaying the replacement of equipment on campus.

STATE FAIR ASSOCIATION

Flood disaster - In June 2011 flooding in Minot caused water to cover the state fairgrounds for approximately 30 days.

Emergency Commission - In August 2011 the Emergency Commission approved, pursuant to North Dakota Century Code 54-16-13, a $6 million line of credit at the Bank of North Dakota for recovery and prevention efforts related to the flood disaster at the state fairgrounds. The State Fair Association is to use funding received from FEMA to repay the loan.

Except for the State Fair Center and the grandstand, all of the structures on the state fairgrounds were flooded with 8 feet to 10 feet of water. Landscaping plants covered with water for 30 days have died, and the water washed away gravel on parking lots and damaged asphalt. The Federal Emergency Management Agency (FEMA) does not reimburse for these types of repairs. The cancellation of the 2011 State Fair resulted in the loss of approximately $3 million of income. The State Fair does not have sufficient funding in its operating fund to pay for the cost of these repairs and other extraordinary maintenance and operating costs; therefore, the State Fair Association anticipates requesting funding from the Legislative Assembly in 2013 for the following extraordinary maintenance and flood-related repairs:

- $2,881,500 - Asphalt overlay and repair.
- $619,650 - Gravel for parking lots.
- $353,882 - Expo barn roof repair.

The State Fair Association borrowed $4.2 million from the Bank to pay flood-related costs and anticipates FEMA will reimburse the association for 90 percent of qualified expenditures. Reimbursements received from FEMA used to repay a portion of the loan through March 2012 total $3.3 million. The association currently owes the Bank approximately $895,000 and anticipates requesting funding from the Legislative Assembly in 2013 to repay the balance of the loan plus interest through June 2013 of approximately $53,000.

DEPARTMENT OF TRUST LANDS

Energy infrastructure and impact grant awards - In Section 6 of 2011 House Bill No. 1013, the Legislative Assembly increased the maximum amount of oil and gas tax revenues that may be deposited in the oil and gas impact grant fund by $92 million per biennium, from $8 million to $100 million.

In Section 5 of 2011 House Bill No. 1013, the Legislative Assembly provided authority to the Board of University and School Lands to award and distribute energy infrastructure and impact grants from money deposited in the oil and gas impact grant fund. Annual distributions may not exceed 60 percent of the biennial appropriation for energy infrastructure and impact grants. The board is authorized to create an advisory committee to assist in making grant award determinations.

In Sections 6, 7, 8, 9, and 10 of 2011 House Bill No. 1013, the Legislative Assembly updated language to change the name of the Energy Development Impact Office to the Energy Infrastructure and Impact Office.

In Section 10 of 2011 House Bill No. 1013, the Legislative Assembly added the following items to the powers and duties of the Energy Infrastructure and Impact Office director:

- Receive and review applications for impact assistance.
- Make recommendations at least quarterly to the Board of University and School Lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas.
- Recommendations are to provide 35 percent of money available in the oil and gas impact fund to incorporated cities with a population of 10,000 or more. An incorporated city may not receive more than 60 percent of the funds available.
- Recommendations are to provide 65 percent of money available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development.

In Section 23 of 2011 Senate Bill No. 2371, the Legislative Assembly provided for a contingent transfer of $30 million from the general fund to the oil and gas impact grant fund. The Office of Management and Budget may transfer this funding only if the Tax Commissioner certifies that total oil and gas tax revenue collections for the period July 1, 2011, through February 29, 2012, exceed oil and gas tax revenue collection projections for that period by at least $48 million.

The Department of Trust Lands utilizes the oil and gas impact grant fund for providing energy infrastructure and impact grants and for the administration of the energy infrastructure and impact grant program. Of the $100 million of oil and gas tax revenues deposited in the oil and gas impact grant fund, $99,778,269 is available for energy infrastructure and impact grant awards in the 2011-13 biennium. The remaining amount of $221,731 is available for salaries and operating expenses relating to administration of the energy infrastructure and impact grant program.

Conditions for the contingent appropriation included in 2011 Senate Bill No. 2371 were met, and the transfer and appropriation of $30 million was available to the Department of Trust Lands in April 2012. The Land Board directed additional funds from the contingent appropriation to the January 2012 to March 2012 emergency services grant round pursuant to legislative intent.

The Board of University and School Lands plans to award and distribute approximately 35 percent of the grants to Williston, Dickinson, and Minot (no city may receive more than 60 percent of the funds) and approximately 65 percent to other cities, counties, school districts, and political subdivisions impacted by oil and gas development.

The Board of University and School Lands established an advisory committee to make recommendations regarding policies, procedures, and distributions of the 65 percent consisting of nine members as follows:

Two county representatives
- David Hynek, Mountrail County Commissioner
- Jim Arthaud, Billings County Commissioner

Two city representatives
- Lyn James, Bowman Mayor
- Brent Sanford, Watford City Mayor

One emergency services representative
- Barry Jager, Burke County Sheriff and Emergency Manager

One township representative
- Floyd Miller, township officer in Williams County

One at-large
- Rick Larson, Energy Industry Representative (and former EDIO director)

Department of Transportation Director
- Francis Ziegler

Section 24 of 2011 Senate Bill No. 2371 provides a contingent appropriation of $30 million from the oil and gas impact grant fund to the commissioner of University and School Lands for providing oil and gas impact grants in accordance with North Dakota Century Code Sections 57-62-03.1 and 57-62-05. For these funds, the commissioner is to give priority to approving grants related to emergency services.

Commissioner of University and School Lands

- Lance Gaebe

The Board of University and School Lands has completed grant rounds to date in the 2011-13 biennium as follows:

July 2011	July to September 2011 - Quarterly grant round - City infrastructure	$53,500,000
August 2011	Firefighters - Big rig extraction training	20,000
December 2011	October to December 2011 - Quarterly grant round - Townships and transportation	2,000,998
December 2011	Housing and Urban Development western communities planning grant - Cost-share	300,000
March 2012	January to March 2012 - Quarterly grant round - Emergency services and response	11,990,101
Total awarded to date		$67,811,099

The Legislative Assembly in 2011 provided that annual distributions may not exceed 60 percent of the biennial appropriation for energy infrastructure and impact grants ($77,866,961 for fiscal year 2012). Therefore, $10,055,862 of the maximum year one allocation remains available for distribution in the April to June 2012 grant round designated for airports, counties, parks, and other infrastructure as determined by the advisory committee. The Department of Trust Lands calculated the annual allocations as follows:

Appropriation for grants in Section 1 of 2011 House Bill No. 1013	$99,778,269[1]
Contingent appropriation for grants in Section 24 of 2011 Senate Bill No. 2371	30,000,000
Total biennial appropriation	$129,778,269
60 percent annual award limit	$77,866,961
2012 Fiscal Year	$77,866,961
Awarded to date (estimate)	67,811,099
Remaining 2012 fiscal year distributions	10,055,862
2013 fiscal year	$51,911,308
Reduction for 2011 Senate Bill No. 2150 - Rapid school enrollment grants	5,000,000[2]
Reduction for 2011 Senate Bill No. 2325 - Upper Great Plains Transportation study	350,000[3]
Remaining available for 2013 fiscal year distributions	$46,561,308

[1]Oil and gas tax revenues of $100 million deposited in the oil and gas impact grant fund available for energy infrastructure and impact grant awards is reduced by $221,731 for salaries ($90,189) and operating ($131,542) expenses relating to administration of the program.

[2]In 2011 Senate Bill No. 2150, the Legislative Assembly appropriated $5 million to the Superintendent of Public Instruction from the oil and gas impact grant fund for grants to school districts that can demonstrate rapid enrollment growth.

[3]In 2011 Senate Bill No. 2325, the Legislative Assembly appropriated $350,000 to the Upper Great Plains Transportation Institute from the oil and gas impact grant fund for updating and maintaining reports for transportation infrastructure needs for all county and township roads.

The advisory committee's tentative schedule for the 2013 fiscal year distribution follows a schedule similar to fiscal year 2012; city infrastructure (July to September 2012), townships and transportation (October to December 2012), emergency services and response assets training (January to March 2013), and airports, counties, parks, and other infrastructure (April to June 2013).

DEPARTMENT OF TRUST LANDS

Grants to new major oil and gas-producing counties - In Section 25 of 2011 Senate Bill No. 2371, the Legislative Assembly provided a one-time transfer of $5 million from the general fund to the oil and gas impact grant fund for distribution to new major oil and gas-producing counties. In Section 26 of 2011 Senate Bill No. 2371, the Legislative Assembly appropriated $5 million from the oil and gas impact grant fund for distributions of $1,250,000 for each new major oil-producing county after November 2011 to address the impact from new oil and gas development. A major new oil-producing county is one that produced less than 100,000 barrels of oil in November 2011 and subsequently has more than four rigs operating in the county.

As of April 2012, the Department of Trust Lands has not provided a grant to a new major oil and gas-producing county. The Department of Trust Lands plans to distribute grants upon certification by the Industrial Commission that a county meets the provisions of the grant program--a county that produced less than 100,000 barrels of oil in November 2011 and subsequently has more than four rigs operating in the county.

DEPARTMENT OF TRANSPORTATION

Roadway projects in areas affected by oil and gas development - The Legislative Assembly appropriated $370.6 million from the highway fund for state highway projects ($228.6 million) and county and township roadway projects ($142 million) in areas affected by oil and gas development. House Bill No. 1012 (2011) provides the funding may be used for engineering and design costs incurred on projects as of January 1, 2011. The bill also provides that the local funding is to be distributed based on an Upper Great Plains Transportation Institute report, and each county is to submit a plan detailing the projects to the Department of Transportation for approval. The funds for local projects may be used for up to 90 percent of the cost of the project.

The Department of Transportation used $84.5 million of the $228.6 million during the 2011 construction season for state highway projects. The department distributed $19.5 million of the $142 million during the 2011 construction season to counties for county and township road projects. The department anticipates using all remaining funds during the 2012 construction season.

HOUSING FINANCE AGENCY

Housing incentive fund - Senate Bill No. 2210 (2011) creates a special revolving housing incentive fund and provides a continuing appropriation to the Housing Finance Agency for disbursements from the fund. After a public hearing, the Housing Finance Agency is to create an annual allocation plan for the distribution of money in the fund. At least 25 percent of the fund must be used to assist developing communities with a population of not more than 10,000 individuals to address an unmet housing need or alleviate a housing shortage. At least 50 percent of the money in the fund must be used to benefit households with incomes at not more than 50 percent of the area median income. The housing incentive fund is effective through June 30, 2013.

Senate Bill No. 2210 (2011) limited the aggregate amount of credits to all contributors to $4 million for the biennium. Senate Bill No. 2371 (2011) approved during the November 2011 special legislative session increased the aggregate amount of tax credits allowed to all contributors to $15 million for the 2011-13 biennium only.

Senate Bill No. 2210 (2011) also provides individual income tax, corporate income tax, and financial institutions tax credits for contributions to a housing incentive fund. The November 2011 special legislative session increased the tax credit available to financial institutions, corporations, and individuals for contributions to housing incentive funds from 20 percent per taxable year to 100 percent and increased the maximum allowable credits from $4 million per biennium to $15 million for the 2011-13 biennium only.

The Housing Finance Agency developed an allocation plan for the housing incentive fund. At least 25 percent of the money in the fund must be used to assist developing communities with a population of not more than 10,000, address an unmet housing need, or alleviate a housing shortage. At least 50 percent of the money in the fund must be used to benefit households with incomes of not more than 50 percent of the area median income. Ninety percent of the fund, or $13.5 million, is set aside for new construction or substantial rehabilitation projects located in a federally declared disaster area with individual assistance or in any of the 18 oil and gas impacted counties. Funding is provided on a reimbursement basis. A project may qualify for any or all of the categories identified above.

Through April 2012, the Housing Finance Agency has received $6.5 million in contributions to the housing incentive fund. The agency has awarded $7.77 million, which includes $4.3 million of donated funds and $3.4 million in funds raised by award recipients and will result in 428 new housing units. Of the $4.3 million, $240,000 has been requested for reimbursement.

At the time of this report, information was not available from the Tax Department on the total anticipated reduction in general fund revenue from contributions to a housing incentive fund. Through April 2012, the Housing Finance Agency has received $6.5 million in contributions to the housing incentive fund.

STATE WATER COMMISSION & BANK OF NORTH DAKOTA

Western Area Water Supply Authority - House Bill No. 1206 (2011) establishes the Western Area Water Supply Authority to treat, store, and distribute water to western North Dakota and to provide for the supply and distribution of water to the people of western North Dakota for domestic, rural water, municipal, livestock, industrial, oil and gas development, and other purposes. The authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities; water districts; and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. The bill provides that the Bank of North Dakota provide a loan of $50 million to the authority for the construction of the project. The State Water Commission is required to make available from funding appropriated to the commission $25 million as a zero interest loan to the authority. The bill also appropriates $25 million from the general fund to the Bank to provide a loan to the authority for a maximum term of eight years from the completion of the $50 million loan from the Bank at 5 percent interest per year. The bill appropriates $10 million from the resources trust fund to the Bank for the purpose of providing a loan to the authority for a maximum term of two years from the completion of the $25 million loan from the general fund at 5 percent interest per year. The bill provides that this funding must be structured so that funding is provided, as needed, first from the $25 million zero interest loan from the State Water Commission, second from the $50 million loan from the Bank, third from the $25 million loan from the general fund, and last from the $10 million loan from the resources trust fund. Repayment of loans must be structured in the following order:

1. The $50 million loan from the Bank;
2. The $25 million loan from the general fund with deposit of the principal in the general fund and interest in the resources trust fund;
3. The $10 million loan from the resources trust fund for deposit in the resources trust fund; and
4. The $25 million zero interest loan from the State Water Commission for deposit in the resources trust fund.

The Bank of North Dakota will manage the cashflows and service the loans to the Western Area Water Supply Authority. The authority has received $18 million from the $25 million State Water Commission loan. The Bank anticipates providing the remainder of the $25 million State Water Commission loan and a first advance from the $50 million Bank loan by June 30, 2012.

The authority is required to repay the loans from revenues from the project. Upon repayment of the State Water Commission zero interest loan, the authority is required to provide 5 percent of the net profits to the State Water Commission for deposit by the State Treasurer in the resources trust fund until June 30, 2040. At the request of the authority, the State Water Commission is required to consider a loan of $40 million from the resources trust fund for inclusion in the State Water Commission's budget for second phase funding.

ANALYSIS OF STATE TRUST FUNDS FOR THE 2009-11 AND 2011-13 BIENNIUMS

Prepared by the
North Dakota Legislative Council Staff
June 2012

INDEX

Description	Page No.
Bonding Fund	1
Budget Stabilization Fund	2
Capitol Building Fund	3
Centers of Excellence Fund	4
Centers of Research Excellence Fund	6
Coal Development Trust Fund	8
Common Schools Trust Fund	9
Community Health Trust Fund	12
Electronic Health Information Exchange Fund	18
Environment and Rangeland Protection Fund	20
Fire and Tornado Fund	23
Foundation Aid Stabilization Fund	24
Health Care Trust Fund	25
Health Information Technology Loan Fund	27
Health Information Technology Planning Loan Fund	28
Lands and Minerals Trust Fund	30
Legacy Fund	32
Lignite Research Fund	33
Permanent Oil Tax Trust Fund	35
Property Tax Relief Sustainability Fund	36
Resources Trust Fund	37
Risk Management Fund	39
Senior Citizen Services and Programs Fund	40
State Aid Distribution Fund	42
State Disaster Relief Fund	44
Strategic Investment and Improvements Fund	48
Student Loan Trust Fund	50
Tobacco Prevention and Control Trust Fund	52
Tobacco Settlement Trust Fund	54
Tuition Fund	57
Veterans' Postwar Trust Fund	59
Water Development Trust Fund	61

ANALYSIS OF THE STATE BONDING FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$2,515,053		$2,802,006
Add revenues				
Investment income	$360,789		$400,000	
State bonding fund claims collections	55,587		80,000	
Total revenues		416,376		480,000
Total available		$2,931,429		$3,282,006
Less expenditures and transfers				
Insurance Department administration, including salaries (2009 HB 1010; 2011 SB 2010)	$27,062		$30,810	
Investment management expense	9,144		9,900	
State bonding fund claim losses - Net of subrogated and dismissed claims	71,108		59,495	
Claims-related and other operating expenditures	22,109		25,000	
Total expenditures and transfers		129,423		125,205
Ending balance		$2,802,006		$3,156,801

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $3,086,422. The increase in the estimated balance of $70,379 is due to a reduction in estimated expenditures for state bonding fund claim losses for the 2011-13 biennium.

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

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

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

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

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

FUND HISTORY

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

- Section 54-27.2-01 establishes the budget stabilization fund and provides that any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section provides that any money in the fund in excess of 9.5 percent of the general fund budget as approved by the most recently adjourned Legislative Assembly must be deposited in the state general fund. The Legislative Assembly approved 2011 House Bill No. 1451 which decreased, effective July 1, 2011, the maximum balance allowed in the fund from 10 percent to 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 provides that any amount in the state general fund at the end of the 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 OMB 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 a 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by OMB. Any transfer made must be reported to the Budget Section.

ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS[1]

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$1,333,302		$3,367,503
Add revenues				
Investment income	$53,339		$26,081	
Rentals, royalties, and bonuses	2,132,768		790,235	
Total revenues		2,186,107		816,316
Total available		$3,519,409		$4,183,819
Less expenditures and transfers				
Administrative expenses	$40,190		$45,257	
Income payments to counties	5,016[2]		5,315[2]	
Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 49-10-02) and operating expenses (2009 HB 1015; 2011 SB 2015)	106,700[3,4]		125,000[3,4]	
Office of Management and Budget Capitol building projects (2011 SB 2015)			2,600,000[5]	
Total expenditures and transfers		151,906		2,775,572
Ending balance		$3,367,503		$1,408,247

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

[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]House Bill No. 1015 (2009) and 2011 Senate Bill No. 2015 provided the Capitol Grounds Planning Commission with an appropriation of $25,000 for operating expenses.

[5]Funding of $2.6 million from the Capitol building fund was appropriated by the Legislative Assembly in 2011 for the following projects:

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

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $1,298,064. The increase in the estimated balance of $110,183 is primarily due to greater than estimated revenue from mineral royalties, rents, and bonuses.

ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$22,998,197
Add revenues				
Transfer from the general fund	$15,000,000[1,2]			
Contingent transfer from the general fund	5,000,000[3]			
Transfer from the general fund	4,450,000[4]			
Transfer from the permanent oil tax trust fund	6,620,541[5]			
Investment income	113,127		$45,000	
Total revenues		31,183,668		45,000
Total available		$31,183,668		$23,043,197
Less expenditures and transfers				
Legal fees - Attorney General's office	$2,752[6]		$2,500[8]	
Centers of excellence grants funding distributions	8,154,878		17,413,712	
Economic impact studies	16,500[6]		35,000[8]	
Centers of Excellence Summit	10,000[6,7]		10,000[8]	
Other administrative expenses	1,341[6]		35,000[8]	
Total expenditures and transfers		8,185,471		17,496,212
Estimated ending balance		$22,998,197[9]		$5,546,985[9]

[1]The Legislative Assembly in 2009 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.

[2]Of the funds appropriated by the Legislative Assembly in 2009 for centers of excellence, Section 23 of 2009 Senate Bill No. 2018 required $10 million be made available for centers of excellence enhancement grants during the biennium beginning July 1, 2009, and ending June 30, 2011. The Centers of Excellence Commission awarded the full $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
Certificate programs for full motion video and activity-based intelligence analysis	746,000
V2 Aerospace, Inc., technical assistance	370,000
Law enforcement and public safety agency small unmanned aircraft systems course	230,000
North Dakota State University	
Research 1 expansion	4,000,000
Materials and Nanotechnology Center	1,000,000
Total	$10,000,000

[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 (OMB) was authorized to transfer this funding only if actual general fund revenues for the period July 1, 2009, through December 1, 2009, exceeded estimated general fund revenues for that period by at least $5 million, as determined by OMB, 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 Legislative Assembly in 2009 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 grants awarded but not distributed.

[5]The Legislative Assembly in Section 27 of 2009 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, OMB 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.

[6]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 Legislative Assembly in 2009 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.

[7]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.

[8]Section 15-69-05(6), as amended by the Legislative Assembly in 2011 Senate Bill No. 2057, provides that the Department of Commerce may use funds available within the centers of excellence fund to pay for the department's administrative expenses.

[9]The 2009-11 biennium ending balance includes $22,672,492 that is obligated for centers of excellence proposals approved in the 2009-11 biennium and previous bienniums. From the 2009-11 appropriation, $285,000 was unawarded for centers of excellence grants and is available for ongoing administrative costs.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $2,922,916. The increase in the estimated balance of $2,624,069 is primarily due to a decrease in centers of excellence grants funding distributions of $5,473,113 in the 2009-11 biennium and a projected increase in centers of excellence grants funding distributions of $2,883,880 in the 2011-13 biennium.

FUND HISTORY

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

ANALYSIS OF THE CENTERS OF RESEARCH EXCELLENCE FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Transfer from the general fund			$12,000,000[1]	
Investment income			0	
Total revenues		0		12,000,000
Total available		$0		$12,000,000
Less expenditures and transfers				
Limited deployment-cooperative airspace project grant				
University of North Dakota			$2,700,000[2]	
North Dakota State University			1,300,000[2]	
Centers of research excellence grants				
University of North Dakota			500,000[3,4]	
North Dakota State University			2,000,000[3]	
Base realignment grants				
University of North Dakota			3,000,000[4]	
Total expenditures and transfers		0		9,500,000
Estimated ending balance		$0		$2,500,000[5]

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

[2]The Legislative Assembly in 2011 provided that the Department of Commerce use $4 million of the funds transferred to the centers of research excellence fund for grants to the North Dakota University System's research institutions for the purpose of leveraging private and federal funding to advance state opportunities associated with a limited deployment-cooperative airspace project in the state during the 2011-13 biennium. The Department of Commerce has awarded $2.7 million to the University of North Dakota (UND) and $1.3 million to North Dakota State University (NDSU) for the project. The Department of Commerce developed application criteria, reviewed submitted applications, and recommended applications for approval to the Centers of Excellence Commission. Available funds were limited to not more than one-half to one research university or nonprofit foundation related to that research university.

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

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

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

As of March 2012, a total of $1,670,000 has been awarded for centers of research excellence grants as follows:

NDSU	
Center for Life Sciences Research and Applications	$1,350,000
Center for Technologically Innovative Processes and Products	320,000
Total	$1,670,000

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

[4]Of the $4 million available to UND through the centers of research excellence program, $3 million is to be used for base realignment grants. The Legislative Assembly in 2011 provided that the department award base realignment grants to enhance economic development and employment opportunities associated with the Grand Forks Air Force Base resulting from action by the federal Defense Base Closure and Realignment Commission, a grant of up to $200,000 to the Grand Forks Housing Authority for a planning initiative, or grants for infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks Air Force Base. Any funds not committed within the first 18 months of the biennium may be used by the Centers of Excellence Commission for the centers of research excellence program. As of March 2012, a total of $1,259,350 has been awarded for base realignment grants as follows:

UND	
Global Hawk sensor operator part task trainer	$878,204
Joint Distributed Common Ground System	125,706
North Dakota Unmanned Aircraft Systems Airspace Initiative (Phase 2)	255,440
Total	$1,259,350

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

[5]The 2011-13 biennium estimated ending balance includes $2.5 million that is expected to be obligated for centers of research excellence proposals approved in the 2011-13 biennium.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $0. The increase in the estimated balance of $2,515,000 is due to funds being obligated for centers of research excellence proposals approved in the 2011-13 biennium but are not anticipated to be distributed by June 30, 2013.

FUND HISTORY

Section 12 of 2011 Senate Bill No. 2057 establishes a centers of research excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of research 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

	2009-11 Biennium Actual[1]		2011-13 Biennium Estimated[1]	
Beginning balance		$155,172		$135,356
Add revenues				
Investment income	$1,229,107		$595,774	
School construction loan income	1,357,786		1,548,000	
Total revenues		2,586,893		2,143,774
Total available		$2,742,065		$2,279,130
Less expenditures and transfers				
Investment expense	$91,175		$55,000	
Administrative expenses	10,362		7,044	
Transfer to the general fund	2,505,172		2,185,356	
Total expenditures and transfers		2,606,709		2,247,400
Ending balance		$135,356		$31,730

[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 December 31, 2011, the total value of permanent fund assets was $63.8 million, of which $27.1 million was school construction loans receivable, $8.7 million was coal impact loans receivable, and $28 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.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $5,603. The increase in the estimated balance of $26,127 is due to higher than anticipated investment earnings during the 2009-11 biennium, resulting in a higher beginning balance for the 2011-13 biennium. As a result, the transfer to the general fund for the 2011-13 biennium is expected to be $235,356 more than projected by the Legislative Assembly during the 2011 regular legislative session.

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

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

The following is a summary of actual and estimated assets, distributions, and investment returns for the common schools trust fund for the 1997-99 through 2011-13 bienniums:

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

[1]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.

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

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

MONEY DEPOSITED IN THE COMMON SCHOOLS TRUST FUND

Select Constitutional Provisions

Article IX, Section 1

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

- All proceeds relating to public lands granted to the state by the federal government for the support of the common schools.
- All proceeds relating to property acquired by the state through escheat (property reverting to the state in the absence of legal heirs).

- All gifts, donations, and other property acquired by the state for the support of the common schools.
- The proceeds of all bonuses relating to the leasing of coal, gas, oil, or other mineral interests relating to common schools lands.

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

Article IX, Section 5

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

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

Article X, Section 24

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

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

Select North Dakota Century Code Provisions

Section 47-30.1-23

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

Section 54-27-25

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

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

1999-2001	$23,805,353 (actual)
2001-03	$23,998,745 (actual)
2003-05	$20,977,123 (actual)
2005-07	$19,722,653 (actual)
2007-09	$27,672,929 (actual)
2009-11	$18,248,834 (actual)
2011-13	$19,369,264 (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 (House Concurrent Resolution No. 3037 (2005)). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. Previously, distributions were based on the amount of interest and income earned by each trust during a fiscal year. The amendment became effective July 1, 2009, and distributions from the common schools trust fund for the 2009-11 and 2011-13 bienniums are based on the distribution formula.
- All fines for violation of state laws. (This money is not added to the trust fund but is added to the distributions from the common schools trust fund and distributed to schools.)
- All other amounts provided by law.

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

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

Select North Dakota Century Code Provisions

Section 15-01-02

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

- The selection, 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$1,299,379		$0
Add revenues and general fund transfers				
Transfers to date from the tobacco settlement trust fund	$4,055,296		$2,012,723[1]	
Projected remaining transfers from the tobacco settlement trust fund			$2,291,559	
Refund of physician loan repayment expenditure from prior biennium	22,500			
Refund of Governor's Prevention and Advisory Council expenditure from prior biennium	6,473			
Contingent general fund transfer	407,956[2]			
Total revenues		4,492,225[3]		4,304,282[3]
Total available		$5,791,604		$4,304,282
Less expenditures and transfers				
State Department of Health (2009 SB 2004, 2009 SB 2227; 2011 HB 1004)				
Tobacco prevention and control	$683,967[4]		$3,510,496[4]	
Dentists' loan program	468,448[5]		260,000[5]	
Tobacco Quitline	2,342,593[6]			
Tobacco cessation coordinator and operating expenses	60,744[7]			
Physician and medical loan repayment program	105,000[8]		75,000[8]	
Veterinarian loan repayment program	230,776[9]		310,000[9]	
Women's Way program	304,332[10]		400,500[10]	
Stroke registry and prevention program	433,792[11]		[11]	
Colorectal cancer screening initiative, including carryover authority pursuant to Section 9 of 2009 SB 2004	335,985[12]		[12]	
Emergency medical services grants	300,000[13]		[13]	
Dental grant program	10,000[14]		10,000[14]	
Department of Human Services				
Breast and cervical cancer assistance (2009 HB 1012)	515,967[15]			
Estimated reduction in expenditures related to tobacco settlement trust fund transfers being less than anticipated			(261,714)	
Total expenditures and transfers		5,791,604		4,304,282
Ending balance		$0		$0

[1]As of April 2012, $2,012,723 has been transferred from the tobacco settlement trust fund for the 2011-13 biennium. Total transfers of $31,885,085 have been made from the tobacco settlement trust fund to the community health trust fund.

[2]Contingent general fund transfer - Section 4 of 2009 Senate Bill No. 2004 provided 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 transferred a total of $407,956.

[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 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	66.7 million	23.6 million	19.4 million	19.4 million	4.3 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	$563.7 million	$116.4 million	$201.3 million	$201.3 million	$44.7 million

[4]North Dakota Century Code 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 Legislative Assembly in 2009 appropriated $2.3 million to the State Department of Health for tobacco prevention and control programs for the 2009-11 biennium. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $3,510,496 from the community health trust fund to the State Department of Health for tobacco prevention and control programs for the 2011-13 biennium.

[5]The dentists' loan repayment program, which is administered by the Health Council, was established in 2001 Senate Bill No. 2276 (Chapter 43-28.1). Each year the Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds, not to exceed a total of $80,000 per applicant, for the repayment of their educational loans. The funds are payable over a four-year period ($20,000 per year). The dental loan repayment program is to provide the highest priority for acceptance into the program to dentists willing to serve the smallest and most underserved communities in North Dakota. Senate Bill No. 2152 (2007) provides 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 Legislative Assembly in 2009 appropriated $483,448 from the community health trust fund for the dentists' loan repayment program. Of this amount, $468,448 was spent. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $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. Through March 2012 no funds have been expended from the community health trust fund for the dentists' loan repayment program; however, $120,000 has been provided from the general fund. 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
2011-13 biennium (3 to date)	Bowman Hazen Langdon/Walhalla

In addition, the Legislative Assembly provided in 2009 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 did not include and the Legislative Assembly in 2011 did not add funding for a loan repayment program for dentists in public health and nonprofit dental clinics.

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

[7]The Legislative Assembly in 2007 authorized 1 FTE tobacco prevention coordinator position and related funding for salaries and wages ($117,101) and operating expenses ($22,296) for the position. The Legislative Assembly in 2009 appropriated $139,397 for the tobacco prevention coordinator position. Of this amount, $60,744 was spent. The 2011-13 executive budget did not include and the 2011 Legislative Assembly did not approve direct funding for the tobacco prevention coordinator position but included $3,510,496 from the community health trust fund for tobacco prevention and control programs.

[8]Chapter 43-17.2 provides for the state community matching physician loan repayment program. A qualifying physician may receive up to $22,500 per year for up to two years for a total of $45,000. Section 43-12.2-01 provides for qualifying mid-level practitioners to receive loan repayments totaling up to $30,000 over two years. Communities must contribute an amount at least equal to the amount of the state contribution for the physicians and mid-level practitioners. The

Legislative Assembly in 2009 appropriated $75,000 from the general fund and $272,500 from the community health trust fund for the program, including $67,500 provided in 2009 Senate Bill No. 2227 which removed the limit on the number of recipients and increased the limit on the maximum loan repayment from $10,000 to $30,000 for the medical personnel loan repayment program relating to mid-level practitioners. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $420,000, of which $345,000 is from the general fund and $75,000 is from the community health trust fund, for the medical personnel loan repayment program, $72,500 more than the 2009-11 biennium. Through March 2012 no funds have been expended from the community health trust fund for the medical personnel loan repayment program; however, $60,000 has been provided from the general fund. 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 (5)	Dickinson (2) Jamestown Wahpeton Williston
2011-13 biennium (3 to date)	Williston Fargo Linton

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

[9]The Legislative Assembly in 2009 appropriated $350,000 from the community health trust fund for the veterinarian loan repayment program. Of this amount, $230,776 was spent. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $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. In addition, 2011 Senate Bill No. 2341 removes the limit on the number of veterinarians that may be selected and provides if funding is available the Health Council may use the funding to increase the number of applicants selected. Through March 2012 no funds have been expended from the community health trust fund for the veterinary loan repayment program; however, $110,000 has been provided from the general fund.

[10]The Legislative Assembly in 2009 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 recommended $400,500 from the general fund for Women's Way program maintenance, $3,832 less than the 2009-11 biennium. The Legislative Assembly in 2011 changed the source of funding for Women's Way to provide $400,500 from the community health trust fund.

[11]The Legislative Assembly in 2009 appropriated $472,700 from the community health trust fund for a stroke registry and prevention program. Of this amount, $433,792 was spent. The 2011-13 executive budget recommended $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. The Legislative Assembly in 2011 changed the source of funding for the stroke registry and prevention program to provide a total of $473,324 from the general fund.

[12]The Legislative Assembly in 2007 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 Legislative Assembly provided in Section 9 of 2009 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 spent these carryover funds in addition to $297,752 of the $300,000 appropriated for the 2009-11 biennium. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $477,600 from the general fund for a colorectal cancer screening initiative.

[13]The Legislative Assembly in 2009 appropriated $300,000 from the community health trust fund for emergency medical services training grants. The 2011-13 executive budget recommended $300,000 from the general fund for emergency medical services training grants. The Legislative Assembly in 2011 removed $523,900 from the general fund added in the executive budget to replace reduced federal funding available through the Department of Transportation for services provided to ambulances and for the statewide trauma program and replaced the funding with $499,800, including $75,000 from the general fund, a $300,000 transfer from emergency medical services training grants funded from the general fund, and $124,800 from the Department of Transportation.

[14]Senate Bill No. 2152 (2007) provided for a dental grant program. A dentist who has graduated from an accredited dental school within the previous five years and is licensed to practice in North Dakota may submit an application to the Health Council for a grant for the purpose of establishing a dental practice in North Dakota cities with a population of 7,500 or less. The Health Council may award a maximum of two grants per year with a maximum grant award of $50,000 per applicant to be used for buildings, equipment, and operating expenses. The community in which the dentist is located must provide a 50 percent match. The grant must be distributed in equal amounts over a five-year period, and the dentist must commit to practice in the community for five years. The Legislative Assembly in 2009 appropriated $10,000 from the community health trust fund for the dental grant program. The State Department of Health has provided the funding to one dentist in Larimore. The 2011-13 executive budget recommended and the Legislative Assembly in 2011 approved $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. Through March 2012 no funds have been expended from the community health trust fund for the dental grant program.

[15]The Legislative Assembly in 2009 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. Of this amount, $515,967 was spent. The 2011-13 executive budget provided and the Legislative Assembly in 2011 approved $790,015 from the general fund to the Department of Human Services for breast and cervical cancer assistance for the 2011-13 biennium.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $17,122. The decrease of $278,836 in the estimated balance is due to transfers from the tobacco settlement trust fund being less than estimated. The State Department of Health anticipates funding for programs will be adjusted to account for the shortfall.

FUND HISTORY

Section 54-27-25 created by 1999 House Bill No. 1475 established the community health trust fund. This section creates a tobacco settlement trust fund for the deposit of all tobacco settlement money obtained by the state. Money in the fund must be transferred within 30 days of its deposit in the fund as follows:

- 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$5,464,014
Add revenues				
Transfer from 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			[3]	
Total revenues		5,843,733		7,500,000
Total available		$5,843,733		$12,964,014
Less expenditures and transfers				
Implementing a statewide health information technology and exchange network	$243,733		$4,763,133	
Regional Extension Center for Health Information Technology services	63,506		238,084	
Medicaid health information technology			62,000	
Total expenditures and transfers		379,719		5,063,217
Ending balance		$5,464,014		$7,900,797

[1]Section 8 of 2009 Senate Bill No. 2332 provided that the Industrial Commission transfer, during the 2009-11 biennium, as requested by the Health Information Technology Office director, up to $8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds. The Health Information Technology Office director was to request fund transfers from the Bank of North Dakota only as necessary to comply with federal requirements and to meet cashflow needs of the funds.

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

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 2012-September 2013)	$1 of state funds for each $3 of federal dollars

[3]The legislative appropriation for the Information Technology Department for the 2011-13 biennium includes the collection of $5,596,266 from health care providers for participating in the health information exchange. As of March 2012, the department does not anticipate collecting funds from health care providers until the 2013-15 biennium as the federal grant funds and matching funds from the Bank of North Dakota are anticipated to provide for the implementation and operating costs for the 2011-13 biennium.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $0. The increase in the estimated balance of $7,900,797 is due primarily to a decrease in the estimated expenditures for the 2011-13 biennium.

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 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$1,358,407		$2,234,971
Add estimated revenues				
Pesticide registration fees	$4,186,199[1]		$4,000,000[1]	
Weed seed-free forage (2009 HB 1270, 2009 HB 1009; 2011 SB 2009)	5,882[2]		48,922[2]	
Rinsate collection fee (North Dakota Century Code Section 4-35.2-03)	483			
Anhydrous ammonia storage facility inspection fees (2011 HB 1321)			101,178[3]	
Fertilizer distribution registration and inspection fees (2011 SB 2009)			785,000[4]	
Total estimated revenues		4,192,564		4,935,100
Total available		$5,550,971		$7,170,071
Less estimated expenditures and transfers				
Agriculture Commissioner				
Noxious weed control (2009 HB 1009; 2011 SB 2009)	$1,460,686		$2,003,582	
Pesticide disposal project (Safe Send) (2009 HB 1009; 2011 SB 2009)	605,389		591,732	
Pesticide programs (2009 HB 1009; 2011 SB 2009)	608,726		1,212,401	
Agriculture in the Classroom program (2009 HB 1009; 2011 SB 2009)	126,290		110,000	
Farmer's market	29,553		29,500	
Endangered species (2009 HB 1009; 2011 SB 2009)	116,047		161,572	
Livestock pollution prevention (2009 HB 1009; 2011 SB 2009)	47,278		50,000	
Weed seed-free forage (2009 HB 1270, 2009 HB 1009; 2011 SB 2009)	5,882[2]		48,922[2]	
Anhydrous ammonia inspection duties (2011 HB 1321; 2011 SB 2009)			450,328[3]	
Dairy Coalition grant (2011 SB 2009)			250,000[5]	
Rent expense (2011 SB 2009)			100,000[5]	
Research analyst FTE position operating expenses (2011 SB 2009)			20,000[5]	
Crop Protection Product Harmonization and Registration Board[6]				
Crop protection product registration, labeling, and grants (2009 HB 1009; 2011 SB 2009)	43,842		75,000	
Minor use pesticide registration (Section 5 of 2011 SB 2009)	0		200,000	
State Department of Health				
Ground water testing (2009 SB 2004; 2011 HB 1004)	222,307		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		3,316,000		5,575,347
Ending balance		$2,234,971		$1,594,724

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

[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]House Bill No. 1321 (2011) repeals Section 19-20.2-08.1 that deposits certain inspection fees in the anhydrous ammonia storage facility inspection fund. The bill provides that the fee collections, which are estimated to be $101,178 during the 2011-13 biennium, are to be deposited in the environment and rangeland protection fund, and anhydrous ammonia inspection storage facility inspection duties are to be transferred from the Insurance Commissioner to the Agriculture Commissioner. Senate Bill No. 2009 (2011) appropriates $450,328 from the environment and rangeland protection fund to the Agriculture Commissioner for anhydrous ammonia storage facility inspection duties.

[4]Senate Bill No. 2009 (2011) amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. The estimated fee collections for the 2011-13 biennium are $785,000. House Bill No. 1321 (2011) also amends Section 19-20.1-06 to deposit a portion of fertilizer distribution inspection fees in the environment and rangeland protection fund rather than the general fund. The fees collected under this section include $478,208 of the total estimated 2011-13 fee collections of $785,000.

[5]Senate Bill No. 2009 (2011) changes the funding source for the Dairy Coalition grant and a portion of rent expense from the general fund to the environment and rangeland protection fund. The bill also provides funding from the environment and rangeland protection fund for the operating expenses associated with 1 new FTE research analyst position.

[6]Section 4-35-30, as created by 2001 House Bill Nos. 1009 and 1328, created the Crop Protection Product Harmonization and Registration Board. The duties of the board consist of:

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

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

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

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $431,451. The increase in the estimated balance of $1,163,273 is due to greater than estimated pesticide registration fee revenues and less than estimated fund expenditures.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$21,504,828		$22,306,709
Add estimated revenues				
Premium collections	$9,692,202		$7,100,000	
Investment income	7,337,423		3,000,000	
Boiler inspection fees	397,470		370,000	
Loss claims and insurance recoveries	139,184		650,000	
Anhydrous ammonia storage facility inspection fund (2009 HB 1010)	107,989			
Total estimated revenues		17,674,268		11,120,000
Total available		$39,179,096		$33,426,709
Less estimated expenditures and transfers				
Loss claims payments	$9,253,652		$5,000,000	
Claims-related and other operating expenses	6,106,775		5,370,000	
Insurance Department administration (salaries) and anhydrous ammonia inspection costs	964,853		1,032,694	
State Fire Marshal program (2009 HB 1003; 2011 SB 2003)	377,107		175,000	
North Dakota Firefighters Association grant (2009 HB 1010; 2011 SB 2010)	170,000		170,000	
Total estimated expenditures and transfers		16,872,387		11,747,694
Estimated ending balance		$22,306,709		$21,679,015

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $21,756,876. The decrease in the estimated balance of $77,861 is a result of the actual July 1, 2011, balance being $1,773,827 less than estimated, revised 2011-13 revenue estimates being $5,950,000 less than originally estimated, and revised 2011-13 expenditure estimates being $7,645,966 less than originally estimated.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$65,750,547		$140,193,764
Add revenues				
Oil extraction tax allocations	$74,443,217		$113,894,716[1]	
Total available		$74,443,217		$113,894,716
Less expenditures and transfers				
Transfer to foundation aid program	$0[2]		$0[2]	
Ending balance		$140,193,764		$254,088,480

[1]Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through February 2012 and estimated allocations for the remainder of the 2011-13 biennium per the February 2011 revenue forecast. Oil extraction tax collected through February 2012 has exceeded the February 2011 revenue forecast by $13,988,539.

[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.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $235,952,922. The increase in the estimated balance of $18,135,558 is due to the increased oil activity resulting in the actual July 1, 2011, balance of $140,193,764 being $4,147,019 more than the July 1, 2011, balance estimated at the close of the 2011 regular legislative session of $136,046,745 and the 2011-13 estimated revenues of $113,894,716 being $13,988,539 more than originally projected revenues of $99,906,177.

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. Interest from the foundation aid stabilization fund allocated to the general fund during the 2009-11 biennium totaled $511,593. For the period July 1, 2011, through February 29, 2012, $135,068 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$3,484,946		$420,036
Add revenues				
Investment earnings	$23,429		$7,165	
Loan repayments - Principal and interest	1,086,167		1,070,901	
Total revenues		1,109,596		1,078,066
Total available		$4,594,542		$1,498,102
Less 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)	[2]			
Department of Human Services increased payments to basic care and long-term care facilities (2011 HB 1325)			$546,786[3]	
Department of Human Services one-time grant to a government nursing facility that participated in the intergovernmental transfer payment program ($200,000) and to a hospital in a city which also has a government nursing facility that participated in the intergovernmental transfer payment program (2011 SB 2012)			400,000	
State Department of Health one-time costs to establish a nurse aide registry (2011 HB 1041)			155,000	
Total expenditures and transfers		4,174,506		1,101,786[4]
Ending balance		$420,036		$396,316

[1]The Legislative Assembly in 2009 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 spent $50,000 of the $125,000 appropriation for the 2009-11 biennium.

[2]House Bill No. 1327 (2009) provided a $200,000 appropriation from the health care trust fund to the Department of Human Services for providing a grant to a nursing facility for costs associated with remodeling the facility to meet the requirements of an assisted living facility and a basic care facility. The facility receiving the grants is to use $50,000 of the grant to conduct a rent subsidy pilot project for at least four assisted living residents. The Department of Human Services entered a contract with Golden Manor, Inc., Steele, for the grant. Golden Manor, Inc., remodeled its facility and is operating a basic care facility, but Golden Manor, Inc., decided it was not feasible to operate an assisted living facility. Because the contract required Golden Manor, Inc., to operate both an assisted living facility and basic care facility, the contract was terminated, and the appropriation of $200,000 was unexpended.

[3]House Bill No. 1325 (2011) provides a special funds appropriation of $1,255,979, of which $546,786 is from the health care trust fund and $679,193 is from federal funds, to the Department of Human Services for increased payments to basic care and long-term care facilities due to establishment of a bed layaway program.

[4]Section 6 of 2011 House Bill No. 1041 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, except for the operation and maintenance of the nurse aide registry as provided for in this section.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $452,240. The decrease in the estimated balance of $55,924 is due to a decrease in loan repayments for both the 2009-11 and 2011-13 bienniums.

FUND HISTORY

The health care trust fund was established by the Legislative Assembly in 1999 (Senate Bill No. 2168) for providing nursing alternative loans or grants. The Legislative Assembly in 2011 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

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

[1]Section 8 of 2009 Senate Bill No. 2332 provided that the Industrial Commission transfer, during the 2009-11 biennium, as requested by the Health Information Technology Office director, up to $8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund to meet any required match for federal funds or to the electronic health information exchange fund to meet any required match for federal funds or as directed, a portion to both funds to meet any required match for federal funds. The Health Information Technology Office director was 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 amended Section 8 of 2009 Senate Bill No. 2332 to provide that the Industrial Commission transfer during the 2009-11 or 2011-13 biennium, up to $8 million from the current earnings and the accumulated undivided profits of the Bank of North Dakota to the health information technology loan fund or to the electronic health information exchange fund to meet any required match for federal funds or for ongoing operating expenditures of the health information exchange.

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 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 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 no transfer from the Bank to the health information technology loan fund because the Health Information Technology Office director anticipates requesting the transfer of $5 million from the Bank to the health information technology planning loan fund.

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 of North Dakota. 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$894,196
Add revenues				
Transfer from Bank of North Dakota current earnings and accumulated undivided profits	$5,000,000[1]		$5,000,000[2]	
Loan repayments from health care entities	178,160		1,306,369	
Interest income	26,456		122,002	
Total revenues		5,204,616		6,428,371
Total available		$5,204,616		$7,322,567
Less expenditures and transfers				
Loans to health care entities	$4,300,048[3]		$7,146,776[3]	
Service fees	10,372[4]		61,001[4]	
Total expenditures and transfers		4,310,420		7,207,777
Ending balance		$894,196		$114,790

[1]Section 9 of 2009 Senate Bill No. 2332 provided 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 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 was 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 were 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 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 is to request transfers from the Bank 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 $5 million from the Bank to the health information technology planning loan fund as anticipated to be requested by the Health Information Technology Office director. Actual transfers are made by the Bank when additional funds are needed to fund approved loans.

[3]The following is a summary of loan applications approved by the Health Information Technology Advisory Committee during the 2009-11 biennium and loan applications anticipated to be approved by the committee during the 2011-13 biennium:

	2009-11 Biennium	2011-13 Biennium
St. Andrew's Health Center (Bottineau)	$361,149	
Cooperstown Medical Center	200,000[1]	
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[2]
Midgarden Family Clinic (Park River)	101,590	
7-Day Clinic Walk-in Express Care (Fargo)	50,000	
Linton Hospital	420,115	
McKenzie County Health Care System		100,000
Garrison Memorial Hospital		800,000
Wishek Community Hospital		400,000
Nelson County Health System		305,000
Other anticipated loans		5,000,000
Total	$4,300,048	$7,147,776

[1]The advisory committee originally approved a loan of $358,176 for the Cooperstown Medical Center. Before the loan was finalized, Cooperstown Medical Center changed its request to a $200,000 loan.

[2]The advisory committee approved the loan to the St. Luke's Community Hospital and Clinics during the 2009-11 biennium; however, the funding was not provided until the 2011-13 biennium.

[4]The Bank of North Dakota is authorized to deduct a service fee for administering the fund.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $20,619. The increase in the estimated balance of $94,171 is due to a decrease in the estimated amount of loans to health care entities for the 2011-13 biennium.

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 of North Dakota. 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$32,586,643		$0
Add estimated revenues				
Production royalties	$53,194,128			
Mineral leases	771,552			
Oil and gas bonuses	197,435,151			
Investment earnings	2,108,490			
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020, 1985 SB 2249)	429,774			
Total estimated revenues		253,939,095		0
Total available		$286,525,738		$0
Less estimated expenditures and transfers				
Payments to common schools trust fund - Developmentally disabled loan fund Nos. 2 and 3 (2005 SB 2013 - Continuing appropriation)	$697,354[1]			
Industrial Commission - Oil and Gas Division contingency (2009 SB 2014)	314,242[2]			
Transfer to the general fund (2009 SB 2013)	35,000,000			
Office of Management and Budget (OMB) - Heritage Center expansion (2007 SB 2341)	499,835[3]			
Administrative costs/other fees	939,876			
Transfer to the strategic investment and improvements fund (2011 HB 1451)	249,074,431[4]			
Total estimated expenditures and transfers		$286,525,738		0
Estimated ending balance		$0		$0

[1]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.

[2]Industrial Commission - Department of Mineral Resources contingency - Senate Bill No. 2014 (2009) provided 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 2 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 1 FTE position, upon Emergency Commission approval. In June 2010 the Emergency Commission approved a request from the Industrial Commission to hire 2 FTE positions and expend $221,500 for salaries ($156,500) and operating expenses ($65,000). In September 2010 the Emergency Commission approved additional funding of $97,541 for operating expenses. The division expended $314,342 of the $319,041 authorized for the 2009-11 biennium.

[3]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 OMB for the Heritage Center expansion project. The appropriation was only available when the State Historical Society certified to OMB that $1.5 million of other funds had been received or pledged for the project. The State Historical Society certified to OMB 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 $1,000,165 of the $1.5 million for the Heritage Center expansion project during the 2007-09 biennium and spent the remainder of $499,835 on the project during the 2009-11 biennium.

[4]House Bill No. 1451 (2011) provides that the lands and minerals trust fund be renamed to the strategic investment and improvements fund, and that as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund.

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 was deposited in the lands and minerals trust fund, pursuant to Section 15-08.1-08. The principal and interest of the trust fund could be used only for purposes approved by the Legislative Assembly. House Bill No. 1451 (2011) provides that the lands and minerals trust fund be renamed to the strategic investment and improvements fund, and that as soon as feasible after June 30, 2011, the State Treasurer close out the lands and minerals trust fund and transfer any remaining unobligated balance to the strategic investment and improvements fund.

ANALYSIS OF THE LEGACY FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Thirty percent of oil and gas gross production and extraction tax collections			$701,862,989[1]	
Excess revenues from strategic investment and improvements fund			0[2]	
Investment earnings			6,090,000	
Total revenues		0		707,952,989
Total available		$0		$707,952,989
Total expenditures and transfers				0[3]
Ending balance		$0		$707,952,989

[1]The total estimated revenues from oil and gas tax revenue shown above reflect the 2011-13 revenue forecast as approved by the Legislative Assembly in 2011 of $612,468,299 adjusted by the additional oil and gas tax revenues received through April 2012 of $89,394,690.

[2]House Bill No. 1451 (2011) provides that if the unobligated balance of the strategic investment and improvements fund exceeds $300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund.

[3]The principal and earnings of the legacy fund may not be spent until after June 30, 2017.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $618,558,299. The increase in the estimated balance of $89,394,690 is due to higher than anticipated oil production and price per barrel of oil.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$14,187,178		$11,718,070
Add revenues				
Separate two-cent coal severance tax	$1,152,442		$1,155,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,241,307		3,250,000	
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)	1,296,432		1,300,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	600,180		1,338,560	
Five percent of the general fund share of coal conversion tax (2007 HB 1093)	2,282,653		2,500,000	
Revenue bonds/short-term loan	0[1]		0[1]	
Interest income and return of funds	70,630		71,000	
Total revenues		8,643,644		9,614,560
Total available		$22,830,822		$21,332,630
Less expenditures and transfers[2,3]				
Administration	$668,488		$850,000	
Lignite feasibility studies (nonmatching grants)	1,563,085		700,000	
Small research grants	739,169		1,200,000	
Lignite marketing	905,000		1,500,000	
Lignite litigation	60,836[4]		655,785[4]	
Demonstration projects	7,176,174		7,000,000	
Total expenditures and transfers		11,112,752		11,905,785[5]
Ending balance		$11,718,070		$9,426,845

[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, $1,917,052 during the 2007-09 biennium, $3,502,090 during the 2009-11 biennium, $1.5 million during the 2011-13 biennium, and $11,476,717 during the 2013-15 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 $60,836 during the 2009-11 biennium, and $655,785 anticipated to be spent during the 2011-13 biennium with $300,000 of the amount paid from a portion of the program's nonmatching dollars.

[5]The Legislative Assembly in 2011 appropriated $19,971,300 for lignite research grants; however, the Industrial Commission anticipates spending $11.9 million for lignite research grants during the 2011-13 biennium. The Industrial Commission has continuing appropriation authority for all money deposited in the lignite research fund pursuant to Section 57-61-01.6.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $1,247,058. The increase in the estimated balance of $8,179,787 is due to delays in Lignite Vision 21 projects due to the lack of a national energy policy.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$489,727,017		$0[1]
Add revenues				
Oil and gas production and extraction tax collections	$981,554,724			
Total revenues		981,554,724		0
Total available		$1,471,281,741		$0
Less expenditures and transfers				
Transfer to the general fund (2009 HB 1015)	$140,000,000			
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)	295,000,000			
Property tax relief (deficiency appropriation) (2011 SB 2023)	4,233,000			
Transfer to state disaster relief fund (2011 SB 2369)	22,000,000			
Transfer to centers of excellence fund (2009 SB 2018)	6,620,541			
Higher education (2009 SB 2003)	12,287,483			
Grant assistance payments to tribally controlled community colleges (2009 HB 1394)	700,000			
Dickinson Research Center (2009 SB 2020)	925,000			
Department of Human Services - Medicaid management information system replacement project carryover authority	1,130,027			
Water project grants (2009 HB 1015)	2,442,000			
Prairie Public Broadcasting (2009 HB 1015)	1,008,100			
Total expenditures and transfers		781,346,151		0
Ending balance		$689,935,590[1]		$0

[1]House Bill No. 1451 (2011) repeals the permanent oil tax trust fund at the end of the 2009-11 biennium and transfers the balance to the general fund. The bill also provides for the deposit of the state share of oil tax revenues received each biennium as follows:

- The first $200 million in the general fund;
- The next $341,790,000 in the property tax relief sustainability fund;
- The next $100 million in the general fund;
- The next $100 million into a new strategic investment and improvements fund (formerly the lands and minerals trust fund);
- The next $22 million in the state disaster relief fund; and
- Any additional revenues in the strategic investment and improvements fund.

FUND HISTORY

North Dakota Century Code Section 57-51.1-07.2 (1997 Senate Bill No. 2366) established a permanent oil tax trust fund and provided 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 was 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 could only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly. The Legislative Assembly in 2011 with the passage of House Bill No. 1451 repealed the permanent oil tax trust fund at the end of the 2009-11 biennium and transferred the balance to the general fund.

ANALYSIS OF THE PROPERTY TAX RELIEF SUSTAINABILITY FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$295,000,000
Add estimated revenues				
Transfer from the permanent oil tax trust fund (Section 11 of 2009 SB 2199)	$295,000,000			
Transfer from permanent oil tax trust fund (Section 2 of 2011 SB 2023)	4,233,000			
Allocation of oil and gas tax revenues (Section 9 of 2011 HB 1451)			$341,790,000	
Total estimated revenues		299,233,000		341,790,000
Total available		$299,233,000		$636,790,000
Less estimated expenditures and transfers				
Supplemental appropriation for mill levy reduction grants to school districts (Section 1 of 2011 SB 2023)	$4,233,000			
Transfer to general fund (Section 14 of 2011 HB 1047)			295,000,000	
Total estimated expenditures and transfers		4,233,000		295,000,000
Estimated ending balance		$295,000,000		$341,790,000

FUND HISTORY

North Dakota Century Code Section 57-64-05 (Senate Bill No. 2199 (2009)) 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. Chapter 57-51.1 (House Bill No. 1451 (2011)) provides for an allocation of the state's share of oil and gas tax revenues of $341,790,000 each biennium to the property tax relief sustainability fund after an allocation of $200 million to the general fund.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$87,378,167		$155,940,059
Add revenues				
Oil extraction tax collections	$148,886,433		$234,839,326[1]	
Repayments and reimbursements	3,413,941		3,495,000	
Investment earnings/miscellaneous income	2,261,518		1,071,665	
Total revenues		154,561,892		239,405,991
Total available		$241,940,059		$395,346,050
Less expenditures and transfers				
State Water Commission - Grants, projects, and project administration (2009 HB 1020; 2011 SB 2020)	$85,916,406		$315,983,499[2]	
State Water Commission - Beaver Bay embankment feasibility study (2009 SB 2305)	83,594			
State Water Commission - Western Area Water Supply Authority zero interest loan (2011 SB 2020)			25,000,000[2]	
Bank of North Dakota - Western Area Water Supply Authority 5 percent interest loan (2011 HB 1206)			10,000,000[2]	
State Water Commission - Defraying the expenses of the commission (2011 SB 2371)			44,362,551[3]	
Total expenditures and transfers		86,000,000		395,346,050
Ending balance		$155,940,059		$0

[1]Estimated revenues - 2011-13 - The estimated revenues for the 2011-13 biennium reflect actual revenues through March 2012 and estimated revenues for the remainder of the biennium based on the February 2011 revenue forecast.

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

[3]The Legislative Assembly, during its special legislative session in November 2011, appropriated $50 million from the resources trust fund to defray the expenses of the commission, subject to Budget Section approval as provided in Section 4 of Senate Bill No. 2020 relating to the appropriation of additional income in the resources trust fund and the water development trust fund. In December 2011 and March 2012, the Budget Section approved the State Water Commission's requests pursuant to 2011 Senate Bill No. 2371 and Section 4 of Senate Bill No. 2020 to spend $37,264,000 of additional funding available in the resources trust fund for Valley City ($3 million), Minot and communities along the Mouse River ($2.5 million), the Souris River Joint Water Resource District disaster relief projects ($50,000), Burleigh County property acquisitions ($1,425,000), for the city of Minot ($17,750,000), for the city of Burlington ($1,039,000), and for Ward County ($11,500,000). At this time, revenue estimates are sufficient to provide for $44,362,551 of the $50,000,000 appropriation.

NOTE: The estimated June 30, 2013, balance made at the end of the special legislative session in November 2011 was $0, and assumed funding would be available for $18,154,903 of the $50 million appropriated for the 2011-13 biennium during the special session. The increase in the estimated funding available is due to oil extraction tax collections exceeding the February 2011 legislative forecast. However, Section 4 of 2011 Senate Bill No. 2020 relating to the appropriation of additional income in the resources trust fund and the water development trust fund provides the State Water Commission receive Budget Section approval prior to spending any additional amounts that may become available in the resources trust fund or the water development trust fund.

FUND HISTORY

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

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

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

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

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

- Twenty percent to the resources trust fund.
- Twenty percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- Thirty percent to the legacy fund.
- Thirty percent to be allocated to the state's general fund with certain funds designated for deposit in the property tax relief sustainability fund, the strategic investment and improvements fund, and the state disaster relief fund as provided in 2011 House Bill No. 1451.

ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$4,150,592		$5,337,360
Add estimated revenues				
Premiums	$2,445,303[1]		$3,450,021[2]	
Interest and other revenue	1,410,761[3]		0[3]	
Total estimated revenues		3,856,064		3,450,021
Total available		$8,006,656		$8,787,381
Less estimated expenditures and transfers				
Administration	$892,074		$1,437,289	
Claims-related expenses	0[4]		10,300[4]	
Claims and litigation	1,777,222		3,401,000	
Total estimated expenditures and transfers		2,669,296		4,848,589
Ending balance		$5,337,360		$3,938,792

[1]In response to an actuarial review completed in 2008 by Aon Risk Services, the Risk Management Division assessed 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 were subject to a risk management discount program for agencies that adopt proactive loss control practices, with a maximum available discount of 15 percent.

[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 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.

[3]Investment and other revenue relates to realized gains from risk management investments, payments received from salvaged vehicles, and costs and attorney's fees collected for successful lawsuits.

[4]The amounts listed for claims-related expenses are for adjusting consulting services required for large or unusual claims.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $1,360,258. The increase in the estimated balance of $2,578,534 is due to interest and other revenue collections exceeding estimates during the 2009-11 biennium and actual claims and litigation expenses for the 2009-11 biennium being less than estimated.

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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Allocation from sales, use, and motor vehicle excise tax collections	$2,710,599[1]		$3,391,664[1,4]	
Total revenues		2,710,599		3,391,664
Total available		$2,710,599		$3,391,664
Less expenditures and transfers				
State Treasurer - County senior citizen matching grants	$2,682,853[2]		$3,374,196[2,4]	
Transfer to the general fund	27,746[3]		17,468[3]	
Total expenditures and transfers		2,710,599		3,391,664
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	$1,072,790 (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	$1,695,832 (actual)	21.2%
2013	$1,695,832 (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	$1,078,628 (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	$1,384,391 (actual)	6.6%
2012	$1,687,098 (actual)	21.9%
2013	$1,687,098 (estimate)	0.0%

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

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

FUND HISTORY

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

ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on four-tenths of 1 percent)	$124,852,401		$159,956,252	
Total revenues		124,852,401		
Total available		$124,852,401		$159,956,252
Less estimated expenditures and transfers				
Payments to political subdivisions				
County share (53.7 percent)	$67,045,739		$85,896,507	
City share (46.3 percent)	57,806,662		74,059,745	
Total estimated expenditures and transfers		124,852,401		159,956,252
Estimated ending balance		$0		$0

NOTE: Through April 2012 state aid distribution fund receipts have exceeded estimates made at the end of the 2011 legislative session by approximately $23,815,050 due to sales, use, and motor vehicle excise tax collections exceeding estimates. The total estimated revenues and payments to political subdivisions shown above reflect the 2011-13 revenue forecast as approved by the Legislative Assembly of $136,141,202 adjusted by the additional revenues received through April 2012.

FUND HISTORY

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

The Legislative Assembly in 1997 amended Section 57-39.2-26.1 to provide that, effective January 1, 1999, deposits into the state aid distribution fund are based on an amount equal to 40 percent of an equivalent one-cent sales tax instead of an amount equal to 60 percent of an equivalent one-cent sales tax. In addition, a continuing appropriation was added which appropriates all revenues deposited in the state aid distribution fund for payments to political subdivisions.

The Legislative Assembly in 1997 also changed the allocation of the state aid distribution fund from 50 percent for personal property tax replacement and 50 percent for revenue sharing to 53.7 percent for counties and 46.3 percent for cities. The allocation for each county includes townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the Southwest Water Authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within the cities. The allocation for each city includes park districts and other taxing districts within the city, excluding school districts. The county allocation to townships must be based on the same percentage allocation that a township received in calendar year 1996.

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

Population Category Through June 30, 2011			
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%

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

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

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

	2007-09 Biennium Actual		2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$37,623,216		$34,675,167
Add revenues						
Transfer from the general fund	$43,000,000[1]					
Transfer from the permanent oil tax trust fund (2011 SB 2369)			$22,000,000[2]			
Transfer from the general fund (Section 17 of 2011 SB 2371)					$48,700,000[3]	
Interest income			199,420		250,000	
Federal funds - Volunteer hours adjustment and local share federal-to-federal mission assignments			612,263		1,172,758	
National Guard reimbursements			136,057			
Oil and gas tax collections					22,000,000[4]	
Total revenues		43,000,000		22,947,740		72,122,758
Total available		$43,000,000		$60,570,956		$106,797,925
Less estimated expenditures						
Emergency snow removal grants (2009 SB 2012; 2011 SB 2369)	$5,376,784[5]		$9,000,000[6]			
Disaster costs relating to disasters occurring prior to 2009			513,321[7]		$1,207,585[8]	
Disaster costs relating to 2009 flooding			5,739,762[7]		5,214,169[8]	
Disaster costs relating to the January 2010 winter snowstorm			1,506,693[7]		590,527[3]	
Disaster costs relating to 2010 flooding			3,390,192[7]		2,179,995[3]	
Disaster costs relating to the April 2010 ice storm			2,854,089[7]		1,226,557[3]	
Disaster costs relating to the April 2011 blizzard			16,937[7]			
Disaster costs relating to 2011 flooding			2,874,795[7]		23,325,205[3,9,10]	
Disaster costs relating to flooding in incorporated cities (2011 SB 2369)					3,200,000[10]	
Disaster response coordination contract (2011 SB 2016)					400,000[10,11]	
State disasters and flood mitigation efforts (2011 SB 2016; 2011 SB 2369)					4,800,000[10]	
Contingent appropriation for 2012 disaster event (Section 16 of 2011 SB 2371)					5,000,000[3]	
Flood-impacted housing assistance grant program (Section 9 of 2011 SB 2371)					10,000,000[3]	
Road grade raising projects - Department of Transportation (Section 14 of 2011 SB 2371)					6,000,000[3]	
Total estimated expenditures and transfers		5,376,784		25,895,789		63,144,038[12]
Estimated ending balance		$37,623,216		$34,675,167		$43,653,887[13]

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

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

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

Relief Assistance	Transfer Amount	Appropriation Authority
Disaster-related expenses	$32,700,000	Section 15 of 2011 Senate Bill No. 2371 provides appropriation authority of $29.5 million from the state disaster relief fund to the Adjutant General for providing the required state share of funding for expenses associated with presidentially declared state disasters. Section 16 of 2011 Senate Bill No. 2371 provides a contingent appropriation of $5 million from the state disaster relief fund to the Adjutant General relating to grants to political subdivisions for a portion of the local share required to match federal emergency relief funding. The funding is contingent upon a 2012 disaster event exceeding $50 million in damages across the state.
Flood-impacted housing assistance grant program	10,000,000	Section 9 of 2011 Senate Bill No. 2371 appropriates $10 million from the state disaster relief fund to the Adjutant General for providing: • Additional rebuilders loan program funding to the Bank of North Dakota. • Funding to political subdivisions for flood-impacted housing rehabilitation. Funding must be used as deemed most effective in that community to assist homeowners in rehabilitation or replacement of their flood-damaged homes and to retain homeowners in the community.
Road grade raising grants	6,000,000	Section 14 of 2011 Senate Bill No. 2371 appropriates $6 million from the state disaster relief fund to the Department of Transportation for grants to counties for road grade raising projects on federal-aid eligible roads.
Total	$48,700,000	

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

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

The amount of oil and gas tax collections estimated to be deposited in the state disaster relief fund for the 2011-13 biennium is $22 million. This amount is based on actual tax collections from August 2011 through February 2012 (June through December 2011 production) and legislative session estimates for the remainder of the 2011-13 biennium.

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

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

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

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

[9]Section 5 of 2011 Senate Bill No. 2016 appropriates $3.5 million from the state disaster relief fund to the Adjutant General for the purpose of providing the required state share of funding for defraying the expenses associated with presidential-declared disasters pursuant to Section 37-17.1-27.

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

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

[12]Total 2011-13 state disaster relief fund appropriation authority provided to the Adjutant General consists of:

$22,000,000	see footnote 10
3,500,000	see footnote 8
7,842,304	see footnote 7
400,000	see footnote 11
42,700,000	see footnote 3
$76,442,304	

[13]The Adjutant General estimates of this amount, $15 million will be obligated for 2011 disaster relief but will not be disbursed until future bienniums.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 special legislative session was $0. The increase in the estimated balance of $43,653,887 is due to disaster relief funding that is expected to be obligated but will not be disbursed until future bienniums and an unanticipated allocation of oil and gas tax collections resulting from 2011-13 biennium oil and gas tax collections exceeding estimates.

FUND HISTORY

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

ANALYSIS OF THE STRATEGIC INVESTMENT AND IMPROVEMENTS FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated[1]	
Beginning balance (transferred from the lands and minerals trust fund)		$0		$249,074,431[1]
Add estimated revenues				
Production royalties			$74,350,254	
Mineral leases			717,467	
Oil and gas bonuses			73,891,507[2]	
Investment earnings			2,625,549	
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020, 1985 SB 2249, 2011 SB 2121)			1,190,467[3]	
Oil and gas tax collections			181,243,315[4]	
Total estimated revenues		0		334,018,559
Total available		$0		$583,092,990
Less estimated expenditures and transfers				
Payments to common schools trust fund - Developmentally disabled loan fund Nos. 2 and 3 (2005 SB 2013 - Continuing appropriation, 2011 SB 2121)			$1,292,029[3]	
Transfer to the general fund (2011 SB 2015)			305,000,000	
Administrative costs/other fees			1,150,180	
Total estimated expenditures and transfers		0		307,442,209
Estimated ending balance		$0		$275,650,781
Restricted fund income				
Reserve relating to potential title disputes			$97,706,755[5]	
Bank of North Dakota - Maintain guarantee reserve fund balance (2011 SB 2306)			6,250,000[6]	
Ending balance - Undesignated		$0		$171,694,026

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

[2]The Land Department projections are based on actual revenues through March 2012 and estimates of $4 million to be collected in oil and gas bonuses per lease sale thereafter. This estimate assumes some land currently leased will become available for lease sales as lease contracts expire during the 2011-13 biennium.

[3]Payments to common schools trust fund - North Dakota Century Code Section 15-08.1-09 provides an annual continuing appropriation from the strategic investment and improvements 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. Senate Bill No. 2121 (2011) provides that the Department of Human Services sell loans in the developmentally disabled facility revolving loan fund to the Bank of North Dakota with the proceeds to be deposited in the common schools trust fund. The bill also discontinues the repayment of developmentally disabled loan fund program Nos. 2 and 3 which are currently paid from the strategic investment and improvements fund to the common schools trust fund. These amounts shown reflect final payments from the fund to the common schools trust fund.

[4]House Bill No. 1451 (2011) creates a new section to Chapter 57-51.1 to provide for the allocation of the state's share of oil and gas tax revenues designated for deposit in the general fund under Chapters 57-51 and 57-51.1 as follows:

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

The amount of oil and gas tax collections estimated to be deposited in the strategic investment and improvements fund for the 2011-13 biennium is $181,243,315. This amount is based on actual tax collections from August 2011 through February 2012 (June through December 2011 production) and legislative session estimates for the remainder of the 2011-13 biennium.

[5]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.

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

NOTE: The estimated undesignated June 30, 2013, balance made at the end of the 2011 regular legislative session was $782,877. The increase in the estimated undesignated balance of $170,911,149 is due primarily to a $144,762,276 increase in oil and gas tax collections for the 2011-13 biennium.

FUND HISTORY

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

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

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

ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING BOTH THE 1979 AND 1996 BOND RESOLUTIONS)

	2009-11 Biennium Actual[1]		2011-13 Biennium Estimated[1]	
Beginning balance		$47,363,000		$45,793,541
Add estimated revenues				
Fund earnings (net)	$259,000[2]		$259,000[2]	
Total available		$47,622,000		$46,052,541
Less estimated expenditures and transfers				
Funding for veterinary medical education program	$807,859[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		1,828,459		1,004,744
Estimated ending balance		$45,793,541		$45,047,797

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

[2]The 2009-11 income is the actual amount for the biennium. The projected income for the 2011-13 biennium is based on interest rates as of December 1, 2010, and is net of the Industrial Commission and trustee expenses.

[3]The Legislative Assembly in 2009 provided a $990,970 appropriation from the student loan trust fund for continuing the Kansas State University veterinary medical education program. Of this amount, $807,859 was used.

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

[5]The Legislative Assembly in 2009 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. The entire appropriation was used.

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

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular session for the 1979 bond resolution only was $16,489,597. The amounts shown on this schedule include both the 1979 and 1996 bond resolutions. A projection was not made at the end of the 2011 regular session for the June 30, 2013, balance of the 1996 bond resolution.

FUND HISTORY

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

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

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

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

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

After all bonds in the 1979 and 1996 bond resolutions have matured, been redeemed or defeased and all expenses paid, and the resolutions closed, any remaining assets held under the bond resolutions would be transferred to the Industrial Commission for use at its discretion and as allowed by law. As of June 30, 2011, $5.2 million in bonds remain outstanding. In order to use assets held under the 1979 and 1996 general bond resolutions for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive a certification from the trustee of the bond (Bank of North Dakota) that sufficient reserves remain for bond payments and other related program costs. Prior to 2012, permission needed to be obtained from Ambac Assurance Company for any use of assets held in the 1996 general bond resolution. However, there are no longer any bonds insured by Ambac Assurance Corporation.

North Dakota Century Code Section 54-17-25 provides 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$14,107,486		$29,556,425
Add revenues				
Tobacco settlement revenues collected to date	$23,460,632		$11,392,521[1]	
Projected tobacco settlement revenues			12,274,393[2]	
Investment income	106,909		213,616	
Total revenues		23,567,541[3]		23,880,530[3]
Total available		$37,675,027		$53,436,955
Less expenditures and transfers				
Tobacco Prevention and Control Executive Committee expenditures	$8,118,602[4]		$12,922,614[4]	
Total expenditures and transfers		8,118,602		12,922,614
Ending balance		$29,556,425		$40,514,341

[1]As of April 2012, the state has received tobacco settlement payments totaling $31,519,738 for the 2011-13 biennium, of which $20,127,217 was deposited in the tobacco settlement trust fund and $11,392,521 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $367,842,018, including $305,053,125 under subsection IX(c)(1) of the Master Settlement Agreement and $62,788,893 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $367,842,018, $318,850,854 has been deposited into the tobacco settlement trust fund and $48,991,164 has been deposited into the tobacco prevention and control trust fund.

[2]Estimated payments for the remainder of the 2011-13 biennium are based on the amount received in 2010 of $12,274,393.

[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 Legislative Assembly in Section 39 of 2009 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 appropriations.

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

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	66.7 million	23.6 million	19.4 million	19.4 million	4.3 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	$563.7 million	$116.4 million	$201.3 million	$201.3 million	$44.7 million

[4]Section 35 of 2009 House Bill No. 1015 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. Actual expenditures for the 2009-11 biennium were $8,118,602. The Legislative Assembly in 2011 appropriated $12,922,614 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee for the 2011-13 biennium.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $36,630,905. The increase in the estimated balance of $3,883,436 is due to actual expenditures for the 2009-11 biennium being $4,763,398 less than appropriated and estimated tobacco settlement revenues for the 2011-13 biennium being $881,872 less than originally estimated.

FUND HISTORY

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

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

- 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 Legislative Assembly in Section 39 of 2009 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Tobacco settlement revenues collected to date	$40,552,964		$20,127,217[1]	
Projected tobacco settlement revenues			22,915,593	
Total revenues		40,552,964[2]		43,042,810[2]
Total available		$40,552,964[3,4]		$43,042,810[3,4]
Less expenditures and transfers				
Transfers to the community health trust fund	$4,055,296		$4,304,282	
Transfers to the common schools trust fund	18,248,834		19,369,264	
Transfers to the water development trust fund	18,248,834		19,369,264	
Total expenditures and transfers		40,552,964[4]		43,042,810
Ending balance		$0		$0

[1]As of April 2012, the state has received tobacco settlement payments totaling $31,519,738 for the 2011-13 biennium, of which $20,127,217 was deposited in the tobacco settlement trust fund and $11,392,521 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $367,842,018, including $305,053,125 under subsection IX(c)(1) of the Master Settlement Agreement and $62,788,893 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $367,842,018, $318,850,854 has been deposited into the tobacco settlement trust fund and $48,991,164 has been deposited into the tobacco prevention and control trust fund.

[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 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	64,013,596
2011-13	82,231,080	66,709,724
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	$760,421,864

[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
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	66.7 million	23.6 million	19.4 million	19.4 million	4.3 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	$563.7 million	$116.4 million	$201.3 million	$201.3 million	$44.7 million

FUND HISTORY

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

- 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

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$1,149,701[1]		$1,262,358[1]
Add estimated revenues				
Fines for violation of state laws	$9,557,016[2]		$9,124,000[2]	
Transfers from the common schools trust fund	77,178,000		92,514,000	
Total estimated revenues		86,735,016		101,638,000
Total available		$87,884,717		$102,900,358
Less estimated expenditures and transfers				
State aid to schools	$86,622,359		$101,638,000	
Total estimated expenditures and transfers		86,622,359[1]		101,638,000[1]
Estimated ending balance		$1,262,358[1]		$1,262,358[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	$4,963,691 (actual)	8.1%
2012	$4,562,000 (estimate)	(8.1%)
2013	$4,562,000 (estimate)	0.0%

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $1,108,759. The increase of $153,599 is due to actual fines for violation of state laws for the 2009-11 biennium being $475,958 more than estimated and actual state aid to schools expenditures for the 2009-11 biennium being $322,359 more than estimated.

FUND HISTORY

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

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

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

ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Estimated beginning balance		$4,167,369		$4,317,561
Add estimated revenues and other funds available for benefits				
Investment income	$290,787		$230,000[1]	
Unexpended funds available from the 2007-09 biennium	8,292			
Income from sale of van	8,000			
Total estimated revenues and other funds		307,079		230,000
Total available		$4,474,448		$4,547,561
Less estimated expenditures and transfers				
Grants and related expenditures	$149,520		$58,693[2]	
Administrative committee travel				
Veterans' Home activities				
Vehicles - Vans				
Veterans' transportation programs	3,995		135[2]	
Other veterans' programs				
Appeals Committee	136		513[2]	
Stand Down (outreach to homeless veterans)	3,236		64[2]	
Total estimated expenditures and transfers		156,887[2]		59,405[2]
Estimated ending balance		$4,317,561[2]		$4,488,156

[1]The State Treasurer has not provided investment income estimates for the 2011-13 biennium. Investment income for the 2011-13 biennium is estimated based on the average monthly change in the fund value through March 2012. Pursuant to provisions of 2011 House Bill No. 1468, investment income earned during the 2011-13 biennium is not available for program expenditures until the 2013-15 biennium.

[2]The State Treasurer provided transfers totaling $200,000 to the Administrative Committee on Veterans' Affairs for programs that benefit veterans or their dependents during the 2009-11 biennium. In addition, revenue from the sale of vans ($8,000) and funding available from the 2007-09 biennium ($8,292) was also available for programs during the 2009-11 biennium. The administrative committee provided benefits totaling $156,887 during the 2009-11 biennium, leaving unexpended funding of $59,405 at the end of the 2009-11 biennium. This funding is available for benefits during the 2011-13 biennium.

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

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 March 31, 2012, was $4,344,712. The estimated June 30, 2013, balance made at the end of the 2011 regular legislative session was $4,367,369. The

increase in the estimated balance of $120,787 is due to larger than anticipated revenues during the 2009-11 biennium resulting in a higher than anticipated market value as of June 30, 2011, and anticipated increases in investment income during the 2011-13 biennium.

FUND HISTORY

Established

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

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

1988 Initiated Measure No. 4

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

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

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

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

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

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

1996 Initiated Constitutional Measure No. 4

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

> The veterans' postwar trust fund shall be a permanent trust fund of the state of North Dakota and shall consist of moneys transferred or credited to the fund as authorized by legislative enactment. Investment of the fund shall be the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. All income received from investments is to be utilized for programs which must be of benefit and service to veterans, who are defined by legislative enactment, or their dependents, and such income is hereby appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon those programs selected at the discretion of the administrative committee on veterans' affairs.

2011 House Bill No. 1468

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

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium Actual		2011-13 Biennium Estimated	
Beginning balance		$21,010,583		$25,209,356
Add revenues				
Transfers to date from tobacco settlement trust fund	$18,248,834		$9,057,247[1]	
Projected remaining transfers from tobacco settlement trust fund	0		10,312,017	
Total revenues		18,248,834[2]		19,369,264[2]
Total available		$39,259,417		$44,578,620
Less expenditures and transfers				
State Water Commission (2009 HB 1020; 2011 SB 2020)				
Water projects	$0[3]		$20,307,984[4]	
Bond payments	14,050,061[3]		16,881,750[4]	
Total estimated expenditures and transfers		14,050,061		37,189,734
Estimated ending balance		$25,209,356		$7,388,886

[1]As of April 2012, $9,057,247 has been transferred from the tobacco settlement trust fund for the 2011-13 biennium. Total transfers of $143,482,884 have been made from the tobacco settlement trust fund to the water development trust fund.

[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 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	66.7 million	23.6 million	19.4 million	19.4 million	4.3 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	$563.7 million	$116.4 million	$201.3 million	$201.3 million	$44.7 million

[3]The Legislative Assembly in 2009 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. Bond payments during the 2009-11 biennium totaled $14,050,061. The State Water Commission did not spend any water development trust fund money on water projects during the 2009-11 biennium.

[4]Sections 1 and 4 of 2011 Senate Bill No. 2020 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. However, the expenditure of any funds in excess of the funding appropriated in the water and atmospheric resources line item in Section 1 of Senate Bill No. 2020 requires Budget Section approval. Bond payments for the 2011-13 biennium are estimated to total $16,881,750. The remaining balance of approximately $20.3 million will be available for State Water Commission projects.

NOTE: The estimated June 30, 2013, balance made at the end of the 2011 regular session was $8,643,656. The decrease in the estimated balance of $1,254,770 is due to a decrease in the estimated transfers from the tobacco settlement trust fund during the 2011-13 biennium.

FUND HISTORY

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

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