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**ANALYSIS OF THE BEGINNING FARMER REVOLVING LOAN FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS**

	2009-11 Biennium		2011-13 Biennium	
Beginning cash balance		\$4,368,929		\$79,429
Add estimated revenues				
Loan principal payments	\$4,800,000		\$5,000,000	
Loan interest payments	700,000		600,000	
Investment interest	15,000		12,000	
General fund appropriation			1,400,000	
Total estimated revenues		5,515,000		7,012,000
Total available		\$9,883,929		\$7,091,429
Less estimated expenditures and transfers				
New chattel loans	\$5,900,000		\$0 ¹	
Buydown interest disbursed	3,700,000		3,500,000	
Public Service Commission for the rail rate complaint case (2009 HB 1008)	0 ²		900,000 ²	
ENVEST program (2007 HB 1135)	0 ³		965,489 ³	
Transfer to renewable energy program (2007 HB 1515)	110,000			
Administrative fees	87,000		90,000	
Audit fees	7,500		8,000	
Total estimated expenditures and transfers		9,804,500		5,463,489
Estimated ending cash balance		\$79,429 ⁴		\$1,627,940 ⁵

¹Beginning July 1, 2011, the chattel loans will be funded by the Bank of North Dakota. The cash position of the beginning farmer revolving loan fund is not sufficient to sustain chattel growth.

²Public Service Commission - House Bill No. 1008 (2005) appropriated \$945,000 of which \$800,000 was from the beginning farmer revolving loan fund, to the Public Service Commission for part of the cost of filing a "simplified" rail rate complaint case with the Surface Transportation Board. Senate Bill No. 2008 (2007) and House Bill No. 1008 (2009) authorized the Public Service Commission to continue the \$800,000 appropriation for the rail rate complaint case into the 2007-09 and 2009-11 bienniums, respectfully. A rail rate complaint case was not filed during the 2005-07 or 2007-09 bienniums, and no cases are anticipated to be filed during the 2009-11 biennium. Senate Bill No. 2008 (2011) provides an appropriation of \$900,000 from the beginning farmer revolving loan to the Public Service Commission for the rail rate complaint case for the 2011-13 biennium.

³ENVEST program - House Bill No. 1135 (2007) provides for a transfer up to \$1 million per biennium of unobligated funds to the value-added agriculture equity loan program for the purpose of interest buydown on loans made for investment in a feedlot or dairy operation. Funding of \$34,511 was committed in the 2007-09 biennium with no commitments anticipated in the 2009-11 biennium leaving \$965,489 available for the 2011-13 biennium.

⁴In addition to the cash balance as of June 30, 2011, the beginning farmer revolving loan fund is estimated to have net loans outstanding of \$9.5 million.

⁵In addition to the cash balance as of June 30, 2013, the beginning farmer revolving loan fund is estimated to have net loans outstanding of \$10 million.

FUND HISTORY

The beginning farmer revolving loan fund originated in 1983 with passage of Senate Bill No. 2220, now codified as North Dakota Century Code Section 6-09-15.5, and was established by a \$5 million transfer from the Bank of North Dakota. The Bank of North Dakota supervises and administers the beginning farmer revolving loan fund and the loans made by the fund. The loan fund was established for the purpose of making or participating in loans to North Dakota beginning farmers for the purchase of agricultural real estate, equipment, and livestock. The fund is a revolving fund, and all money transferred into the fund, interest upon money in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans and to supplement the interest rate on loans to beginning farmers. A loan made from the fund may not exceed 80 percent of the appraised value of the agricultural collateral, with the actual percentage to be determined by the Bank of North Dakota. Senate Bill No. 2081 (2011) extended the maximum term of a real estate loan from 25 years to 30 years. The maximum term of a farm equipment or livestock loan is seven years.

Section 6-09-15.5 provides that, notwithstanding any other provision of law, the Bank of North Dakota may transfer any unobligated funds between funds that have been appropriated by the Legislative Assembly for interest buydown in the beginning farmer revolving loan fund and the agriculture partnership in assisting community expansion (Ag PACE) fund.

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

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$2,515,053		\$2,829,535
Add revenues				
Investment income	\$330,000		\$400,000	
State bonding fund claims collections	100,000		57,000	
Total revenues		430,000		457,000
Total available		\$2,945,053		\$3,286,535
Less expenditures and transfers				
Insurance Department administration (2009 HB 1010; 2011 SB 2010)	\$41,518		\$45,113	
Investment management expense	9,000		10,000	
State bonding fund claim losses - Net of subrogated and dismissed claims	50,000		125,000	
Claims-related expenditures	15,000		20,000	
Total expenditures and transfers		115,518		200,113
Ending balance		\$2,829,535		\$3,086,422

FUND HISTORY

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

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

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

¹North Dakota Century Code Chapter 54-27.2, as amended by the 2011 Legislative Assembly in House Bill No. 1451, provides that any amount in the general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund except that, beginning July 1, 2011, the balance in the budget stabilization fund may not exceed 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the current estimate of a 2009-11 biennium ending general fund balance of \$721,646,087 which allows for a transfer of \$61,414,562. The current 2011-13 biennium general fund appropriations total \$4,066,853,792; therefore, the maximum balance in the fund is limited to \$386,351,110.

²Interest 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.

³No transfers from the budget stabilization fund are anticipated.

FUND HISTORY

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

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

ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS¹

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$1,333,302		\$3,318,380
Add revenues				
Investment income	\$52,877		\$38,298	
Rentals, royalties, and bonuses	2,107,845		727,665	
Total revenues		2,160,722		765,963
Total available		\$3,494,024		\$4,084,343
Less expenditures and transfers				
Administrative expenses	\$45,441		\$54,984	
Income payments to counties	5,203 ²		6,295 ²	
Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 49-10-02 ³)	100,000		100,000	
Capitol Grounds Planning Commission operating expenses (2009 HB 1015; 2011 SB 2015)	25,000		25,000	
Office of Management and Budget Capitol building projects (2011 SB 2015)			2,600,000 ⁴	
Total expenditures and transfers		175,644		2,786,279
Ending balance		\$3,318,380		\$1,298,064

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

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

³Section 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.

⁴Funding of \$2.6 million from the Capitol building fund was appropriated by the 2011 Legislative Assembly 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).

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

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$0		\$17,468,500
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	86,702		45,000	
Total revenues		31,157,243		45,000
Total available		\$31,157,243		\$17,513,500
Less expenditures and transfers				
Legal fees - Attorney General's office	\$2,752 ⁶		\$2,752 ⁷	
Centers of excellence grants funding distributions	13,627,991		14,529,832	
Economic impact studies	33,000 ⁶		33,000 ⁷	
Centers of Excellence Summit	15,000 ^{6,8}		15,000 ⁷	
Other administrative expenses	10,000 ⁶		10,000 ⁷	
Total expenditures and transfers		13,688,743		14,590,584
Estimated ending balance		\$17,468,500 ⁹		\$2,922,916 ⁹

¹The 2009 Legislative Assembly appropriated \$15 million from the general fund for transfer to the centers of excellence fund for providing funding to centers of excellence for the 2009-11 biennium.

²Of the funds appropriated by the 2009 Legislative Assembly for centers of excellence, Section 23 of 2009 Senate Bill No. 2018 requires \$10 million be made available for centers of excellence enhancement grants during the biennium beginning July 1, 2009, and ending June 30, 2011. Through February 2011, the Centers of Excellence Commission has awarded \$9.4 million of the \$10 million appropriated for centers of excellence enhancement grants to the following projects:

University of North Dakota	
Center of Excellence for Unmanned Aircraft Systems Research, Education, and Training	\$2,754,000
Grand Forks Air Force Base realignment business transition	200,000
North Dakota Unmanned Aircraft Systems Airspace Initiative	100,000
Unmanned aircraft systems software and curriculum development	600,000
Certificate Programs for Full Motion Video and Activity Based Intelligence Analysis	746,000
North Dakota State University	
Research 1 expansion	4,000,000
Materials and Nanotechnology Center	1,000,000
Total	\$9,400,000

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

³The 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, exceed 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.

⁴The 2009 Legislative Assembly in House Bill No. 1015 provided \$4.45 million from the general fund for transfer to the centers of excellence fund for 2007-09 centers of excellence grants awarded but not distributed.

⁵The 2009 Legislative Assembly in Section 27 of Senate Bill No. 2018 authorized the Department of Commerce to continue any unspent funds appropriated for the centers of excellence program for the 2007-09 biennium to the 2009-11 biennium. The Office of Management and Budget was to transfer any unexpended funds from these appropriations to the centers of excellence fund at the end of the 2007-09 biennium. Pursuant to this directive, 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.

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

⁷Section 15-69-05(6), as amended by the 2011 Legislative Assembly in 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.

⁸The 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.

⁹The 2009-11 biennium estimated ending balance includes \$17,199,379 that is expected to be obligated for centers of excellence proposals approved in the 2009-11 biennium and previous bienniums. From the 2009-11 appropriation, \$285,000 is anticipated to be unawarded for centers of excellence grants. The entire 2011-13 estimated ending balance is expected to be obligated for centers of excellence proposals approved in the 2009-11 biennium and previous bienniums.

FUND HISTORY

Section 15-69-06 (2009 Senate Bill No. 2018) establishes a centers of excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of excellence program. Interest earned on money in the fund is retained in the fund. The 2011 Legislative Assembly 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 Senate Bill No. 2057 (2011), 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		2011-13 Biennium	
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			1,000,000 ^{3,4}	
North Dakota State University			4,000,000 ³	
Base realignment grants				
University of North Dakota			3,000,000 ⁴	
Total expenditures and transfers		0		12,000,000
Estimated ending balance		\$0		\$0

¹The 2011 Legislative Assembly 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.

²The Department of Commerce may 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. Up to \$2.7 million may be awarded to the University of North Dakota and up to \$1.3 million to North Dakota State University. The Department of Commerce is to develop application criteria, review submitted applications, and recommend applications for approval to the Centers of Excellence Commission. Any uncommitted funds available as of July 1, 2012, may be used by the Centers of Excellence Commission for the centers of research excellence program. Any available funds are limited to not more than one-half to one research university or nonprofit foundation related to that research university.

³The Department of Commerce may use \$8 million of the funds transferred to the centers of research excellence fund for centers of research excellence grants as established in 2011 Senate Bill No. 2057. 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 2011 Legislative Assembly 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 and 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 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).

⁴Of the \$4 million available to the University of North Dakota through the centers of research excellence program, \$3 million is to be used for base realignment grants. The department may 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.

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

¹The 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, 2010, the total value of permanent fund assets was \$62.7 million, of which \$29.1 million was school construction loans receivable, \$4.6 million was coal impact loans receivable, and \$29 million was either invested or was a receivable of investment or other earnings.

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

FUND HISTORY

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

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

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

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

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	\$37,894,140	14.48%
	2011	\$1,221,501,801 ¹	\$38,589,000	\$44,000,000 (estimate)	12.00% (estimate)
2011-13	2012	²	\$46,257,000	²	²
	2013	²	\$46,257,000	²	²

¹The 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.

²Article 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 1999 Legislative Assembly, creates a tobacco settlement trust fund to be used to deposit tobacco settlement money received by the state. Forty-five percent of the tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement and deposited in the tobacco settlement trust fund must be transferred to the common schools trust fund and become a part of the principal of the fund.

To date, \$134,425,636 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	\$20,624,034 (estimate)
2013-17 (\$20,741,314 per biennium)	\$41,482,628 (estimate)
2017-25 (\$23,626,724 per biennium)	\$94,506,896 (estimate)

DISTRIBUTIONS FROM THE COMMON SCHOOLS TRUST FUND
Select Constitutional Provisions

Article IX - Section 1

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

Article IX - Section 2

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

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

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

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

Select North Dakota Century Code Provisions

Section 15-01-02

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

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

INVESTMENT OF THE COMMON SCHOOLS TRUST FUND

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

**ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS**

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$1,299,379		\$0
Add estimated revenues and general fund transfers				
Transfers to date from the tobacco settlement trust fund	\$4,055,296 ¹		\$4,583,118	
Projected remaining transfers from the tobacco settlement trust fund				
Refund of physician loan repayment expenditure from prior biennium	22,500			
Refund of Governor's Prevention and Advisory Council expenditure from prior biennium	6,474			
Contingent general fund transfer	884,256 ²			
Total estimated revenues		4,968,526 ³		4,583,118 ³
Total available		\$6,267,905		\$4,583,118
Less estimated expenditures and transfers				
State Department of Health (2009 SB 2004, 2009 SB 2227; 2011 HB 1004)				
Tobacco prevention and control	\$2,302,098 ⁴		\$3,510,496 ⁴	
Dentists' loan program	448,448 ⁵		260,000 ⁵	
Tobacco Quitline	1,069,000 ⁶			
Tobacco cessation coordinator and operating expenses	139,397 ⁷			
Physician and medical loan repayment program	105,000 ⁸		75,000 ⁸	
Veterinarian loan repayment program	242,776 ⁹		310,000 ⁹	
Women's Way program	304,332 ¹⁰		400,500 ¹⁰	
Stroke registry and prevention program	472,700 ¹¹			
Colorectal cancer screening initiative, including carryover authority pursuant to Section 9 of 2009 SB 2004	338,233 ¹²			
Emergency medical services grants	300,000 ¹³			
Dental grant program	10,000 ¹⁴		10,000 ¹⁴	
Department of Human Services				
Breast and cervical cancer assistance (2009 HB 1012)	535,921 ¹⁵			
Total estimated expenditures and transfers		6,267,905		4,565,996
Estimated ending balance		\$0		\$17,122

¹As of April 2011, transfers totaling \$4,055,296 have been made from the tobacco settlement trust fund for the 2009-11 biennium. Total transfers of \$29,872,364 have been made from the tobacco settlement trust fund to the community health trust fund.

²Contingent general fund transfer - Section 4 of Senate Bill No. 2004 (2009) 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 anticipates general fund transfers necessary to meet anticipated expenditures will total \$884,256.

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

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

Initiated measure No. 3 will result in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$567.3 million	\$117.3 million	\$202.5 million	\$202.5 million	\$45.0 million

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

⁵The dentists' loan repayment program, which is administered by the Health Council, was established in Senate Bill No. 2276 (2001) (Chapter 43-28.1). Each year the Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds, not to exceed a total of \$80,000 per applicant, for the repayment of their educational loans. The funds are payable over a four-year period (\$20,000 per year). The dental loan repayment program is to provide the highest priority for acceptance into the program to dentists willing to serve the smallest and most underserved communities in North Dakota. Senate Bill No. 2152 (2007) provides that a dentist practicing in Bismarck, Fargo, or Grand Forks must have received dental medical payments of at least \$20,000 in the form of medical assistance reimbursement or practiced at least two full workdays per week at a public health clinic or nonprofit dental clinic in order to qualify for the dentists' loan repayment program. The 2009 Legislative Assembly appropriated \$483,448 from the community health trust fund for the dentists' loan repayment program. The 2011-13 executive budget recommended, and the 2011 Legislative Assembly 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. 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

Biennium (Number of Dentists Accepted Into Program)	Communities Served
2005-07 biennium (4)	Fargo Community Health Center Bismarck (serving special populations) Mott Minot
2007-09 biennium (6)	Park River Bismarck Grand Forks Cando/Devils Lake Rugby Wishek
2009-11 biennium (6)	Bismarck Fargo Jamestown Larimore Valley City Williston

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

⁶The 2003 Legislative Assembly authorized the establishment of a telephone "Tobacco Quitline." The 2007 Legislative Assembly increased the funding for the quitline to provide nicotine replacement therapy and cessation counseling. The 2009 Legislative Assembly appropriated \$1,069,000 to fund the quitline for the 2009-11 biennium. The 2011-13 executive budget did not include and the 2011 Legislative Assembly 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.

⁷The 2007 Legislative Assembly 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 2009 Legislative Assembly appropriated \$139,397 for the tobacco prevention coordinator position. 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.

⁸Chapter 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 2009 Legislative Assembly appropriated \$75,000 from the general fund and \$272,500 from the community health trust fund for the program, including \$67,500 provided in Senate Bill No. 2227 which 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 2011 Legislative Assembly 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. 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

Biennium (Number of Physicians Accepted Into Program)	Communities Served
2009-11 biennium (5 to date)	Dickinson (2) Jamestown Wahpeton Williston

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

⁹The 2009 Legislative Assembly appropriated \$350,000 from the community health trust fund for the veterinarian loan repayment program, of this amount, \$242,776 is estimated to be used. The 2011-13 executive budget recommended and the 2011 Legislative Assembly 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, Senate Bill No. 2341 (2011) 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.

¹⁰The 2009 Legislative Assembly provided \$404,332, of which \$304,332 is from the community health trust fund and \$100,000 is from the general fund, for the Women's Way program. The 2011-13 executive budget recommended \$400,500 from the general fund for Women's Way program maintenance, \$3,832 less than the 2009-11 biennium. The 2011 Legislative Assembly changed the source of funding for Women's Way to provide \$400,500 from the community health trust fund.

¹¹The 2009 Legislative Assembly appropriated \$472,700 from the community health trust fund for a stroke registry and prevention program. 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 2011 Legislative Assembly changed the source of funding for the stroke registry and prevention program to provide a total of \$473,324 from the general fund.

¹²The 2007 Legislative Assembly appropriated \$150,000 from the community health trust fund and \$50,000 from the general fund for a grant to the North Dakota Cancer Coalition to provide for a colorectal cancer screening initiative. The 2009 Legislative Assembly provided in Section 9 of Senate Bill No. 2004 that any unexpended funds from the 2007-09 appropriation may be expended during the 2009-11 biennium and appropriated an additional \$300,000 from the community health trust fund for grants to continue the current program and to provide a colorectal cancer screening pilot initiative for low-income underinsured and uninsured men and women aged 50 to 64 living in counties with a population exceeding 15,000, including \$34,225 for the department to contract for program management, data management, and outreach oversight. Unexpended funds from the 2007-09 biennium appropriation totaled \$38,233, and the department anticipates spending these carryover funds in addition to the \$300,000 appropriated for the 2009-11 biennium. The 2011-13 executive budget recommended and the 2011 Legislative Assembly approved \$477,600 from the general fund for a colorectal cancer screening initiative.

¹³The 2009 Legislative Assembly 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 2011 Legislative Assembly 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.

¹⁴Senate 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 2009 Legislative

Assembly appropriated \$10,000 from the community health trust fund for the dental grant program. To date in the 2009-11 biennium, the State Department of Health has provided funding to one dentist in Larimore and anticipates the entire \$10,000 appropriation will be expended. The 2011-13 executive budget recommended and the 2011 Legislative Assembly 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.

¹⁵The 2009 Legislative Assembly appropriated \$790,015 to the Department of Human Services for providing the state matching funds for medical assistance coverage for women screened and found to have breast and cervical cancer. The department anticipates spending \$535,921 of the funds appropriated for the 2009-11 biennium. The 2011-13 executive budget provided and the 2011 Legislative Assembly approved \$790,015 from the general fund to the Department of Human Services for breast and cervical cancer assistance for the 2011-13 biennium.

FUND HISTORY

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

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

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

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

ANALYSIS OF THE ELECTRONIC HEALTH INFORMATION EXCHANGE FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

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

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

Section 6 of House Bill No. 1021 (2011) amends Section 8 of Senate Bill No. 2332 (2009) 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 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 to the electronic health information exchange fund in December 2010. The director has not requested a transfer to the health information technology loan fund.

²In 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

³The legislative appropriation for the Information Technology Department for the 2011-13 biennium anticipates the collection of \$5,596,266 from health care providers for participating in the health information exchange.

FUND HISTORY

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

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

**ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS**

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$1,358,407		\$1,186,698
Add estimated revenues				
Pesticide registration fees	\$3,960,000 ¹		\$3,885,000 ¹	
Weed seed-free forage (2009 HB 1270, 2009 HB 1009; 2011 SB 2009)	10,000 ²		48,922 ²	
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		3,970,000		4,820,100
Total available		\$5,328,407		\$6,006,798
Less estimated expenditures and transfers				
Agriculture Commissioner				
Noxious weed control (2009 HB 1009; 2011 SB 2009)	\$1,854,106		\$2,003,582	
Pesticide disposal project (Safe Send) (2009 HB 1009; 2011 SB 2009)	605,699		591,732	
Pesticide programs (2009 HB 1009; 2011 SB 2009)	908,976		1,212,401	
Agriculture in the Classroom program (2009 HB 1009; 2011 SB 2009)	110,000		110,000	
Farmer's market	29,500		29,500	
Endangered species (2009 HB 1009; 2011 SB 2009)	212,196		161,572	
Livestock pollution prevention (2009 HB 1009; 2011 SB 2009)	50,000		50,000	
Weed seed-free forage (2009 HB 1270, 2009 HB 1009; 2011 SB 2009)	48,922 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)	50,000		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)	222,310		222,310	
North Dakota Stockmen's Association environmental services program (2009 SB 2004; 2011 HB 1004)	50,000		50,000	
Total estimated expenditures and transfers		4,141,709		5,575,347
Estimated ending balance		\$1,186,698		\$431,451

¹The 1999 Legislative Assembly approved Senate Bill No. 2009, which included a provision increasing the biennial pesticide registration fee by \$50, from \$300 to \$350, only for the 1999-2001 biennium. The \$350 pesticide registration fee was extended for the 2001-03 biennium (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 Senate Bill No. 2323 (2007). The 2009 Legislative Assembly approved House Bill No. 1009, which deposits all pesticide registration fees in the environment and rangeland protection fund rather than a portion in the general fund.

²House 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.

³House Bill No. 1321 (2011) repeals North Dakota Century Code 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.

⁴Senate 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.

⁵Senate 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.

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

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

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

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

FUND HISTORY

Section 19-18-02.1, created by Senate Bill No. 2451 (1991), 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 House Bill No. 1009 (2009), 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		2011-13 Biennium	
Beginning balance		\$21,504,828		\$24,080,536
Add estimated revenues				
Premium collections	\$9,682,269		\$6,600,000	
Investment income	7,100,000		10,000,000	
Boiler inspection fees	385,000		370,000	
Loss claims and insurance recoveries	139,184		100,000	
Anhydrous ammonia storage facility inspection fund (2009 HB 1010)	100,000		0	
Total estimated revenues		17,406,453		17,070,000
Total available		\$38,911,281		\$41,150,536
Less estimated expenditures and transfers				
Loss claims payments	\$7,100,000		\$12,000,000	
Claims-related payments	5,524,478		5,513,660	
Insurance Department administration and anhydrous ammonia inspection costs	1,726,267		1,400,000	
State Fire Marshal program (2009 HB 1003; 2011 SB 2003)	310,000		310,000	
North Dakota Firefighters Association grant (2009 HB 1010; 2011 SB 2010)	170,000		170,000	
Total estimated expenditures and transfers		14,830,745		19,393,660
Estimated ending balance		\$24,080,536		\$21,756,876

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		2011-13 Biennium	
Beginning balance		\$65,750,547		\$136,046,745
Add estimated revenues				
Oil extraction tax allocations	\$70,296,198 ¹		\$99,906,177 ¹	
Total available		\$70,296,198		\$99,906,177
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Estimated ending balance		\$136,046,745		\$235,952,922

¹Estimated revenues - Based on actual oil extraction tax collections transferred to the fund through April 2011 and estimated allocations for the remainder of the 2009-11 biennium and the 2011-13 biennium per the February 2011 revenue forecast.

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2009-11 biennium or the 2011-13 biennium.

FUND HISTORY

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

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

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

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2009, through March 31, 2011, \$447,981 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		2011-13 Biennium	
Beginning balance		\$3,484,946		\$438,644
Add estimated revenues				
Investment earnings	\$28,944		\$7,498	
Loan repayments - Principal and interest	1,099,260		1,107,884	
Total estimated revenues		1,128,204		1,115,382
Total available		\$4,613,150		\$1,554,026
Less estimated expenditures and transfers				
State Department of Health quick response unit pilot project (2009 SB 2004)	\$50,000 ¹			
Department of Human Services nursing facilities (medical assistance program) (2009 HB 1012)	4,124,506			
Department of Human Services remodeling of a nursing facility to assisted living and basic care grant (2009 HB 1327)	0 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 estimated expenditures and transfers		4,174,506		1,101,786 ⁴
Estimated ending balance		\$438,644		\$452,240

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

²House Bill No. 1327 (2009) provides 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 will be unexpended.

³House Bill No. 1325 (2011) provides a special funds appropriation of \$1,225,979, 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.

⁴Section 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.

FUND HISTORY

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

ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY LOAN FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

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

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

Section 6 of House Bill No. 1021 (2011) amends Section 8 of Senate Bill No. 2332 (2009) 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.

²Section 4 of House Bill No. 1021 (2011) 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 (Senate Bill No. 2332 (2009)) establishes a health information technology loan fund at the Bank of North Dakota for providing loans to health care providers to purchase and upgrade electronic health record technology, train personnel in its use, improve security of information technology exchange, and for other purposes as established by the Health Information Technology Office, in collaboration with the Health Information Technology Advisory Committee. This fund is a revolving loan fund. All money transferred into the fund, interest upon money in the fund, and collections of interest and principal on loans made from the fund are appropriated for disbursement. Annually, the Bank may deduct a service fee for administering the revolving loan fund.

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

ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$0		\$366,641
Add estimated revenues				
Transfer from the Bank of North Dakota current earnings and accumulated undivided profits	\$5,000,000 ¹		\$5,000,000 ²	
Loan repayments from health care entities	198,308		1,580,369	
Interest income	20,313		147,218	
Total estimated revenues		5,218,621		6,727,587
Total available		\$5,218,621		\$7,094,228
Less estimated expenditures and transfers				
Loans to health care entities	\$4,841,824 ³		\$7,000,000	
Service fees	10,156 ⁴		73,609 ⁴	
Total estimated expenditures and transfers		4,851,980		7,073,609
Estimated ending balance		\$366,641		\$20,619

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

²Section 4 of House Bill No. 1021 (2011) 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 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 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.

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

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
Midgarden Family Clinic (Park River)	101,590
7-Day Clinic Walk-in Express Care (Fargo)	50,000

Linton Hospital	420,115
Total	\$4,841,824

¹The 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.

⁴The Bank is authorized to deduct a service fee for administering the fund.

FUND HISTORY

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

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

**ANALYSIS OF THE LANDS AND MINERALS TRUST FUND
FOR THE 2009-11 AND 2011-13 BIENNIUMS**

	2009-11 Biennium		2011-13 Biennium ¹	
Beginning balance		\$32,586,643		\$0
Add estimated revenues				
Production royalties	\$41,802,122			
Mineral leases	704,742			
Oil and gas bonuses	181,552,266			
Investment earnings	1,863,500			
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020, 1985 SB 2249)	464,174			
Total estimated revenues		226,386,804		0
Total available		\$258,973,447		\$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)	\$697,344 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	830,476			
Transfer to the strategic investment and improvements fund (2011 HB 1451)	221,631,550 ⁴			
Total estimated expenditures and transfers		\$258,973,447		0
Estimated ending balance		\$0		\$0

¹Payments 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.

²Industrial Commission - Department of Mineral Resources contingency - Senate Bill No. 2014 (2009) provides a \$515,207 contingency appropriation from the lands and minerals trust fund. If funds are required due to the average drilling rig count exceeding 100 active rigs for each month in any consecutive three-month period, the Oil and Gas Division may spend \$319,041 of these funds and hire up to 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 (\$156,000) and operating expenses (\$65,000). In September 2010 the Emergency Commission approved additional funding of \$97,541 for operating expenses. The division anticipates spending \$314,342 for the 2009-11 biennium.

³Office 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 \$1,000,164 of the \$1.5 million for the Heritage Center expansion project during the 2007-09 biennium and anticipates spending the remainder of \$499,835 on the project during the 2009-11 biennium.

⁴House 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 is deposited in the lands and minerals trust fund, pursuant to Section 15-08.1-08. The principal and interest of the trust fund may be used only for purposes approved by the Legislative Assembly. 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		2011-13 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Thirty percent of oil and gas gross production and extraction tax collections			\$612,468,299 ¹	
Excess revenues from strategic investment and improvement fund			0 ²	
Investment earnings			6,090,000	
Total estimated revenues		0		618,558,299
Total available		\$0		\$618,558,299
Total estimated expenditures and transfers				0 ³
Estimated ending balance		\$0		\$618,558,299

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

²House 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.

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

FUND HISTORY

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

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

	2009-11 Biennium		2011-13 Biennium	
		\$		\$
Beginning balance		\$14,187,178		\$9,858,358
Add revenues				
Separate two-cent coal severance tax	\$1,165,000		\$1,200,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,275,000		3,375,000	
Twenty percent of coal severance taxes deposited in the coal development trust fund (committed to clean coal projects) (result of passage of constitutional amendment passed by voters in June 1994)	1,310,000		1,350,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	600,180		2,855,000	
Five percent of the general fund share of coal conversion tax (2007 HB 1093)	2,250,000		2,500,000	
Revenue bonds/short-term loan	0 ¹		0 ¹	
Interest income and return of funds	71,000		80,000	
Total revenues		8,671,180		11,360,000
Total available		\$22,858,358		\$21,218,358
Less expenditures and transfers ^{2,3}				
Administration	\$750,000		\$850,000	
Lignite feasibility studies (nonmatching grants)	1,000,000		700,000	
Small research grants	1,300,000		1,200,000	
Lignite marketing	1,076,000		1,500,000	
Lignite litigation	416,621 ⁴		300,000 ⁴	
Demonstration projects	8,457,379		15,421,300	
Total expenditures and transfers		13,000,000 ⁵		19,971,300
Ending balance		\$9,858,358		\$1,247,058

¹Pursuant 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.

²The 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.

³The Industrial Commission has waived the fund allocation policy and has committed \$22 million through the 2011-13 biennium, with \$1,360,750 to be spent during the 2003-05 biennium, \$2,243,391 during the 2005-07 biennium, \$2.2 million during the 2007-09 biennium, \$4,125,000 during the 2009-11 biennium, and \$12,070,859 during the 2011-13 biennium, for the Lignite Vision 21 Project. The objective of the Lignite Vision 21 Project is to construct new lignite-fired power plants in North Dakota. (These amounts are net of funds expended and then subsequently returned when projects did not proceed.)

⁴Lignite litigation - House Bill No. 1093 (2007) provides that \$500,000 of the amount allocated to the lignite research fund in Section 1 of the bill is to be used to pay for fees associated with lignite litigation that may be brought by the state to protect and promote the continued development of lignite resources. Activities associated with the litigation have been initiated with \$83,379 spent during the 2007-09 biennium and \$416,621 anticipated to be spent during the 2009-11 biennium. If the entire \$416,621 is utilized during the 2009-11 biennium, it is anticipated that 2011-13 litigation expenditures may exceed \$300,000 and be paid from a portion of the program's nonmatching dollars.

⁵The 2009 Legislative Assembly appropriated \$19,971,300 for lignite research grants; however, the Industrial Commission anticipates spending \$13 million for lignite research grants during the 2009-11 biennium. The Industrial Commission has continuing appropriation authority for all money deposited in the lignite research fund pursuant to Section 57-61-01.6.

FUND HISTORY

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

ANALYSIS OF THE PERMANENT OIL TAX TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$489,727,017		\$0 ³
Add estimated revenues				
Oil and gas production and extraction tax collections based on current law	\$907,220,239 ¹			
Total estimated revenues		907,220,239		
Total available		\$1,396,947,256		
Less estimated expenditures and transfers				
Transfer to the general fund (2009 HB 1015)	\$140,000,000			
Transfer to centers of excellence fund (2009 SB 2018)	6,620,541 ²			
Higher education (2009 SB 2003)	12,691,145			
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			
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			
Water project grants (2009 HB 1305)	2,526,445			
Prairie Public Broadcasting (2009 HB 1015)	1,008,100			
Transfer to state disaster relief fund (2011 SB 2369)	22,000,000			
Total estimated expenditures and transfers		781,834,258		
Estimated ending balance		\$615,112,998 ³		\$0

¹Estimated collections reflect actual collections of \$637,339,147 through February 2011 and February 2011 revised revenue projections of \$269,881,092 for the remainder of the biennium. The February 2011 revised revenue forecast for the 2009-11 biennium projects state oil and gas gross production and oil extraction tax revenues to exceed \$71 million by \$907.2 million; therefore, \$907.2 million is projected to be transferred to the permanent oil tax trust fund during the biennium.

²Section 27 of 2009 Senate Bill No. 2018 allows the Department of Commerce to continue any unspent funds appropriated for the centers of excellence program for the 2007-09 biennium to the 2009-11 biennium. The Office of Management and Budget is to transfer any unexpended funds from the appropriations to the centers of excellence fund at the end of the 2007-09 biennium. Pursuant to this directive, the Office of Management and Budget transferred \$6,620,541, the amount remaining from the \$15 million appropriation for the 2007-09 biennium, from the permanent oil tax trust fund to the centers of excellence fund.

³House Bill No. 1451 repeals the permanent oil tax trust fund at the end of the 2009-11 biennium and transfers the balance estimated at \$615.1 million 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) establishes a permanent oil tax trust fund and provides that all revenues deposited in the general fund during a biennium and derived from taxes imposed on oil and gas under Chapter 57-51 (Oil and Gas Gross Production Tax) and Chapter 57-51.1 (Oil Extraction Tax) which exceed \$71 million are to be transferred into the permanent oil tax trust fund. The State Treasurer is to transfer the interest earned on the fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly. The 2011 Legislative Assembly with the passage of House Bill No. 1451 repeals the permanent oil tax trust fund at the end of the 2009-11 biennium and transfers 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		2011-13 Biennium	
	Beginning balance		\$0	
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		<u>\$295,000,000</u>		<u>\$341,790,000</u>

FUND HISTORY

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

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

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$87,378,167		\$139,092,168
Add estimated revenues				
Oil extraction tax collections	\$140,592,397		\$199,812,353	
Repayments and reimbursements	3,504,000		3,509,000	
Investment earnings/miscellaneous income	2,217,604		1,101,820	
Total estimated revenues		146,314,001 ¹		204,423,173
Total available		\$233,692,168		\$343,515,341
Less estimated expenditures and transfers				
State Water Commission - Grants, projects, and project administration (2009 HB 1020; 2011 SB 2020)	\$94,258,000		\$308,131,899	
State Water Commission - Beaver Bay embankment feasibility study (2009 SB 2305)	342,000			
State Water Commission - Western Area Water Supply Authority zero interest loan (2011 SB 2020)			25,000,000	
Bank of North Dakota - Western Area Water Supply Authority 5 percent interest loan (2011 HB 1206)			10,000,000	
Total estimated expenditures and transfers		94,600,000 ²		343,131,899 ³
Estimated ending balance		\$139,092,168		\$383,442

¹Estimated revenues - 2009-11 - The estimated revenues for the 2009-11 biennium reflect actual revenues through April 2011 and estimated revenues for the remainder of the biennium based on the February 2011 revenue forecast. The current estimate of revenues for the biennium is \$93,520,660 more than the estimate of \$52,793,341 made at the close of the 2009 legislative session. The increase is attributable to the following changes:

Increase in oil extraction tax collections	\$90,808,056
Increase in repayments and reimbursements	1,495,000
Increase in investment income	1,217,604
Net increase from revenue amount previously estimated for 2009-11	\$93,520,660

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

³Sections 1 and 4 of Senate Bill No. 2020 (2011) appropriate \$332.4 million, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium. The Legislative Assembly added 1 FTE Water Development Division director position funded from the resources trust fund 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 provided the State Water Commission must 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 2011 Legislative Assembly provided, in House Bill No. 1206, the State Water Commission make available, from funding appropriated from the resources trust fund for projects, \$25 million for a zero interest loan to the Western Area Water Supply Authority. House Bill No. 1206 also appropriated \$10 million from the resources trust fund for a 5 percent loan to the Western Area Water Supply Authority.

FUND HISTORY

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

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

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

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

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

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

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

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

¹In response to an actuarial review completed in 2008 by Aon Risk Services, the Risk Management Division is assessing a total of \$2,649,997 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2009-11 biennium. Assessments are subject to a risk management discount program for agencies that adopt proactive loss control practices, with a maximum available discount of 15 percent. The amount shown for premiums reflects fiscal year 2010 discounts of \$102,393 and estimated fiscal year 2011 discounts of \$102,638.

²In 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.

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		2011-13 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Allocation from sales, use, and motor vehicle excise tax collections	\$2,710,599 ¹		\$3,300,000 ^{1,4}	
Total estimated revenues		2,710,599		3,300,000
Total available		\$2,710,599		\$3,300,000
Less estimated expenditures and transfers				
State Treasurer - County senior citizen matching grants	\$2,682,853 ²		\$3,300,000 ^{2,4}	
Transfer to the general fund	27,746 ³			
Total estimated expenditures and transfers		2,710,599		3,300,000
Estimated ending balance		\$0		\$0

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

Fiscal Year	Allocation From Sales, Use, and Motor Vehicle Excise Tax Collections	Percentage Increase (Decrease) From Previous Year
2006	\$995,253 (actual)	N/A
2007	\$1,072,665 (actual)	7.8%
2008	\$1,163,721 (actual)	8.5%
2009	\$1,243,493 (actual)	6.9%
2010	\$1,310,947 (actual)	5.4%
2011	\$1,399,652 (actual)	6.8%
2012	\$1,650,000 (estimate)	17.9%
2013	\$1,650,000 (estimate)	0.0%

²The county senior citizen matching grants are shown below:

Fiscal Year	County Senior Citizen Matching Grants	Percentage Increase (Decrease) From Previous Year
2006	\$989,415 (actual)	N/A
2007	\$1,078,503 (actual)	9.0%
2008	\$1,153,293 (actual)	6.9%
2009	\$1,225,933 (actual)	6.3%
2010	\$1,298,462 (actual)	5.9%
2011	\$1,384,391 (actual)	6.6%
2012	\$1,650,000 (estimate)	19.2%
2013	\$1,650,000 (estimate)	0.0%

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

⁴Senate Bill No. 2242 (2011) increases 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 increases the amount of grants provided to counties that have approved a mill levy for senior citizen services and programs fund 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 2005 Legislative Assembly approved Senate Bill No. 2267, which created the senior citizen services and programs fund. Statutory provisions are contained in North Dakota Century Code Sections 57-15-56(5) and 57-39.2-26.2. 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 two-thirds 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 two-thirds 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 that for in the 2005-07 biennium any remaining money in the fund at the end of the biennium was allocated to those counties that were levying the statutory maximum for senior citizen programs in proportion to the amounts generated by those levies in those counties.

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

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on four-tenths of 1 percent)	\$120,325,118		\$136,627,710	
Other adjustments resulting from 2011 legislative action				
HB 1334 - Sales tax exemption for dues and fees of certain nonprofit clubs and organizations			(2,800)	
SB 1391 - Compliance with Streamlined Sales Tax Agreement			1,635	
HB 1424 - Sales tax exemption for agrichemical cleaners and markers and expansion of retail compensation allowance	(2,200)		(148,560)	
SB 2171 - Sales tax exemption for telecommunications infrastructure			(308,783)	
SB 2172 - Sales tax exemption for gross receipts from coin-operated amusement machines			(28,000)	
Total adjustments		120,322,918		136,141,202
Total available		\$120,322,918		\$136,141,202
Less estimated expenditures and transfers				
Payments to political subdivisions				
County share (53.7 percent)	\$64,613,407		\$73,107,825	
City share (46.3 percent)	55,709,511		63,033,377	
Total estimated expenditures and transfers		120,322,918		136,141,202
Estimated ending balance		\$0		\$0

NOTE: The amounts shown reflect the 2009-11 revised revenue forecast (February 2011) and the 2011-13 revenue forecast as approved by the 2011 Legislative Assembly.

FUND HISTORY

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

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

The 1997 Legislative Assembly also changed the allocation of the state aid distribution fund from 50 percent for personal property tax replacement and 50 percent for revenue sharing to 53.7 percent for counties and 46.3 percent for cities. The allocation for each county includes townships, rural fire protection districts, rural

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

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

Population Category 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 becomes effective July 1, 2011, revises 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		2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$0		\$37,623,216		\$36,351,938
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			
Interest income			180,726		\$250,000	
Federal funds - Volunteer hours adjustment			596,623			
Local share federal-to-federal mission assignments			13,229			
National Guard reimbursements			134,932			
Total revenues		43,000,000		22,925,510		250,000
Total available		\$43,000,000		\$60,548,726		\$36,601,938
Less estimated expenditures						
Emergency snow removal grants (2009 SB 2012, 2011 SB 2369)	\$5,376,784 ³		\$9,000,000 ⁴			
Disaster costs relating to disasters occurring prior to 2009			800,834 ⁵		\$860,000 ^{6,7}	
Disaster costs relating to 2009 flooding			5,266,228 ⁵		6,890,597 ^{6,7}	
Disaster costs relating to the January 2010 winter snowstorm			1,506,693 ⁵		267,371 ^{6,7}	
Disaster costs relating to 2010 flooding			3,122,119 ⁵		1,607,139 ^{6,7}	
Disaster costs relating to the April 2010 ice storm			2,847,775 ⁵		942,198 ^{6,7}	
Disaster costs relating to the April 2011 blizzard			16,871 ⁵			
Disaster costs relating to 2011 flooding			1,636,268 ⁵		6,396,250 ⁸	
Disaster costs relating to flooding in incorporated cities (2011 SB 2369)					3,200,000 ⁸	
Disaster response coordination contract (2011 SB 2016)					400,000 ⁹	
State disasters and flood mitigation efforts (2011 SB 2016, 2011 SB 2369)					13,178,749 ^{7,8}	
Total estimated expenditures and transfers		5,376,784		24,196,788		33,742,304
Estimated ending balance		\$37,623,216		\$36,351,938		\$2,859,634

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

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

²Senate 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.

³Section 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.

⁴Section 2 of 2011 Senate Bill No. 2369 authorized up to \$9 million from the state disaster relief fund to be used for providing emergency snow removal grants to counties, cities, and townships. Section 2 of Senate Bill No. 2369 provided that a county, township, or city may apply to the Department of Emergency Services for an emergency snow removal grant for reimbursement of up to 60 percent of the costs incurred by the county, township, or city for the period January 2011 through March 2011 that exceed 200 percent of the average costs incurred for these months in 2004 through 2008. The Department of Emergency Services must distribute these grants prior to June 30, 2011, and report to the budget section regarding the grants awarded under this section. Any unspent funds may be used for purposes as provided for in Section 4 of Senate Bill No. 2369.

⁵Section 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.

⁶Section 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.

⁷Section 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 North Dakota Century Code Section 37-17.1-27.

⁸Section 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.

⁹In 2011 Senate Bill No. 2016, the Legislative Assembly provided authority to the Department of Emergency Services to utilize funding from the state disaster relief fund to contract for services to coordinate disaster response organizations with state and political subdivision disaster response efforts, including all aspects of disaster recovery from preparedness training through cleanup for declared or undeclared disasters.

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		2011-13 Biennium ¹	
Beginning balance		\$0		\$221,631,550 ¹
Add estimated revenues				
Production royalties			\$71,832,000	
Mineral leases			694,412	
Oil and gas bonuses			36,150,000 ²	
Investment earnings			2,708,045	
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020; 1985 SB 2249, 2011 SB 2121)			0 ³	
Oil and gas tax collections			36,481,039 ⁴	
Total estimated revenues		0		147,865,496
Total available		\$0		\$369,497,046
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)			\$0 ³	
Transfer to the general fund (2011 SB 2015)			305,000,000	
Administrative costs/other fees			800,000	
Total estimated expenditures and transfers		\$0		305,800,000
Estimated ending balance		\$0		\$63,697,046
Restricted fund income				
Reserve relating to potential title disputes			\$56,664,169 ⁵	
Bank of North Dakota - Maintain guarantee reserve fund balance (2011 SB 2306)			6,250,000 ⁶	
Ending balance - Undesignated		\$0		\$782,877

¹House 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.

²The Land Department estimates \$5 million will be collected in oil and gas bonuses per lease sale, with eight lease sales per biennium. This estimate assumes some land currently leased will become available for lease sales as lease contracts expire during the 2011-13 biennium.

³Payments 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, which becomes effective August 1, 2011, 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.

⁴House 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:

1. The first \$200 million is deposited in the general fund;
2. The next \$341,790,000 is deposited in the property tax relief sustainability fund;
3. The next \$100 million is deposited in the general fund;
4. The next \$100 million is deposited in the strategic investment and improvements fund;
5. The next \$22 million is deposited in the state disaster relief fund; and
6. 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 \$36,481,039.

⁵These 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.

⁶Senate Bill No. 2306 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.

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

	2009-11 Biennium ¹		2011-13 Biennium ¹	
Beginning balance		\$19,272,800		\$17,469,341
Add estimated revenues				
Fund earnings (net)	\$25,000 ²		\$25,000 ²	
Total available		\$19,297,800		\$17,494,341
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		\$17,469,341 ⁷		\$16,489,597 ⁸

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

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

³The 2009 Legislative Assembly 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 is estimated to be used.

⁴The 2011 Legislative Assembly 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 2011 Legislative Assembly provided a general fund increase of \$510,000 for the program to offset the reduced funding from the student loan trust fund.

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

⁶The 2011 Legislative Assembly 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 2011 Legislative Assembly 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.

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

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

FUND HISTORY

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

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

The student loan trust fund is comprised of funds held under two general bond resolutions. The first general bond resolution includes funds from bonds issued in

1979, 1988, 1989, 1992, and 2004. The second general bond resolution, referred to as the 1996 bond resolution, includes funds from bonds issued in 1996, 1997, 1998, and 2000. All issuances prior to 2004 with bonds outstanding are insured by Ambac Assurance Corporation.

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

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

After all bonds in the 1979 and 1996 bond resolutions have matured, been redeemed or defeased and all expenses paid, and the resolutions closed, any remaining assets held under the bond resolutions would be transferred to the Industrial Commission for use at its discretion and as allowed by law. In order to use assets held under the 1979 general bond resolution for a purpose other than those stated in the general bond resolution, the administrators of the student loan trust fund must receive a certification from the trustee of the bond (Bank of North Dakota) that sufficient reserves remain for bond payments and other related program costs. In order to use assets held under the 1996 general bond resolution for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive permission from the bond issuer, and the trustee of the bond (Bank of North Dakota) would have to certify that sufficient reserves remain for bond payments and other related program costs.

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

ANALYSIS OF THE TOBACCO PREVENTION AND CONTROL TRUST FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS

	2009-11 Biennium		2011-13 Biennium	
	Beginning balance		\$14,107,486	
Add estimated revenues				
Tobacco settlement revenues collected to date	\$23,460,631 ¹		\$0	
Projected tobacco settlement revenues			24,548,786 ²	
Investment income	105,000		213,616	
Total estimated revenues		23,565,631 ³		24,762,402 ³
Total available		\$37,673,117		\$49,553,519
Less estimated expenditures and transfers				
Tobacco Prevention and Control Executive Committee expenditures	\$12,882,000 ⁴		\$12,922,614 ⁴	
Total estimated expenditures and transfers		12,882,000		12,922,614
Estimated ending balance		\$24,791,117		\$36,630,905

¹As of April 2011, the state has received tobacco settlement payments totaling \$64,013,595 for the 2009-11 biennium, of which \$40,552,964 was deposited in the tobacco settlement trust fund and \$23,460,631 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of \$336,322,280, including \$284,925,908 under subsection IX(c)(1) of the Master Settlement Agreement and \$51,396,372 under subsection IX(c)(2) of the Master Settlement Agreement. Of the \$336,322,280, \$298,723,637 has been deposited into the tobacco settlement trust fund and \$37,598,643 has been deposited into the tobacco prevention and control trust fund.

²Estimated payments for the 2011-13 biennium are based on the amount received in 2010.

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

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

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$567.3 million	\$117.3 million	\$202.5 million	\$202.5 million	\$45.0 million

⁴Section 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. The 2011 Legislative Assembly 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.

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 2009 Legislative Assembly in Section 39 of House Bill No. 1015 provided that any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation.

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

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

	2009-11 Biennium		2011-13 Biennium	
		\$0		\$0
Beginning balance		\$0		\$0
Add estimated revenues				
Tobacco settlement revenues collected to date	\$40,552,964 ¹		\$0	
Projected tobacco settlement revenues	0		45,831,186	
Total estimated revenues		40,552,964 ²		45,831,186 ²
Total available		\$40,552,964 ^{3,4}		\$45,831,186 ^{3,4}
Less estimated expenditures and transfers				
Transfers to the community health trust fund	\$4,055,296		\$4,583,118	
Transfers to the common schools trust fund	18,248,834		20,624,034	
Transfers to the water development trust fund	18,248,834		20,624,034	
Total estimated expenditures and transfers		40,552,964		45,831,186
Estimated ending balance		\$0		\$0

¹As of April 2011, the state has received tobacco settlement payments totaling \$64,013,595 for the 2009-11 biennium, of which \$40,552,964 was deposited in the tobacco settlement trust fund and \$23,460,631 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of \$336,322,280, including \$284,925,908 under subsection IX(c)(1) of the Master Settlement Agreement and \$51,396,372 under subsection IX(c)(2) of the Master Settlement Agreement. Of the \$336,322,280, \$298,723,637 has been deposited into the tobacco settlement trust fund and \$37,598,643 has been deposited into the tobacco prevention and control trust fund.

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

In the November 2008 general election, voters approved initiated measure No. 3 that amends Section 54-27-25 to provide that a portion of tobacco settlement funds received by the state be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continue in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, which began in 2008 and continues through 2017, was deposited beginning in 2009 in the tobacco prevention and control trust fund. The amount received under subsection IX(c)(2) of the Master Settlement Agreement for 2008 was \$13,797,729, which, because it was received prior to passage of the measure, was allocated pursuant to Section 54-27-25 prior to amendment. Remaining tobacco settlement trust fund revenues have been estimated based on the Office of Management and Budget revised estimated collections and the average of actual revenues received into the tobacco settlement trust fund in fiscal years 2009 and 2010 and do not include anticipated strategic contribution payments, which are deposited in the tobacco prevention and control trust fund.

³In 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	64,013,595
2011-13	82,231,080	70,379,972
2013-17 (\$82,231,080/\$73,687,266 per biennium)	164,462,160	147,374,532
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
Total	\$866,801,136	\$764,092,111

⁴Initiated 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	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$567.3 million	\$117.3 million	\$202.5 million	\$202.5 million	\$45.0 million

FUND HISTORY

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

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

In the November 2008 general election, voters approved initiated measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in a new fund rather than the entire amount in the

tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, relating to strategic contribution payments, which began in 2008 and continue through 2017, began to be deposited in 2009 into the newly created tobacco prevention and control trust fund.

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

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

	2009-11 Biennium		2011-13 Biennium	
	Beginning balance		\$1,149,701 ¹	
Add estimated revenues				
Fines for violation of state laws	\$9,081,058 ²		\$9,124,000 ²	
Transfers from the common schools trust fund	77,178,000		92,514,000	
Total estimated revenues		86,259,058		101,638,000
Total available		\$87,408,759		\$102,746,759
Less estimated expenditures and transfers				
State aid to schools	\$86,300,000		\$101,638,000	
Total estimated expenditures and transfers		86,300,000 ¹		101,638,000 ¹
Estimated ending balance		\$1,108,759 ¹		\$1,108,759 ¹

¹Beginning/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.

²Fines 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	\$4,487,733 (estimate)	(2.3%)
2012	\$4,562,000 (estimate)	1.7%
2013	\$4,562,000 (estimate)	0.0%

FUND HISTORY

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

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

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

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

	2009-11 Biennium		2011-13 Biennium	
Beginning balance		\$4,167,369		\$4,167,369
Add estimated revenues				
Investment income (loss)	\$211,292 ¹		\$200,000 ¹	
Sale of van	5,000			
Total estimated revenues		216,292		200,000
Total available		\$4,383,661		\$4,367,369
Less estimated expenditures and transfers				
Grants and related expenditures	\$208,212 ²			
Administrative committee travel				
Veterans' Home activities				
Vehicles - Vans				
Veterans' transportation programs	4,130 ²			
Other veterans' programs				
Appeals Committee	650 ²			
Stand Down (outreach to homeless veterans)	3,300 ²			
Total estimated expenditures and transfers		216,292		0 ³
Estimated ending balance		<u>\$4,167,369</u>		<u>\$4,367,369</u>

¹The State Treasurer estimates \$211,292 of investment income from the veterans' postwar trust fund will be available for the various programs supported by the fund during the 2009-11 biennium. The State Treasurer has not provided investment income estimates for the 2011-13 biennium, but anticipates the amounts will be similar to the 2009-11 biennium. Pursuant to House Bill No. 1468, approved by the 2011 Legislative Assembly, investment income earned during the 2011-13 biennium is not available for program expenditures until the 2013-15 biennium.

²Expenditures funded through May 31, 2011. The Administrative Committee on Veterans' Affairs receives and allocates funding on a quarterly basis, as it becomes available, to various programs.

³North Dakota Century Code Section 37-14-14 currently provides 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 2011 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. 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 2011 Legislative Assembly, in 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.

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, 2011, was \$4,265,934 and the market value of the fund was \$4,601,692.

FUND HISTORY Established

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

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 2011 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		2011-13 Biennium	
	Beginning balance		\$21,010,583	
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	\$18,248,834 ¹		\$0	
Projected remaining transfers from tobacco settlement trust fund	0		20,624,034	
Total estimated revenues		18,248,834 ²		20,624,034 ²
Total available		\$39,259,417		\$45,833,390
Less estimated 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		\$8,643,656

¹For the 2009-11 biennium, transfers totaling \$18,248,834 have been made from the tobacco settlement trust fund as of April 2011. Total transfers of \$134,425,636 have been made from the tobacco settlement trust fund to the water development trust fund.

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

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

Initiated measure No. 3 will result in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	\$36.4 million	N/A	\$16.4 million	\$16.4 million	\$3.6 million
Actual payment April 2009	39.2 million	\$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Estimated 2011-13 biennium	70.3 million	24.5 million	20.6 million	20.6 million	4.6 million
Estimated 2013-15 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2015-17 biennium	73.7 million	27.6 million	20.8 million	20.8 million	4.5 million
Estimated 2017-19 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2019-21 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2021-23 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Estimated 2023-25 biennium	52.5 million	N/A	23.6 million	23.6 million	5.3 million
Total	\$567.3 million	\$117.3 million	\$202.5 million	\$202.5 million	\$45.0 million

³The 2009 Legislative Assembly provided a total of \$30,843,001, or any additional amount that becomes available, from the water development trust fund for bond payments and water projects. Bond payments during the 2009-11 biennium total \$14,050,061. The State Water Commission does not anticipate expenditures for water projects from the water development trust fund during the 2009-11 biennium.

⁴Sections 1 and 4 of Senate Bill No. 2020 (2011) appropriate \$37,189,734, or any additional funding that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium. 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.

FUND HISTORY

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

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

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

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

Section 61-02.1-04, created by Senate Bill No. 2188 (1999), provides that the principal and interest on bonds issued for flood control projects, the Southwest Pipeline Project, and an outlet to Devils Lake must be repaid with money appropriated from the water development trust fund.