ANALYSIS OF MAJOR SPECIAL FUNDS FOR THE 2013-15 AND 2015-17 BIENNIUMS INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015

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ANALYSIS OF THE BONDING FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$3,408,932		$3,490,733
Add revenues				
Investment income	$250,000		$300,000	
State bonding fund claims collections	50,000		50,000	
Game and fish bonds	7,000		7,000	
Total revenues		307,000		357,000
Total available		$3,715,932		$3,847,733
Less expenditures and transfers				
Claim liabilities/payments/write-offs	$150,000		$150,000	
Claims-related expenses	20,000		20,000	
Investment expense	10,000		10,000	
Administration	45,199		43,451	
Total expenditures and transfers		225,199		223,451
Ending balance		$3,490,733		$3,624,282

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 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$583,545,799		$687,095,131
Add estimated revenues				
Investment income	$0[1]		$0[1]	
Transfer from general fund	103,549,332[2]		0	
Total estimated revenues		103,549,332		0
Total available		$687,095,131		$687,095,131
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0[3]		0[3]
Estimated ending balance		$687,095,131		$687,095,131

[1]Interest earned on the fund is deposited in the general fund because the balance in the fund is at the maximum allowed under North Dakota Century Code Section 54-27.2-01.

[2]Chapter 54-27.2 provides any amount in the general fund at the end of a biennium in excess of $65 million must be transferred to the budget stabilization fund except that the balance in the budget stabilization fund may not exceed 9.5 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The amount shown is based on the executive budget estimate of a June 30, 2015, general fund balance of $681,015,929 and the recommended 2015-17 biennium general fund appropriations of $7,232,580,330; therefore, the maximum balance in the fund is limited to $687,095,131.

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

FUND HISTORY

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

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

ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS[1] (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$2,841,003		$5,372,594
Add revenues				
Investment income	$40,678		$116,763	
Rentals, royalties, and bonuses	3,828,270		3,290,000	
Total revenues		3,868,948		3,406,763
Total available		$6,709,951		$8,779,357
Less expenditures and transfers				
Administrative expenses	$51,561		$59,194	
Income payments to counties	5,796[2]		5,796[2]	
Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 49-10-02[3])	175,000		175,000	
Capitol Grounds Planning Commission operating expenses (2013 HB 1015, 2015 SB 2015)	25,000		25,000	
Demolition and construction of a new Governor's residence (2015 SB 2304)			5,000,000	
Office of Management and Budget Capitol projects (2011 SB 2015)	1,080,000[4]			
Total expenditures and transfers		1,337,357		5,264,990
Ending balance		$5,372,594		$3,514,367

[1]The analysis reflects the legislative appropriations for the 2013-15 biennium and appropriations included in bills under consideration by the 2015 Legislative Assembly and does not include the land owned by the fund.

[2]Section 15-04-23 provides the Board of University and School Lands is to pay a fee to the board of county commissioners of each county in which the state retains original grant lands. The total fees paid may not exceed 5 percent of the net revenue generated from the original grant lands in that county during the year preceding the payments. The board of county commissioners is to forward a prorated portion of any fees received to the organized townships in which the original grant lands are located. The funds are to be used for the repair, maintenance, and construction of roads and bridges. Any remaining funds are to be used by the county for repair, maintenance, and construction of roads and bridges in unorganized townships in which the original grant lands are located.

[3]Section 48-10-02 provides a continuing appropriation to the Capitol Grounds Planning Commission to expend up to $175,000 per biennium of income and interest of the Capitol building fund. The section was amended by 2013 House Bill No. 1015 to increase the amount of the maximum continuing appropriation to $175,000 per biennium beginning with the 2013-15 biennium. The amount that may be spent may not exceed 50 percent of the unencumbered balance of the fund on the first day of the biennium.

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

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

ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$10,756,483		$7,383,067
Add estimated revenues				
Transfer from the general fund				
Investment income	$9,600		$7,200	
Total estimated revenues		9,600		7,200
Total available		$10,766,083		$7,390,267
Less estimated expenditures and transfers				
Legal fees - Attorney General's office	$2,500[1]		2,500[1]	
Centers of excellence grants funding distributions	3,308,516[1]		3,725,329[1]	
Economic impact studies	37,000[1]		40,000[1]	
Centers of Excellence Summit	0[1]		0[1]	
Other administrative expenses	35,000[1]		35,000[1]	
Transfer to research North Dakota fund			$1,559,995[2]	
Total estimated expenditures and transfers		3,383,016		5,362,824
Estimated ending balance		$7,383,067[3]		$2,027,443[4]

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

[2]House Bill No. 1018 directs the Office of Management and Budget to transfer unobligated funds from the centers of excellence fund to the Research North Dakota fund. The Department of Commerce anticipates $1,559,995 in unobligated funds will be transferred to the Research North Dakota fund.

[3]The 2013-15 biennium ending balance includes $5,587,994 that is obligated for centers of excellence proposals approved in previous bienniums.

[4]The 2015-17 biennium ending balance includes $1,862,665 that is obligated for centers of excellence proposals approved in previous bienniums and $164,778 that is obligated for future administrative expenses.

FUND HISTORY

Section 15-69-06 (2009 Senate Bill No. 2018) establishes a centers of excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of excellence program. Interest earned on money in the fund is retained in the fund. The Legislative Assemblies in 2011 and 2013 did not appropriate new funding to the centers of excellence fund for the 2011-13 or 2013-15 biennium. Estimated expenditures for the 2011-13 and 2013-15 bienniums relate to centers of excellence awarded in prior bienniums. Pursuant to provisions of 2011 Senate Bill No. 2057, the centers of excellence fund will be repealed on August 1, 2023.

ANALYSIS OF THE CENTERS OF RESEARCH EXCELLENCE FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$4,732,148		$3,388,827
Add estimated revenues				
Transfer from the general fund	$0[1]		$0[1]	
Investment income	4,100		3,600	
Total estimated revenues		4,100		3,600
Total available		$4,736,248		$3,392,427
Less estimated expenditures and transfers				
Limited deployment-cooperative airspace project grant				
University of North Dakota (UND)	$0[2]		$0	
North Dakota State University (NDSU)	575,796[2]		0	
Centers of research excellence grants				
UND	190,670[3,4]		109,330[3,4]	
NDSU	522,812[3]		1,972,292[3]	
Base realignment grants				
UND	58,143[4]		0[4]	
Total estimated expenditures and transfers		1,347,421		2,081,622
Estimated ending balance		$3,388,827[5]		$1,310,805[6]

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

[2]The Legislative Assembly in 2011 designated $4 million of the $12 million for grants to the North Dakota University System's research institutions for the purpose of leveraging private and federal funding to advance opportunities for a limited deployment-cooperative airspace project in the state during the 2011-13 biennium.

[3]In 2011 Senate Bill No. 2057, the Legislative Assembly designated $8 million of the $12 million for centers of research excellence grants. The Centers of Excellence Commission may not award centers of research excellence grants of more than $4 million to one research university or nonprofit foundation related to that research university. The centers of research excellence program established by the Legislative Assembly in 2011 replaces the centers of excellence program with the following modifications:

- Removed the requirement for Budget Section or Emergency Commission approval and authorized the Centers of Excellence Commission to award grants.
- Removed tourism from the definition of an "industry cluster".
- Removed the requirement that research universities limit applications to two per round of funding and removed the requirement that the awarding process give consideration to a center's ability to become financially self-sustaining.
- Replaced the prior requirement of annual audits with the requirement for an audit of all funds distributed to the centers after the second full fiscal year, after all funds distributed to the centers have been expended, and for all other years during the postaward monitoring. The centers may contract with an independent accountant for an agreed-upon procedures engagement. Postaward monitoring lasts for no fewer than 6 years and no more than 10 years following the designation of a center for both the centers of excellence and the centers of research excellence programs.

- Provided a statement of legislative intent for the centers of research excellence program to be an ongoing program. (The centers of excellence program had an established expiration date.)

As of April 1, 2014, a total of $4,813,750 has been awarded for centers of research excellence grants:

NDSU	
Center for Life Sciences Research and Applications	$1,350,000
Center for Technologically Innovative Processes and Products	320,000
Center for Technologically Innovative Processes and Products 2	1,011,250
Center for Biobased Materials Science and Technology	1,132,500
UND	
Center for Avian Therapeutics for Infectious Diseases	700,000
Center for Gas Utilization	300,000
Total	$4,813,750

[4]Of the $4 million available to UND through the centers of research excellence program, $3 million was designated for base realignment grants. The purpose of the base realignment grants was 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 and to enhance infrastructure and economic development projects or programs to accommodate growth near the Grand Forks Air Force Base. Any funds not committed within the first 18 months of the biennium are available for the centers of research excellence program. As of April 1, 2014, a total of $2,840,400 was awarded for base realignment grants:

UND	
Global Hawk sensor operator part task trainer	$878,204
Joint Distributed Common Ground System	125,706
North Dakota Unmanned Aircraft Systems Airspace Initiative (Phase 2)	255,440
Airspace Integration Team - UAS National Test Site	500,000
Enhanced Use Lease for Grand Forks Air Force Base	921,050
Enhanced Use Lease Phase IV for GFAFB	160,000
Total	$2,840,400

[5]The 2013-15 biennium estimated ending balance includes $3,020,268 of anticipated committed funds for centers of research excellence proposals approved in the 2011-13 biennium.

[6]The 2015-17 biennium estimated ending balance includes $938,646 of anticipated committed funds for centers of research excellence proposals approved in the 2011-13 biennium.

FUND HISTORY

Section 12 of 2011 Senate Bill No. 2057 established the 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. The Legislative Assembly in 2013 did not appropriate new funding to the centers of research excellence fund for the 2013-15 biennium. Estimated expenditures for the 2013-15 biennium relate to centers of research excellence grants awarded in prior bienniums.

ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium[1]		2015-17 Biennium[1]	
Beginning balance		$0		$27,002
Add estimated revenues				
Investment income	$444,759		$192,067	
School construction loan income	1,353,787		1,750,000	
Total estimated revenues		1,798,546		1,942,067
Total available		$1,798,546		$1,969,069
Less estimated expenditures and transfers				
Investment expense	$91,010		$24,494	
Administrative expenses	5,534		9,840	
Transfer to the general fund	1,675,000		1,900,000	
Total estimated expenditures and transfers		1,771,544		1,934,334
Estimated ending balance		$27,002		$34,735

[1]The beginning and ending balances do not include the value of permanent assets of the coal development trust fund which must be maintained pursuant to North Dakota Century Code Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of November 30, 2014, the total value of permanent fund assets was $66.59 million, of which $28.55 million was school construction loans receivable, $7.19 million was coal impact loans receivable, and $30.85 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 30 percent of the coal severance tax must be deposited in the coal development trust fund. Section 57-62-02 provides the Board of University and School Lands shall administer the fund and use money in the fund for loans to coal-impacted counties, cities, and school districts and for loans to school districts for school construction. Section 15.1-36-02 limits the outstanding principal balance of school construction loans from the coal development trust fund to $50 million.

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

ANALYSIS OF THE COMMON SCHOOLS TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

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 2015-17 bienniums:

Biennium	Fiscal Year	Beginning Assets (Excluding Land and Minerals Values)	Distributions	Total Average Investment Return (Interest Income and Capital Gains)
1997-99	1998	$400,689,879	$23,200,000	13.57%
	1999	$444,823,559	$23,200,000	7.50%
1999-2001	2000	$467,059,293	$23,775,000	11.05%
	2001	$521,509,978	$23,775,000	2.03%
2001-03	2002	$533,360,593	$28,896,500	(1.34%)
	2003	$522,905,814	$28,896,500	4.57%
2003-05	2004	$547,047,877	$30,000,000	12.60%
	2005	$614,738,548	$30,000,000	8.58%
2005-07	2006	$686,273,875	$31,100,000	7.51%
	2007	$761,901,287	$31,100,000	12.82%
2007-09	2008	$887,092,909	$33,400,000	(4.22%)
	2009	$908,928,685	$33,400,000	(13.75%)
2009-11	2010	$846,314,086	$38,589,000	14.48%
	2011	$1,221,501,801	$38,589,000	17.99%
2011-13	2012	$1,622,412,984	$46,257,000	2.42%
	2013	$1,917,135,220	$46,257,000	10.65%
2013-15	2014	$2,417,363,782	$65,163,000	13.85%
	2015	$3,128,315,233	$65,163,000	[1]
2015-17	2016	[1]	$103,067,000	[1]
	2017	[1]	$103,067,000	[1]

[1]Article IX, Section 2, of the Constitution of North Dakota, was amended in November 2006 through voter approval of Measure No. 1 (2005 House Concurrent Resolution No. 3037). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. The amendment became effective July 1, 2009, and distributions are no longer based on interest and income earned by the fund. 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. **The unaudited fund balance of the common schools trust fund was $3,223,476,400 as of October 31, 2014.**

Note: House Bill No. 1214, under consideration by the Legislative Assembly, creates a health care delivery trust fund and allocates tobacco settlement proceeds to the new fund rather than to the common schools trust fund. Tobacco settlement proceeds that would be deposited into the new fund rather than the common schools trust fund are estimated to total approximately $18 million during the 2015-17 biennium.

MONEY DEPOSITED IN THE COMMON SCHOOLS TRUST FUND

Select Constitutional Provisions

Article IX, Section 1

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

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

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

Article IX, Section 5

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

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

Article X, Section 24

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

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

Select North Dakota Century Code Provisions

Section 47-30.1-23

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

Section 54-27-25

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

To date, $162,774,059 of tobacco settlement money received by the state has been transferred to the common schools trust fund. The following is a summary of transfers to the common schools trust fund from the tobacco settlement trust fund:

1999-2001	$23,805,353 (actual)
2001-03	$23,998,745 (actual)
2003-05	$20,977,123 (actual)
2005-07	$19,722,653 (actual)
2007-09	$27,672,929 (actual)
2009-11	$18,248,834 (actual)
2011-13	$18,108,052 (actual)
2013-15	$19,240,371 (estimate)
2015-17	$18,000,000 (estimate)
2017-25 ($23,626,724 per biennium)	$94,506,896 (estimate)

DISTRIBUTIONS FROM THE COMMON SCHOOLS TRUST FUND

Select Constitutional Provisions

Article IX, Section 1

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

Article IX, Section 2

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

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

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

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

Select North Dakota Century Code Provisions

Section 15-01-02

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

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

INVESTMENT OF THE COMMON SCHOOLS TRUST FUND

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

ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$47,258		$337,042
Add estimated revenues				
Transfers to date from the tobacco settlement trust fund	$2,275,638[1]		$0	
Projected remaining transfers from the tobacco settlement trust fund	2,000,000[2]		3,980,000[2]	
Total estimated revenues		4,275,638[2]		3,980,000[2]
Total available		$4,322,896		$4,317,042
Less estimated expenditures and transfers				
State Department of Health (2013 SB 2004, 2015 HB 1004)				
Tobacco prevention and control, including the Tobacco Quitline and the tobacco cessation coordinator and operating expenses	$3,220,354[3]		$3,440,864[3]	
Dentists' loan repayment program	340,000[4]		360,000[4]	
Women's Way program	400,500[5]		0[5]	
Dental grant program	25,000[6]		0[6]	
Behavioral Risk Factor State Survey			520,500	
Total estimated expenditures and transfers		3,985,854		4,321,364
Estimated ending balance		$337,042		($4,322)

[1]As of December 2014, $2,275,638 has been transferred from the tobacco settlement trust fund for the 2013-15 biennium. Total transfers of $36,172,013 have been made from the tobacco settlement trust fund to the community health trust fund.

[2]Revenues - Interest earned on the community health trust fund is deposited in the state general fund. Community health trust fund revenues have been estimated based on the average of actual revenues received into the community health trust fund during the 2009-11 and 2011-13 bienniums.

Initiated Measure No. 3 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Actual payments 2011-13 biennium	63.0 million	22.8 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	65.2 million	22.5 million	19.2 million	19.2 million	4.3 million
Estimated 2015-17 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 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	$540.4 million	$105.5 million	$195.6 million	$195.6 million	$43.7 million

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

[3]North Dakota Century Code Section 54-27-25 provides money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with an emphasis on preventing or reducing tobacco usage. The 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 2007 Legislative Assembly authorized 1 full-time equivalent (FTE) tobacco prevention coordinator position and related funding for salaries and wages and operating expenses for the position. The 2013 Legislative Assembly did not approve direct funding for the quitline or the tobacco prevention coordinator position, but appropriated $3,220,354 from the community health trust fund to the department for tobacco prevention and control programs for the 2013-15 biennium. The department anticipates expending $3,220,354 from the fund for the 2013-15 biennium. The 2015-17 executive budget recommendation provides $3,440,864 from the community health trust fund to the department for tobacco prevention and control programs for the 2015-17 biennium.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure also provides that 80 percent of the funds allocated to the community health trust fund from the tobacco settlement trust fund be used for tobacco prevention and control. Based on estimated tobacco settlement trust fund transfers during the 2015-17 biennium, tobacco prevention and control expenditures from the community health trust fund are required to total $3.2 million.

[4]The dentists' loan repayment program, which is administered by the Health Council, was established in 2001 Senate Bill No. 2276 (Chapter 43-28.1). Each year the Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds, not to exceed a total of $80,000 per applicant, for the repayment of their educational loans. The funds are payable over a four-year period ($20,000 per year). The dentists' 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) provided 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 2013 Legislative Assembly appropriated $520,000, of which $180,000 is from the general fund and $340,000 is from the community health trust fund, for the dentists' loan repayment program. The department anticipates expending $340,000 from the fund for the dentists' loan repayment program for the 2013-15 biennium. The 2015-17 executive budget recommendation includes $600,000, of which $240,000 is from the general fund and $360,000 is from the community health trust fund, for the dentists' loan repayment program, $80,000 more than the 2013-15 biennium legislative appropriation. Dentists accepted into the program per biennium include:

Biennium (Number of Dentists Accepted Into Program)	Communities Served
2001-03 biennium (3)	Minot (2) Larimore
2003-05 biennium (6)	Fargo Community Health Center New Rockford Grand Forks Fargo Bismarck West Fargo
2005-07 biennium (4)	Fargo Community Health Center Bismarck (serving special populations) Mott Minot
2007-09 biennium (6)	Park River Bismarck Grand Forks Cando/Devils Lake Rugby Wishek

Biennium (Number of Dentists Accepted Into Program)	Communities Served
2009-11 biennium (6)	Bismarck Fargo Jamestown Larimore Valley City Williston
2011-13 biennium (6)	Bowman Hazen Langdon/Walhalla Carrington Cavalier Williston
2013-15 biennium (6 to date)	Minot New Rockford Fargo/Grand Forks Watford City (3)

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 also created Section 43-28.1-01.1 which provides 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. This loan repayment program was not funded by the Legislative Assembly in 2011. In 2013 the Legislative Assembly provided in Senate Bill No. 2354 $180,000 from the general fund for the loan repayment program for three dentists who practice in a public health setting or a nonprofit dental clinic that uses a sliding fee schedule to bill patients. The State Department of Health has enrolled four dentists (Grand Forks (2) and Fargo (2)) in the loan repayment program for dentists in public health and nonprofit dental clinics. The State Department of Health used state funds to leverage federal funds for three of the four dentists in the loan repayment program. Additional funding ($30,000) remains in the loan repayment program and will be used to leverage federal funds if an applicant is received with sufficient time to comply with the requirements outlined in Century Code prior to the close of the biennium. The 2015-17 executive budget recommendation includes $180,000 from the general fund for the loan repayment program for three dentists who practice in a public health setting or a nonprofit dental clinic that uses a sliding fee schedule to bill patients.

[5]The 2013 Legislative Assembly provided $400,500 from the community health trust fund for the Women's Way program. The department anticipates expending $400,500 from the fund for the Women's Way program during the 2013-15 biennium. The 2015-17 executive budget recommendation includes $500,000 from the general fund for the Women's Way program, $99,500 more than the legislative appropriation for the 2013-15 biennium.

[6]Senate Bill No. 2152 (2007) provided for a dental grant program. A dentist who has graduated from an accredited dental school within the previous five years and is licensed to practice in North Dakota may submit an application to the Health Council for a grant for the purpose of establishing a dental practice in North Dakota cities with a population of 7,500 or less. The Health Council may award a maximum of two grants per year with a maximum grant award of $50,000 per applicant to be used for buildings, equipment, and operating expenses. The community in which the dentist is located must provide a 50 percent match. The grant must be distributed in equal amounts over a five-year period, and the dentist must commit to practice in the community for five years. The 2013 Legislative Assembly appropriated $25,000 from the community health trust fund for the dental grant program during the 2013-15 biennium. The department anticipates expending $25,000 from the fund for the dental grant program during the 2013-15 biennium for expenditures related to one grant awarded to a dentist in Larimore during the 2009-11 biennium and for other dental loan repayments. The 2015-17 executive budget recommendation does not include funding for the dental grant program.

FUND HISTORY

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

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

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

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the Master Settlement Agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. 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 STATE DISASTER RELIEF FUND FOR THE 2009-11, 2011-13, 2013-15, AND 2015-17 BIENNIUMS (REFLECTING THE 2015-17 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2009-11 Biennium Actual		2011-13 Biennium Actual		2013-15 Biennium Estimates		2015-17 Biennium Executive Budget	
Beginning balance		$37,623,216		$34,675,167		$77,651,986		$76,808,019
Add revenues								
Transfer from the general fund								
Transfer from the permanent oil tax trust fund (2011 SB 2369)	$22,000,000[1]							
Transfer from the general fund (Section 17 of 2011 SB 2371)			$48,700,000[2]					
Interest income	199,420		70,784		$76,000		$76,000	
Federal funds - Volunteer hours adjustment and local share federal-to-federal mission assignments	612,263		1,604,101					
National Guard reimbursements	136,057		705,950		1,800,000		200,000	
Oil and gas tax collections (based on current law formula)			22,000,000[3]		22,000,000[3]		22,000,000[3]	
Total revenues		22,947,740		73,080,835		23,876,000		22,276,000
Total available		$60,570,956		$107,756,002		$101,527,986		$99,084,019
Less estimated expenditures								
Emergency snow removal grants	$9,000,000[4]							
Costs relating to disasters occurring prior to 2009	513,321[5]		$826,535[6]					
Costs relating to 2009 flooding	5,739,762[5]		2,656,019[6]		$3,075,469[6]		$669,990[6]	
Costs relating to the January 2010 winter snowstorm	1,506,693[5]		69,717[2]		310,392[2]		18,044[2]	
Costs relating to 2010 flooding	3,390,192[5]		164,272[2]		1,324,682[2]		208,927[2]	
Costs relating to the April 2010 ice storm	2,854,089[5]		544,138[2]		561,900[2]			
Costs relating to the April 2011 blizzard	16,937[5]							
Costs relating to 2011 flooding	2,874,795[5]		12,261,836[2,7,8]		8,940,334[2,7,8]		13,796,037[2,7,8]	
2011 ice storm (2013 HB 1016)					590,239		68,469	
2013 flood (2015 SB 2016)							914,426	
Costs relating to flooding in incorporated cities			1,715,887[8]		978,578[8]			

	2009-11 Biennium Actual		2011-13 Biennium Actual		2013-15 Biennium Estimates		2015-17 Biennium Executive Budget	
Disaster response coordination contract			400,000[9]		400,000[9]		400,000[9]	
State disasters and flood mitigation efforts			7,240[8]		1,996,744[8]			
Contingent appropriation for 2012 disaster event			0[2]					
Housing rehab and retention			5,458,372[2]		3,541,629[2]			
Flood-impacted housing assistance grant program					1,500,000[11]			
Road grade raising projects - Department of Transportation			6,000,000[2]					
Disaster recovery planning and technical services					1,500,000[12]		1,000,000[12]	
Presidentially declared disasters - State share (Section 3 of 2015 SB 2016)							5,000,000[13]	
2013 snowstorm (2015 SB 2016)							482,702	
2014 rain storms (2015 SB 2016)							225,000	
Total estimated expenditures and transfers		25,895,789		30,104,016[10]		24,719,967[14]		22,783,595
Estimated ending balance		$34,675,167		$77,651,986		$76,808,019		$76,300,424

NOTE

Section 2 of House Bill No. 1377 amends North Dakota Century Code Section 57-51.1-07.5 relating to the allocation of oil and gas taxes to limit the allocation to the state disaster relief fund if the unobligated balance in the fund is more than $40 million.

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

[2]Section 17 of 2011 Senate Bill No. 2371 provided the Office of Management and Budget transfer $48.7 million from the general fund to the state disaster relief fund during the 2011-13 biennium for the following purposes:

Relief Assistance	Transfer Amount	Appropriation Authority
Disaster-related expenses	$32,700,000	Section 15 of 2011 Senate Bill No. 2371 provided appropriation authority of $29.5 million from the state disaster relief fund to the Adjutant General for providing the required state share of funding for expenses associated with presidentially declared state disasters. Section 16 of Senate Bill No. 2371 provided a contingent appropriation of $5 million from the state disaster relief fund to the Adjutant General relating to grants to political subdivisions for a portion of the local share required to match federal emergency relief funding. The funding is contingent upon a 2012 disaster event exceeding $50 million in damages across the state.

Relief Assistance	Transfer Amount	Appropriation Authority
Flood-impacted housing assistance grant program	10,000,000	Section 9 of Senate Bill No. 2371 appropriated $10 million from the state disaster relief fund to the Adjutant General for providing: • Additional rebuilders loan program funding to the Bank of North Dakota. • Funding to political subdivisions for flood-impacted housing rehabilitation. Funding must be used as deemed most effective in that community to assist homeowners in rehabilitation or replacement of their flood-damaged homes and to retain homeowners in the community.
Road grade raising grants	6,000,000	Section 14 of Senate Bill No. 2371 appropriated $6 million from the state disaster relief fund to the Department of Transportation for grants to counties for road grade raising projects on federal aid eligible roads.
Total	$48,700,000	

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

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

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

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

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

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

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

[9]In 2011 Senate Bill No. 2016, the Legislative Assembly provided authority to the Department of Emergency Services to utilize $400,000 from the state disaster relief fund to contract for services to coordinate disaster response organizations with state and political subdivision disaster response efforts, including all aspects of disaster recovery from preparedness training through cleanup for declared or undeclared disasters. House Bill No. 1016 (2013) continued the same level of funding for the 2013-15 biennium. The executive budget recommends continuing the same level of funding for the 2015-17 biennium.

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

$22,000,000	see Footnote 8
3,500,000	see Footnote 7
7,842,304	see Footnote 6
400,000	see Footnote 9
42,700,000	see Footnote 2
$76,442,304	

[11]Section 4 of 2013 House Bill No. 1016 appropriated $1.5 million from the state disaster relief fund to the Housing Finance Agency to provide grants to counties, cities, local housing authorities, and other nonprofit entities providing flood-impacted housing assistance. The section required an entity requesting grant funding to certify to the Housing Finance Agency that housing occupants were eligible to receive housing assistance under federal Department of Housing and Urban Development guidelines, that a land use agreement was in place for temporary housing units, and that a plan had been developed for the disposal of temporary housing units. The Housing Finance Agency was to develop guidelines for the distribution of funds, including the frequency of the distribution of grant funds.

[12]The 2013-15 biennium legislative appropriations include funding of $1.5 million for contracted services to provide technical assistance and support to state and local government agencies with emergency management needs associated with preparedness, mitigation, and response and recovery. The executive budget recommends funding of $1 million for continuing the disaster recovery planning and technical assistance contracted services for the 2015-17 biennium.

[13]Section 3 of 2015 Senate Bill No. 2016 appropriates $5 million from the state disaster relief fund to the Adjutant General to provide the required state share of funding for defraying the expenses associated with presidentially declared disasters. Use of this funding is subject to Emergency Commission approval.

[14]This amount is an estimate based on actual expenditures through September 30, 2014, and agency estimated expenditures through June 30, 2015.

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. Senate Bill No. 2292 (2013) further amended the section to allow money in the fund to be used for wide area search and rescue activities. Any interest or other fund earnings must be deposited in the fund.

ANALYSIS OF THE ELECTRONIC HEALTH INFORMATION EXCHANGE FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$7,485,386[1]		$5,063,422
Add revenues				
Funds from health information network participants	$0		$1,765,339	
Total revenues		0		1,765,339
Total available		$7,485,386		$6,828,761
Less expenditures and transfers				
Implementing a statewide health information technology and exchange network	$2,352,988		$4,397,432	
Regional Extension Center for Health Information Technology Services payments/Department of Human Services Health Information Technology Grant Match	68,976		100,000	
Total expenditures and transfers		2,421,964		4,497,432
Ending balance		$5,063,422		$2,331,329

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

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

FUND HISTORY

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

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

ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$3,012,852		$2,427,561
Add estimated revenues				
Pesticide registration fees (North Dakota Century Code Section 19-18-04)	$4,300,000[1]		4,300,000[1]	
Weed seed-free forage (Section 4-35.2-03)	48,922[2]		48,922[2]	
Fertilizer registration, inspection, and tonnage fees (Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06)	1,000,000[3,4]		1,080,850[3,4]	
Commercial feed registration, inspection, and tonnage fees (Section 19-13.1-16)	727,500[5]		727,500[5]	
Total estimated revenues		6,076,422		6,157,272
Total available		$9,089,274		$8,584,833
Less estimated expenditures and transfers				
Agriculture Commissioner				
Plant Industries Division (2013 HB 1009; 2015 SB 2009)	$1,814,882		$1,744,288	
Pesticide and Fertilizer Division (2013 HB 1009; 2015 SB 2009)	2,665,275		3,133,009	
Marketing and Information Division (2013 HB 1009; 2015 SB 2009)	148,522		376,204	
Livestock Development Division (2013 HB 1009; 2015 SB 2009)	568,369[6]		541,628	
Animal Health Division (2013 HB 1009; 2015 SB 2009)	99,998[7]		109,766	
Wildlife Services program (2013 HB 1009; 2015 SB 2009)	384,400[7]		384,400	
Administrative Services Division (2013 HB 1009; 2015 SB 2009)	307,957		100,000	
Crop Protection Product Harmonization and Registration Board[8]				
Crop protection product registration, labeling, and grants (2015 SB 2009)	75,000		75,000	
Minor use pesticide registration (2013 HB 1009; 2015 SB 2009)	325,000		325,000	
State Department of Health				
Ground water testing (2013 SB 2004; 2015 HB 1004)	222,310		200,000	
North Dakota Stockmen's Association environmental services program (2013 SB 2004; 2015 HB 1004)	50,000		50,000	
Total estimated expenditures and transfers		6,661,713		7,039,295
Ending balance		$2,427,561		$1,545,538

[1]The Legislative Assembly in 1999 approved Senate Bill No. 2009, which included a provision increasing the biennial pesticide registration fee by $50, from $300 to $350. The Legislative Assembly in 2009 approved House Bill No. 1009, which deposits all pesticide registration fees in the environment and rangeland protection fund rather than a portion in the general fund.

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

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

[4]Senate Bill No. 2009 (2011) amended Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. House Bill No. 1321 (2011) also amended Section 19-20.1-06 to deposit a portion of fertilizer distribution inspection fees in the environment and rangeland protection fund rather than the general fund.

[5]House Bill No. 1009 (2013) added a new section to Chapter 19-13.1 to deposit the first $727,500 of commercial feed inspection, licensing, and registration fees in the environment and rangeland protection fund rather than the general fund.

[6]House Bill No. 1009 (2013) provides for the Department of Agriculture to assume livestock development duties from the Dairy Coalition.

[7]House Bill No. 1009 (2013) provides for a portion of funding for the Wildlife Services program ($384,400) and the State Board of Animal Health ($99,998) to be paid from the environment and rangeland protection fund rather than the game and fish fund.

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

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

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

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

FUND HISTORY

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

ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$24,772,838		$22,716,331
Add estimated revenues				
Premium collections	$5,000,000		$5,250,000	
Investment income (loss)	4,500,000		5,000,000	
Boiler inspection fees	600,000		700,000	
Loss claims and insurance recoveries	300,000		350,000	
Total estimated revenues		10,400,000		11,300,000
Total available		$35,172,838		$34,016,331
Less estimated expenditures and transfers				
Loss claims payments	$5,000,000		$4,500,000	
Claims-related payments	5,700,000		6,000,000	
Insurance Department administration and anhydrous ammonia inspection costs	1,656,507		1,469,026	
State Fire Marshal program (2013 HB 1003; 2015 SB 2003)	100,000		100,000	
Total estimated expenditures and transfers		12,456,507		12,069,026
Estimated ending balance		$22,716,331		$21,947,305

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 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$335,364,942		$621,036,942
Add estimated revenues				
Oil extraction tax allocations	$285,672,000[1]		$172,760,000[1]	
Total estimated revenues		285,672,000		172,760,000
Total available		$621,036,942		$793,796,942
Less estimated expenditures and transfers				
Transfer to state school aid program	$0[2]		$0[2]	
Contingent transfer to the school construction assistance loan fund (2015 SB 2039)				
Contingent transfer to the public employee retirement stabilization fund (2015 SB 2039)				
Total estimated expenditures and transfers		0		0
Estimated ending balance		$621,036,942		$793,796,942

[1]Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through December 2014 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the January 2015 revenue forecast.

[2]Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated in the 2013-15 biennium or the 2015-17 biennium.

NOTE

The following resolution and bill under consideration by the Legislative Assembly may affect the foundation stabilization fund:

- Senate Concurrent Resolution No. 4003 provides for a constitutional amendment to allow the Legislative Assembly to appropriate or transfer the principal balance of the foundation aid stabilization fund in excess of 15 percent of the general fund appropriation for state school aid for making low-interest loans for school construction projects, addressing existing or anticipated unfunded benefit obligations of state retirement funds, or other education-related purposes. Senate Bill No. 2039 provides for transfers from the foundation aid stabilization fund to the school construction assistance loan fund ($250 million) and to the public employee retirement stabilization fund ($200 million) contingent on the approval of Senate Concurrent Resolution No. 4003 by the Legislative Assembly and the voters in June 2016.

FUND HISTORY

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

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

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

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2013, through December 31, 2014, $328,133 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$397,591		$285,551
Add estimated revenues				
Investment earnings	$1,174		$1,035	
Loan repayments - Principal and interest	1,026,297		999,499	
Total estimated revenues		1,027,471		1,000,534
Total available		$1,425,062		$1,286,085
Less estimated expenditures and transfers				
Department of Human Services increased payments to basic care and long-term care facilities (2011 HB 1325; 2013 HB 1012)	$546,786[1]			
Department of Human Services one-time grant to an assisted living facility that accepts low-income tenants (2013 HB 1012)	425,000			
State Department of Health operation and maintenance of the nurse aide registry (2013 SB 2004)	167,725[2]		$85,127[2]	
Total estimated expenditures and transfers		1,139,511		85,127
Ending estimated balance		$285,551		$1,200,958

[1]House Bill No. 1012 (2013) provides a special funds appropriation of $1,255,979, of which $546,786 is from the health care trust fund and $679,193 is from federal funds, to the Department of Human Services for increased payments to basic care and long-term care facilities to continue funding a portion of the bed layaway program from the health care trust fund.

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

FUND HISTORY

The health care trust fund was established by the Legislative Assembly in 1999 (Senate Bill No. 2168) for providing nursing alternative loans or grants. The Legislative Assembly in 2011 House Bill No. 1196 provided that money in the fund may be transferred to the long-term care facility loan fund for nursing facility renovation projects and used for other programs as authorized by the Legislative Assembly. Money was generated for the health care trust fund as a result of the Department of Human Services making government nursing facility funding pool payments to two government nursing facilities--McVille and Dunseith. Payments were made based on the average amount Medicare rates exceeded Medicaid rates for all nursing care facilities in the state multiplied by the total of all Medicaid resident days of all nursing homes. Federal Medicaid funds were available for these payments and required a state match. Payments were made to the two government nursing facilities and were subsequently returned to the state, less a $50,000 transaction fee retained by each of the two government nursing facilities. Once returned to the state, the state's matching share was returned to its source, and the federal funds were deposited in the health care trust fund. Money in the fund is invested by the State Investment Board, and any investment earnings are retained in the fund. The federal government has eliminated this intergovernmental transfer program. As a result, North Dakota's final intergovernmental transfer payment was received in July 2004.

ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY LOAN FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium Actual		2015-17 Biennium Estimated	
Beginning balance		$0		$0
Add estimated revenues				
Transfer from the Bank of North Dakota	$0		$0	
Total estimated revenues		0		0
Total available		$0		$0
Less estimated expenditures and transfers				
Loans to health care providers and other purposes	$0		$0	
Total estimated expenditures and transfers		0		0
Estimated ending balance		$0		$0

NOTE

The following bill under consideration by the Legislative Assembly may affect the health information technology loan fund:

- Senate Bill No. 2364 repeals North Dakota Century Code Section 6-09-42 eliminating the health information technology loan fund. This fund was established anticipating federal funds would be received through the Health Information Technology for Economic and Clinical Health Act for loans to health care providers. These funds were never made available; therefore, this fund has not been utilized.

FUND HISTORY

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

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

ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$435,893		$0
Add revenues				
Transfer from the Bank of North Dakota current earnings and accumulated undivided profits	$0[1]		$0[1]	
Loan repayments - Principal	2,056,600		1,860,000	
Loan repayments - Interest and miscellaneous income	177,727		186,000	
Total revenues		2,234,327		2,046,000
Total available		$2,670,220		$2,046,000
Less expenditures and transfers				
Loans to health care entities[2]	$2,583,507		$1,953,000	
Bank of North Dakota fees	86,713		93,000	
Total expenditures and transfers		2,670,220		2,046,000
Ending balance		$0		$0

[1]Section 4 of 2011 House Bill No. 1021 provided 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.

[2]The Health Information Technology Advisory Committee has approved the following loan applications since the program's inception during the 2009-11 biennium through January 23, 2015:

St. Andrew's Health Center (Bottineau)	$625,000
Cooperstown Medical Center	200,000
Wishek Hospital	761,149
Towner County Medical Center (Cando)	924,018
Presentation Medical Center (Rolla)	625,000
West River Health Services (Hettinger)	1,250,000
Ashley Medical Center	625,000
Tioga Medical Center	931,320
St. Luke's Community Hospital and Clinics (Crosby)	541,776
Midgarden Family Clinic (Park River)	101,590
7-Day Clinic Walk-In Express Care (Fargo)	50,000
Linton Hospital	420,115
McKenzie County Health Care System	600,000
Garrison Memorial Hospital	800,000
Nelson County Health System	305,000
Southwest Healthcare System	605,000
St. Alexius Medical Center	1,250,000
Pediatric Therapy Partners	100,000
Valley Health	72,155
Knife River Care Center	125,000
Golden Acres Manor	98,648
St. Luke's Home	115,053
Richard P. Stadter Psychiatric Center	702,000
Elm Crest Manor	74,500
Northwood Deaconess	370,125
Total	$12,272,449

FUND HISTORY

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

Section 4 of 2011 House Bill No. 1021 provided 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. During the 2011-13 biennium, $4,280,219 was transferred by the Bank to the health information technology loan fund.

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

ANALYSIS OF THE LEGACY FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$1,280,714,486		$3,341,414,486
Add estimated revenues				
30 percent of oil and gas gross production and extraction tax collections[1]	$1,665,930,000		$1,186,250,000	
Transfer of oil and gas tax revenues from the strategic investment and improvements fund[2]	240,370,000		119,150,000	
Transfer of other revenue sources from the strategic investment and improvements fund[3]	30,400,000		13,000,000	
Investment earnings[4]	124,000,000		124,000,000	
Total estimated revenues		2,060,700,000		1,442,400,000
Total available		$3,341,414,486		$4,783,814,486
Total estimated expenditures and transfers[5]		0		0
Estimated ending balance		$3,341,414,486		$4,783,814,486

[1]Estimated revenues - These amounts reflect actual oil tax revenue collections deposited in the fund through December 2014 and estimated allocations for the remainder of the 2013-15 biennium and estimated oil tax revenue allocations for the 2015-17 biennium based on the January 2015 revised revenue forecast. These amounts do not reflect any transfers from the strategic investment and improvements fund. The transfer amounts are shown separately on the schedule.

[2]Pursuant to North Dakota Century Code Section 15-08.1-08, if the unobligated balance of the strategic investment and improvements fund exceeds $300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund in the subsequent month must be deposited instead into the legacy fund. These amounts do not reflect additional transfers from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue.

[3]These amounts reflect transfers to the legacy fund from the strategic investment and improvements fund from revenue sources other than oil and gas tax revenue, pursuant to Section 15-08.1-08.

[4]These amounts reflect investment earnings estimated by the Retirement and Investment Office.

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

NOTE

The following bill under consideration by the Legislative Assembly may have a significant effect on the legacy fund:

- House Bill No. 1377 amends Section 15-08.1-08 to eliminate the transfer of 25 percent of any revenues from the strategic investment and improvements fund to the legacy fund, if the unobligated balance of the strategic investment and improvements fund exceeds $300 million at the end of any month.

FUND HISTORY

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

ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$15,249,207		$16,157,867
Add estimated revenues				
Separate two-cent coal severance tax	$1,100,000		$1,100,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,075,000		3,075,000	
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)	1,250,000		1,250,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	450,000		500,000	
Five percent of the general fund share of coal conversion tax (2007 HB 1093)	2,000,000		2,000,000	
Revenue bonds/short-term loan	0[1]		0[1]	
Interest income and return of funds	483,660		325,000	
Total estimated revenues		8,358,660		8,250,000
Total available		$23,607,867		$24,407,867
Less estimated expenditures and transfers[2,3]				
Administration	$750,000		$750,000	
Lignite feasibility studies (nonmatching grants)	2,100,000		3,000,000	
Small research grants	1,225,000		1,500,000	
Lignite marketing	1,800,000		1,200,000	
Lignite litigation	1,500,000[4]		1,500,000[4]	
Demonstration projects	75,000		2,604,000	
Total estimated expenditures and transfers		7,450,000[5]		10,554,000[5]
Estimated ending balance		$16,157,867		$13,853,867

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

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

[3]The Industrial Commission has waived the fund allocation policy. The Commission has committed $22,000,000 through the 2011-13 biennium to three projects. On January 9, 2015, one of the projects indicated they are not proceeding with their project and released their commitment of $8,732,503. Expenditures for Lignite Vision 21 Project have been $1,360,750 during the 2003-05 biennium, $2,243,391 during the 2005-07 biennium, $2,200,000 during the 2007-09 biennium, $3,972,090 during the 2009-11 biennium, $678,851 during the 2011-13 biennium and anticipated expenditures of $2,812,415 in subsequent bienniums. The objective of the Lignite Vision 21 Project is to construct new lignite-fired power plants in North Dakota. (These amounts are net of funds expended and then subsequently returned when projects did not proceed.)

[4]Lignite litigation - House Bill No. 1093 (2007) provides that $500,000 of the amount allocated to the lignite research fund in Section 1 of the bill is to be used to pay for fees associated with lignite litigation that may be brought by the state to protect and promote the continued development of lignite resources. Activities associated with the litigation have been initiated with $83,379 spent during the 2007-09 biennium, $153,907 spent during the 2009-11 biennium, $652,519 spent during the 2011-13 biennium, and $1,500,000 anticipated to be spent during the 2013-15 biennium. The original $500,000 will have been spent by the end of the 2011-13 biennium with additional funding being provided from nonmatching program funds. The state's portion of the litigation costs during the 2013-15 and 2015-17 bienniums will be from the nonmatching program funds. In addition, the lignite industry has agreed to pay a portion of the litigation costs.

[5]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 NORTH DAKOTA OUTDOOR HERITAGE FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$0		($705,625)
Add estimated revenues				
Oil and gas gross production tax collections	$18,700,000[1]		$16,720,000[1]	
Interest income	7,000		20,000	
Total estimated revenues		18,707,000		16,740,000
Total available		$18,707,000		$16,034,375
Less estimated expenditures and transfers				
Grants	$19,312,625[2]		$15,734,375[3]	
Administrative expenses	100,000		300,000	
Total estimated expenditures and transfers		19,412,625		16,034,375
Estimated ending balance		($705,625)[4]		$0

[1]Pursuant to North Dakota Century Code Section 57-51-15, the amount of oil and gas gross production tax collections deposited in the fund may not exceed $15 million per fiscal year or $30 million per biennium. For the 2015-17 biennium, the executive budget recommendation proposes increasing the allocation to $50 million per biennium. The January 2015 revenue forecast for oil and gas taxes estimates collections of $18.7 million will be deposited in the fund during the 2013-15 biennium, and oil and gas production tax collections of $16.7 million will be deposited in the fund during the 2015-17 biennium. The January 2015 revised revenue forecast for the 2015-17 biennium, which is based on executive budget formula tax allocation changes and based on current law formula tax allocations, provides the following assumptions:

- Oil prices ranging from $45 to $65 per barrel.
- Oil production remaining constant at 1.2 million barrels of oil per day.
- $52.59 trigger price provisions effective for oil production between June 2015 and March 2016.

[2]The Industrial Commission established five rounds of grant awards during the 2013-15 biennium and has approved contract awards of $19,312,625 through January 2015. The board awarded grants of $5,848,133 on December 2, 2013, $2,509,428 on April 1, 2014, $5,752,839 on August 1, 2014, and $5,202,225 on January 9, 2015. The board anticipates one more round of grant awards during the 2013-15 biennium which is scheduled for May 2015. The North Dakota Outdoor Heritage Advisory Board is recommending the Industrial Commission approve projects up to the amount of anticipated collections this biennium; however, not all of those funds will be expended in the 2013-15 biennium as many of the grants are for multiyear projects. The Industrial Commission has expended $1,210,733 from the fund through December 2014 and anticipates $6 million of the funds will be expended during the 2013-15 biennium.

[3]The amount shown is based on current low estimates of the funds that will be available for grants in the 2015-17 biennium based on the January 2015 revised revenue forecast. The amounts do not reflect the 2015-17 executive budget which recommends commitments of $80.4 million for new conservation and outdoor recreation projects, including $30.4 million from the general fund and $50 million from grants from the North Dakota outdoor heritage fund.

[4]The 2013-15 biennium ending balance is estimated to be ($705,625) based on the following:

- The revenue forecast for oil and gas taxes was revised from $21.21 million in December 2014 to $18.7 million in January 2015.
- Grant awards of $19.3 million have been committed by the Industrial Commission as of January 2014, which includes some grant awards paid over multiple years. The fund balance reflects the grant awards committed to date.

NOTE

The following bills under consideration by the Legislative Assembly may affect the North Dakota outdoor heritage fund:

House Bill No. 1409 and House Bill No. 1013 amend Section 57-51-15 increase oil and gas gross production tax collection deposits from $15 million to $25 million per year and from $30 million to $50 million per biennium.

FUND HISTORY

The North Dakota outdoor heritage fund was established in 2013 House Bill No. 1278 (Chapter 54-17.8) to provide, pursuant to a continuing appropriation, grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations to:

- Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;
- Improve, maintain, and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching;
- Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands; and
- Conserve natural areas for recreation through the establishment and development of parks and other recreation areas.

Four percent of the first 1 percent of oil and gas gross production tax collections is deposited in the North Dakota outdoor heritage fund. A maximum of $15 million of oil and gas gross production tax collections may be deposited in the fund each year. The Industrial Commission has oversight of the North Dakota outdoor heritage fund. The North Dakota Outdoor Heritage Advisory Board (consisting of 12 voting and 4 ex officio members) makes recommendations to the commission on the funding of grants.

ANALYSIS OF THE PROPERTY TAX RELIEF SUSTAINABLILITY FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$341,790,000		$657,000,000
Add estimated revenues				
Allocation of oil and gas tax revenues (North Dakota Century Code Section 57-51.1-07.5)	$341,790,000		$341,790,000	
Transfer from general fund for the property tax relief component of the integrated school aid formula for the 2015-17 biennium (Section 3 of 2013 HB 1015)	315,210,000			
Total estimated revenues		657,000,000		341,790,000
Total available		$998,790,000		$998,790,000
Less estimated expenditures and transfers				
Transfer to general fund (Section 5 of 2013 HB 1013) (Section 3 of 2015 SB 2015)	$341,790,000		$657,000,000	
Total estimated expenditures and transfers		341,790,000		657,000,000
Estimated ending balance		$657,000,000		$341,790,000

NOTE

The following bill under consideration by the Legislative Assembly may affect the property tax relief sustainability fund:

- House Bill No. 1377 removes the requirement that 25 percent of revenues to be deposited in the strategic investment and improvements fund instead be transferred to the legacy fund when the unobligated balance of the strategic investment and improvements fund is $300 million or greater. The bill also adds a second deposit in the amount of $515,210,000 in the property tax relief sustainability fund to provide for total biennial oil and gas tax revenue deposits of $857 million.

FUND HISTORY

Section 57-64-05 (2009 Senate Bill No. 2199) establishes a property tax relief sustainability fund for property tax relief programs, pursuant to legislative appropriation. Senate Bill No. 2199 provided an initial transfer of $295 million from the permanent oil tax trust fund to the property tax relief sustainability fund. Chapter 57-51.1 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.

Section 15.1-27-45 created by the Legislative Assembly in Section 40 of 2013 House Bill No. 1013 changed the name of the property tax relief sustainability fund to the property tax relief fund, but only for the 2013-15 biennium.

ANALYSIS OF THE RESEARCH NORTH DAKOTA FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$0		$6,885,000
Add revenues				
Transfer from the general fund	$12,000,000[1]		$8,000,000[2]	
Transfer from the centers of excellence fund			1,559,995[3]	
Investment income	10,000		5,000	
Total revenues		12,010,000		9,564,995
Total available		$12,010,000		$16,449,995
Less expenditures and transfers				
Technical review expenses	$125,000		$125,000	
Research North Dakota grants	2,500,000[4]		5,000,000[4]	
Research North Dakota grants designated for biotechnology	1,500,000[5]		1,500,000[5]	
Research North Dakota venture grants	1,000,000[6]		3,000,000[6]	
Total expenditures and transfers		5,125,000		9,625,000
Ending balance		$6,885,000[7]		$6,824,995[3]

[1]In 2013 Senate Bill No. 2018, the Legislative Assembly established the Research North Dakota fund and provided a transfer of $12 million from the general fund to provide funding for the Research North Dakota grant program and the Research North Dakota venture grant program.

[2]House Bill No. 1018, includes a transfer of $8 million from the general fund to the Research North Dakota fund. The department anticipates awarding the total amount of $8 million during the 2015-17 biennium. As a result, the 2015-17 biennium ending balance includes $6,824,995 of funds anticipated to be awarded but not distributed.

[3]House Bill No. 1018 directs the Office of Management and Budget to transfer unobligated funds from the Centers of Excellence Fund to the Research North Dakota fund. The Department of Commerce anticipates $1,559,995 in unobligated funds will be transferred to the Research North Dakota fund.

[4]Of the $12 million appropriated for Research North Dakota, $6 million is available for Research North Dakota grants without any specific designation. The purpose of the Research North Dakota grant program is to provide grants to research universities for research, development, and commercialization activities in collaboration with a private sector partner. The Department of Commerce and the Centers of Excellence Commission are to develop guidelines for the grant application, which must include a detailed partnership agreement and proof of dollar-for-dollar matching funds which must be in cash. The partnership agreement must include the scope and location of the work, a budget, and intellectual property agreements.

[5]The Legislative Assembly in 2013 designated $4 million of the $12 million provided for the Research North Dakota grant program for biotechnology grants. These grants are to be provided to a research university to conduct research on and develop and commercialize vaccines and antibodies for the prevention of, treatment of, or cure for cancer; virally infectious diseases; or other pathogens, including bacteria, mycobacteria, fungi, and parasites.

[6]The Legislative Assembly in 2013 designated up to $2 million of the $12 million provided for the Research North Dakota grant program for venture grants. These grants are to be provided to a research university to further the commercialization of technology developed by the university or jointly with a startup or spinoff business operating in North Dakota. The Department of Commerce and the Centers of Excellence Commission will develop guidelines for the grants.

[7]Of the $12 million appropriated to the Department of Commerce from the Research North Dakota fund, the department anticipates awarding $10.2 million during the 2013-15 biennium. The department anticipates $5.0 million of the $10.2 million awarded will be distributed during the 2013-15 biennium. As a result, the 2013-15 biennium ending balance includes $5.2 million of funds anticipated to be awarded but not distributed as well as $1,675,000 of available funds not yet awarded.

FUND HISTORY

Section 17 of 2013 Senate Bill No. 2018 established a Research North Dakota fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the Research North Dakota grant program and the Research North Dakota venture grant program. Interest earned on money in the fund is retained in the fund.

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$292,961,846		$500,600,016
Add estimated revenues				
Oil extraction tax collections	$571,350,000[1]		$345,520,000[1]	
Repayments and reimbursements	9,104,000		12,682,000	
Investment earnings/Miscellaneous income	2,284,170		3,445,000	
Total estimated revenues		582,738,170[1]		361,647,000
Total available		$875,700,016		$862,247,016
Less estimated expenditures and transfers				
State Water Commission - Grants, projects, and project administration, including expenditures approved by the Budget Section pursuant to 2013 HB 1020	$370,900,000[2]		$1,268,373,031[3]	
Fargo interior flood protection (2015 HB 1415)			60,000,000	
Mouse River basin - Flood-prone property acquisition (2015 SB 2303)			10,650,000	
Transfer to renewable energy development fund (2013 SB 2014)	3,000,000[4]		3,000,000[4]	
Transfer to energy conservation grant fund (2013 SB 2014)	1,200,000[4]		1,200,000[4]	
Total estimated expenditures and transfers		375,100,000		1,343,223,031
Estimated ending balance		$500,600,016		($480,976,015)
Restricted fund estimated income				
Infrastructure revolving loan fund pursuant to 2013 SB 2233		11,449,675[5]		45,999,675[5]
Estimated ending balance - Undesignated		$489,150,341		($526,975,690)

[1]Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through December 2014 and estimated allocations for the remainder of the 2013-15 biennium and the 2015-17 biennium per the January 2015 revised revenue forecast.

[2]Sections 1 and 4 of 2013 House Bill No. 1020 appropriated $700.9 million, or any additional amount that becomes available subject to Budget Section approval, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium. If funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds $287 million, Section 13 of House Bill No. 1020 provides legislative intent that, of the funds appropriated to the commission in the water and atmospheric resources line item, $60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the commission's outstanding bond issues. Through October 2014, $403.8 million has been credited to the resources trust fund. Funding from the water development trust fund provided for bond payments ($16.9 million) and contingent funding from the resources trust fund ($60 million) totaling $76.9 million would be available to defease the commission's outstanding bond issues of $75,250,000 and pay related fees. The State Water Commission has used $17.7 million of the $60 million authorized from the resources trust fund to retire five Southwest Pipeline series bonds and defease another. The State Water Commission plans to defease two remaining water development series bonds before the end of the 2013-15 biennium with the remaining $42.3 million of the $60 million.

[3]Sections 1 and 4 of 2015 Senate Bill No. 2020 appropriate $1,268,373,031 or any additional funding that becomes available from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2015-17 biennium.

[4]The Legislative Assembly in 2013 Senate Bill No. 2014 authorized quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up $3 million per biennium and of one-half of 1 percent of the amount credited to the resources trust fund to the energy conservation grant fund--up to $1.2 million per biennium. Funds in the newly created energy conservation grant fund are appropriated on a continuing basis to the Department of Commerce for grants to political subdivisions for energy conservation projects in nonfederal public buildings.

[5]Effective January 1, 2015, the Legislative Assembly in 2013 Senate Bill No. 2233 established an infrastructure revolving loan fund within the resources trust fund. The bill provides 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission and administered by the Bank of North Dakota. The estimated effect of 2013 Senate Bill No. 2233 on oil extraction tax allocations during the remainder of the 2013-15 biennium and the 2015-17 biennium reflect actual revenues through October 2014 and estimated revenues for the remainder of the 2013-15 biennium and the 2015-17 biennium based on the December revenue forecast.

NOTE

The following bills, under consideration by the Legislative Assembly may affect the resources trust fund:

- House Bill No. 1249 creates the Missouri River Empower Council and funding for the activities of the council are to be provided from the resources trust fund. A fiscal note prepared by the State Water Commission indicates expenses of the council are estimated to total $264,950 during the 2015-17 biennium.
- Senate Bill No. 2058 provides funding from the resources trust fund may not be used for planning or studying the feasibility of water projects, for the internal administration of the commission, for atmospheric resource activities, or for water appropriation activities. A fiscal note prepared by the State Water Commission indicates a savings of $43,345,697 to the resources trust fund and a $43,345,697 increase in funding from the general fund.
- Senate Bill No. 2076 requires the State Water Commission to study the impact of the Fargo diversion project during the 2015-16 interim and review retention as an alternative to diversion. A fiscal note prepared by the State Water Commission indicates the fiscal impact cannot be determined for the 2015-17 biennium.

FUND HISTORY

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

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

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

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

The 1995 Legislative Assembly amended North Dakota Century Code Section 57-51.1-07 to increase the percentage of oil extraction tax deposited into the resources trust fund from 10 percent to 20 percent. The state general fund received 60 percent of oil extraction tax revenues, and the remaining 20 percent was allocated pursuant to Article X, Section 24, of the Constitution of North Dakota.

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

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

The 2013 Legislative Assembly in Senate Bill No. 2014 authorized quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up to $3 million per biennium and of one-half of 1 percent of the amount credited to the resources trust fund to the energy conservation grant fund--up to $1.2 million per biennium. Funds in the newly created energy conservation grant fund are appropriated on a continuing basis to the Department of Commerce for grants to political subdivisions for energy conservation projects in nonfederal public buildings. In addition, effective January 1, 2015, the Legislative Assembly in Senate Bill No. 2233 established an infrastructure revolving loan fund within the resources trust fund. The bill provides 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission and administered by the Bank of North Dakota.

ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$7,205,543		$3,411,607
Add estimated revenues				
Premiums	$1,728,623[1]		$1,875,000[2]	
Interest and other revenue	240,000[3]		240,000[3]	
Total estimated revenues		1,968,623		2,115,000
Total available		$9,174,166		$5,526,607
Less estimated expenditures and transfers				
Administration	$1,531,086		$1,650,546	
Claims-related expenses	10,000[4]		10,000[4]	
Claims, litigation, and excess insurance	4,221,473		3,408,454	
Total estimated expenditures and transfers		5,762,559		5,069,000
Estimated ending balance		$3,411,607		$457,607

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

[2]In response to an actuarial review completed in 2014 by Aon Risk Services, the Risk Management Division is assessing a total of $1,875,000 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2015-17 biennium.

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

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

FUND HISTORY

In September 1994, the North Dakota Supreme Court abolished the doctrine of sovereign immunity. As a result of this court decision, the 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 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Allocation from sales, use, and motor vehicle excise tax collections	$5,008,098[1,2]		$6,667,719[1,2]	
Total estimated revenues		5,008,098		6,667,719
Total available		$5,008,098		$6,667,719
Less estimated expenditures and transfers				
State Treasurer - County senior citizen matching grants	$4,987,715[3]		$6,647,336[3]	
Transfer to the general fund	20,383[4]		20,383[4]	
Total estimated expenditures and transfers		5,008,098		6,667,719
Estimated ending balance		$0		$0

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

Fiscal Year	Allocation From Sales, Use, and Motor Vehicle Excise Tax Collections	Percentage Increase (Decrease) From Previous Year
2008	$1,163,721 (actual)	N/A
2009	$1,243,493 (actual)	6.9%
2010	$1,310,947 (actual)	5.4%
2011	$1,399,652 (actual)	6.8%
2012	$1,695,832 (actual)	21.2%
2013	$1,821,347 (actual)	7.4%
2014	$2,311,346 (actual)	26.9%
2015	$2,696,752 (actual)	16.7%
2016	$3,333,859 (estimate)	23.6%
2017	$3,333,860 (estimate)	0.0%

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

Senate Bill No. 2162 (2013) increased the amount of state general fund revenue to be allocated to the senior citizen services and programs fund from three-fourths of one mill levied statewide to 85 percent of one mill levied statewide effective for taxable years beginning after December 31, 2012. The bill also increased the amount of grants provided to counties that have approved a mill levy for senior citizen programs from three-fourths of the amount levied in the county for senior citizen programs to 85 percent of the amount levied up to one mill.

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

Fiscal Year	County Senior Citizen Matching Grants	Percentage Increase (Decrease) From Previous Year
2008	$1,153,293 (actual)	N/A
2009	$1,225,933 (actual)	6.3%
2010	$1,298,462 (actual)	5.9%
2011	$1,384,391 (actual)	6.6%
2012	$1,687,098 (actual)	21.9%
2013	$1,789,363 (actual)	6.1%
2014	$2,290,963 (actual)	28.0%
2015	$2,696,752 (actual)	17.7%
2016	$3,323,668 (estimate)	23.2%
2017	$3,323,668 (estimate)	0.0%

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

NOTE

The following bill, under consideration by the Legislative Assembly, may affect the senior citizen services and programs fund:

- Senate Bill No. 2143 increases the amount of grants provided to counties that have approved a mill levy for senior citizen programs from 85 percent of the amount levied in the county for the senior citizen programs to 100 percent of the amount levied. The bill has been approved by the Senate.

FUND HISTORY

The Legislative Assembly in 2005 approved Senate Bill No. 2267, which created the senior citizen services and programs fund. Statutory provisions are contained in North Dakota Century Code Sections 57-15-56(5) and 57-39.2-26.2. Current statutory provisions provide that each year during July through December, the State Treasurer is to transfer to the fund the portion of sales, use, and motor vehicle excise tax collections that are equivalent to the amount generated from 85 percent of one mill levied statewide as reported by the Tax Commissioner. The State Treasurer, by March 1, of the following year, pursuant to a continuing appropriation, distributes money in the fund as grants to eligible counties for senior citizen programs. The grants are provided to counties that have approved a mill levy for senior citizen services and programs. Current statutory provisions provide that the amount of each county's annual grant is equal to 85 percent of the amount levied in dollars in the county for senior citizen programs, limited to one mill. The Legislative Assembly provided intent that counties match 50 percent of the state grant with funding from the county general fund or state aid distribution fund receipts. Any money remaining in the fund at the end of each biennium is transferred to the general fund, except 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. The Legislative Assembly in 2011 Senate Bill No. 2242 amended statutory provisions to increase the amount of collections to be allocated to the fund and 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. In 2013 Senate Bill No. 2162, the Legislative Assembly increased these amounts to 85 percent of the amounts levied for senior citizen programs, limited to one mill.

ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$27,330,704		$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on 40 percent of an equivalent one-cent sales tax through June 30, 2014, and 43.5 percent of an equivalent one-cent sales tax effective July 1, 2014)	$249,758,371[1]		$286,373,317[1]	
Total estimated revenues		249,758,371		286,373,317
Total available		$277,089,075		$286,373,317
Less estimated expenditures and transfers				
Payments to political subdivisions				
County share (53.7 percent)	$148,796,833		$153,782,471	
City share (46.3 percent)	128,292,242		132,590,846	
Total estimated expenditures and transfers		277,089,075		286,373,317
Estimated ending balance		$0		$0

NOTE

The following bills under consideration by the Legislative Assembly may affect the state aid distribution fund:

- House Bill No. 1287 proposes an increase to the share of sales, use, and motor vehicle excise taxes deposited into the state aid distribution fund from 8.7 percent of collections to 20 percent of collections. House Bill No. 1287 also changes the allocation that 50 percent of the revenue available for distribution will be distributed to cities and counties according to current provisions governing the 8.7 percent state aid distribution fund distributions. The remaining 50 percent of revenues available for distribution will be used for the state paid property tax credit for tax years 2016 and 2017.
- House Bill No. 1472 proposes a change in the state aid distribution formula from the state aid distribution funds share based on current sales, use, and motor vehicle excise tax rates from 8.7 percent to 20 percent and provides for 50 percent of the revenues collected to be distributed in accordance with North Dakota Century Code Section 57-39.2-26.1 and the remaining 50 percent allocated among counties in proportion to the share each county receives of all allocations among counties.

[1]Estimated revenues reflect January 2015 revised revenue forecast.

FUND HISTORY

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. Senate Bill No. 2325 (2013) provides that effective July 1, 2014, deposits into the state aid distribution fund be based on an amount equal to 43.5 percent of an equivalent one-cent sales tax instead of an amount equal to 40 percent of an equivalent one-cent sales tax.

The 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 became effective July 1, 2011, revised the state aid distribution formula for cities to provide that distributions be based upon the proportion each city's population bears to the total population of all cities. The bill did not change the total distribution percentages to cities and counties which remains at 53.7 percent to counties and 46.3 percent 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%	

Senate Bill No. 2325 (2013), which became effective July 1, 2014, increased the portion of the sales and use, gross receipts, and motor vehicle excise tax collections that is deposited in the state aid distribution fund from an amount equal to 40 percent of the equivalent one-cent sales tax to an amount equal to 43.5 percent of an equivalent one-cent sales tax.

ANALYSIS OF THE STRATEGIC INVESTMENT AND IMPROVEMENTS FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$969,920,162		$279,525,162
Add estimated revenues				
Production royalties[1]	$203,000,000		$195,000,000	
Mineral leases[1]	535,000		400,000	
Oil and gas bonuses[1]	32,000,000		16,000,000	
Loan income[1]	2,650,000		5,590,000	
Investment earnings[1]	3,610,000		2,000,000	
Oil and gas tax collections[2]	1,145,280,000		561,760,000	
Total estimated revenues		1,387,075,000		780,750,000
Total available		$2,356,995,162		$1,060,275,162
Less estimated expenditures and transfers				
Transfer to legacy fund from oil and gas tax revenue[3]	$240,370,000		$119,150,000	
Transfer to legacy fund from other revenue sources[3]	30,400,000		13,000,000	
Transfer to the general fund (2013 HB 1015; 2015 SB 2015)	520,000,000		700,000,000	
Grants to critical access hospitals - Department of Human Services (2013 HB 1358)	9,600,000			
Grants for law enforcement needs - Attorney General (2013 HB 1358)	9,600,000			
Enhanced use lease grant program - Department of Commerce (2013 SB 2018)	2,500,000			
Grant program for nursing homes, basic care facilities, and providers of services to developmentally disabled individuals - Department of Commerce (2013 HB 1358)	2,000,000			
Private land study - Department of Trust Lands (2013 SB 2013)	50,000			
Funding for political subdivisions and state highways (2015 SB 2103) (Passed Senate)	1,136,250,000			
Transfer to the North Dakota school district construction fund (2015 SB 2178)	125,000,000			
Short line railroad revolving loan fund (2015 HB 1014)			10,000,000	
Contingent appropriation - Enhanced use lease grant program - Department of Commerce (2015 HB 1018)			5,000,000	
Grants for home health services - Department of Human Services (2015 HB 1173)			550,000	
Grants for domestic violence shelters - Department of Commerce (2015 HB 1285)			2,000,000	
Transfer to infrastructure revolving loan fund (2015 HB 1443)			300,000,000	
Transfer to the economic impact grant fund (2015 SB 2260)			20,000,000	
Township road matching grants - Department of Transportation (2015 SB 2263)			2,000,000	
Administrative costs/other fees	1,700,000		1,980,000	
Total estimated expenditures and transfers		2,077,470,000		1,173,680,000

Estimated ending balance	$279,525,162	($113,404,838)
Restricted fund income		
Reserve relating to potential title disputes[4]	$144,197,060	$148,197,060
Expanded school construction loan program - Department of Public Instruction (2013 HB 1013; 2015 SB 2013; 2015 SB 2031)	150,000,000	450,000,000
Medical facility infrastructure loans - Bank of North Dakota (2013 SB 2187)	50,000,000	50,000,000
Bank of North Dakota - Maintain guarantee reserve fund balance (2011 SB 2306; 2013 SB 2287)[5]	25,000,000	25,000,000
Ending balance - Undesignated	($89,671,898)	($786,601,898)

[1]The amounts shown reflect projections by the Department of Trust Lands for the 2013-15 and 2015-17 bienniums.

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

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

Estimated revenues - These amounts reflect actual oil tax revenue collections deposited in the fund through December 2014 and estimated allocations for the remainder of the 2013-15 biennium and estimated oil tax revenue allocations for the 2015-17 biennium based on the January 2015 revised revenue forecast. These amounts do not reflect any transfers to the legacy fund. The transfer amounts are shown under estimated expenditures and transfers. The amounts shown reflect current law formula allocations.

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

[4]These amounts 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.

[5]Senate Bill No. 2306 (2011) provided guarantees on fuel production facility loans administered by the Bank of North Dakota be increased by $10.5 million to $12.5 million, and the value of all fuel production facility loan guarantees is increased by $15 million, from $10 million to $25 million. Money in the strategic investment and improvements fund is available to the Bank to maintain 25 percent of the guarantee reserve fund balance not to exceed a total of $6.25 million. Senate Bill No. 2287 (2013) which became effective on March 27, 2013, provides that money in the strategic investment and improvements fund is available to the Bank to maintain 100 percent of the guarantee reserve fund balance not to exceed a total of $25 million. Any money transferred from the strategic investment and improvements fund to maintain the guarantee reserve fund is available to reimburse lenders for guaranteed loans in default.

NOTE

The following bills under consideration by the Legislative Assembly may have a significant effect on the strategic investment and improvements fund:

- House Bill No. 1176 increases the allocation of oil and gas gross production tax collections to counties decreasing the allocation to the strategic investment and improvements fund.
- House Bill No. 1377 amends Section 15-08.1-08 to eliminate the transfer of 25 percent of any revenues from the strategic investment and improvements fund to the legacy fund if the unobligated balance of the strategic investment and improvements fund exceeds $300 million at the end of any month.
- Senate Bill No. 2033 provides a contingent appropriation of $200 million to the State Treasurer for distributions to political subdivisions if actual oil and gas tax collections exceed the legislative forecast for the first six months of the 2015-17 biennium.

FUND HISTORY

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

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

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

ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (REFLECTING BOTH THE 1979 AND 1996 BOND RESOLUTIONS AND PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium[1]		2015-17 Biennium[1]	
Beginning balance		$41,375,000		$35,870,256
Add estimated revenues				
Fund earnings (net)	$500,000[2]		$400,000[2]	
Total revenues		500,000		400,000
Total available		$41,875,000		$36,270,256
Less estimated expenditures and transfers				
Funding for gap scholarship program (2015 SB 2288)			$5,000,000	
Funding for veterinary medical education program (2013 SB 2003; 2015 HB 1003)	$465,307[3]		465,307[6]	
Funding for North Dakota University System information technology services (2013 SB 2003; 2015 HB 1003)	539,437[4]		539,437[7]	
Transfer to the North Dakota Guarantee Agency	5,000,000[5]			
Total estimated expenditures and transfers		6,004,744		6,004,744
Estimated ending balance		$35,870,256		$30,265,512

[1]This analysis reflects the estimated revenues, expenditures, and ending balance for **both the 1979 and 1996 bond resolutions**. Prior to fiscal year 2012, permission was needed from the Ambac Assurance Corporation to use any assets from the 1996 bond resolution. However, there are no longer any bonds insured by the Ambac Assurance Corporation.

[2]The projected income for the 2013-15 and 2015-17 bienniums is based on interest rates as of January 1, 2014, and is net of the Industrial Commission and trustee expenses.

[3]The Legislative Assembly in 2013 provided $465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. This represents the same level of funding as provided in the 2011-13 biennium.

[4]The Legislative Assembly in 2013 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 the same level of funding as provided in the 2011-13 biennium.

[5]Pursuant to the provisions of the 1996 bond resolution, the North Dakota Industrial Commission authorized the transfer of $5 million to the North Dakota Student Loan Guarantee Agency in December 2014 to maintain the reserve requirements for alternative student loan guarantees relating primarily to DEAL One loans.

[6]The 2015-17 executive budget recommendation includes $465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. This represents the same level of funding as provided in the 2011-13 biennium.

[7]The 2015-17 executive budget recommendation includes $539,437 of funding from the student loan trust fund for the University System information technology services pool for ConnectND positions within the University System. This represents the same level of funding as provided in the 2011-13 biennium.

FUND HISTORY

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

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

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

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

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

After all bonds in the 1979 and 1996 bond resolutions have matured, been redeemed or defeased and all expenses paid, and the resolutions closed, any remaining assets held under the bond resolutions would be transferred to the Industrial Commission for use at its discretion and as allowed by law. As of June 30, 2014, $1 million in bonds remains outstanding. In order to use assets held under the 1979 and 1996 general bond resolutions for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive a certification from the trustee of the bond (Bank of North Dakota) that sufficient reserves remain for bond payments and other related program costs. Prior to 2012, permission needed to be obtained from Ambac Assurance Corporation for any use of assets held in the 1996 general bond resolution. However, there are no longer any bonds insured by Ambac Assurance Corporation.

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

ANALYSIS OF THE TOBACCO PREVENTION AND CONTROL TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$40,654,656		$47,405,222
Add estimated revenues				
Tobacco settlement revenues collected to date	$11,205,876[1]		$0	
Projected tobacco settlement revenues	11,304,243[2]		22,608,486[2]	
Investment and miscellaneous revenue	56,275		56,521	
Total estimated revenues		22,566,394[3]		22,665,007[3]
Total available		$63,221,050		$70,070,229
Less estimated expenditures and transfers				
Tobacco Prevention and Control Executive Committee expenditures (2013 SB 2024; 2015 HB 1024)	$15,815,828[4]		$16,109,756[4]	
Total estimated expenditures and transfers		15,815,828		16,109,756
Estimated ending balance		$47,405,222		$53,960,473

[1]As of December 2014, the state has received tobacco settlement payments totaling $33,962,256 for the 2013-15 biennium, of which $22,756,380 was deposited in the tobacco settlement trust fund and $11,205,876 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $433,319,780, including $347,922,402 under subsection IX(c)(1) of the Master Settlement Agreement and $85,397,378 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $433,319,780, $361,720,131 has been deposited into the tobacco settlement trust fund and $71,599,649 has been deposited into the tobacco prevention and control trust fund.

[2]Tobacco prevention and control trust fund revenues have been estimated based on the average of actual annual revenues received into the tobacco prevention and control trust fund during fiscal years 2013 and 2014.

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

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

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Actual payments 2011-13 biennium	63.0 million	22.8 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	65.2 million	22.5 million	19.2 million	19.2 million	4.3 million
Estimated 2015-17 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 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	$540.4 million	$105.5 million	$195.6 million	$195.6 million	$43.7 million

[4]The 2013 Legislative Assembly appropriated $15,815,828 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 2013-15 biennium. The 2015-17 executive budget recommendation provides $16,109,756 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee.

FUND HISTORY

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

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

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

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

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

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

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$0		$0
Add estimated revenues				
Tobacco settlement revenues collected to date	$22,756,380[1]		$0	
Projected tobacco settlement revenues	20,000,000		40,000,000	
Total estimated revenues		42,756,380[2]		40,000,000[2]
Total available		$42,756,380[3,4]		$40,000,000[3,4]
Less estimated expenditures and transfers				
Attorney General - Tobacco settlement agreement costs (2015 SB 2003)			$200,000	
Transfers to the community health trust fund	$4,275,638		3,980,000	
Transfers to the common schools trust fund	19,240,371		17,910,000[5]	
Transfers to the water development trust fund	19,240,371		17,910,000	
Total estimated expenditures and transfers		42,756,380[4]		40,000,000[4]
Estimated ending balance		$0		$0

[1]As of December 2014, the state has received tobacco settlement payments totaling $33,962,256 for the 2013-15 biennium, of which $22,756,380 was deposited in the tobacco settlement trust fund and $11,205,876 was deposited in the tobacco prevention and control trust fund. To date, the state has received total tobacco settlement collections of $433,319,780, including $347,922,402 under subsection IX(c)(1) of the Master Settlement Agreement and $85,397,378 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $433,319,780, $361,720,131 has been deposited into the tobacco settlement trust fund and $71,599,649 has been deposited into the tobacco prevention and control trust fund.

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

In the November 2008 general election, voters approved Initiated Measure No. 3 that amends Section 54-27-25 to provide a portion of tobacco settlement funds received by the state be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which 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, 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 actual revenues received through April 2014 and estimated revenues for the remainder of the 2013-15 biennium per the February 2013 legislative revenue forecast and do not include anticipated strategic contribution payments, which are deposited in the tobacco prevention and control trust fund.

[3]In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending that the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect the full payment. The total original estimated tobacco settlement collections, including payments to be received under both subsection IX(c)(1) and subsection IX(c)(2) of the Master Settlement Agreement, and the total actual and estimated collections as revised by the Office of Management and Budget are:

Biennium	1999 Original Estimated Collections	Actual and Office of Management and Budget Revised Estimated Collections
1999-2001	$57,593,770	$52,900,784
2001-03	61,143,578	53,636,363
2003-05	51,271,214	46,310,010
2005-07	51,271,214	43,828,118
2007-09	82,231,080	75,633,409
2009-11	82,231,080	64,013,596
2011-13	82,231,080	63,035,245
2013-15	82,231,080	65,266,498
2015-17	82,231,080	62,608,486
2017-25 ($58,591,490/$52,503,832 per biennium)	234,365,960	210,015,328
Total	$866,801,136	$737,247,837

[4]Initiated Measure No. 3, approved by voters in the November 2008 general election, will result in the following estimated allocation of the revised estimated collections of the tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Actual payments 2011-13 biennium	63.0 million	22.8 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	65.2 million	22.5 million	19.2 million	19.2 million	4.3 million
Estimated 2015-17 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 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	$540.4 million	$105.5 million	$195.6 million	$195.6 million	$43.7 million

NOTE

The following bill under consideration by the Legislative Assembly may affect the tobacco settlement trust fund:

- House Bill No. 1214 creates a health care delivery trust fund and allocates tobacco settlement proceeds to the new fund rather than to the common schools trust fund. Tobacco settlement proceeds that would be deposited into the new fund rather than the common schools trust fund are estimated to total approximately $18 million during the 2015-17 biennium. This potential change is not reflected in the amounts shown above

FUND HISTORY

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

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

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

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

ANALYSIS OF THE STATE TUITION FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$1,852,546[1]		$5,471,683[1]
Add estimated revenues				
Fines for violation of state laws	$13,619,137[2]		$10,800,000[2]	
Transfers from the common schools trust fund	130,326,000		206,134,000	
Total estimated revenues		143,945,137		216,934,000
Total available		$145,797,683		$222,405,683
Less estimated expenditures and transfers				
State aid to schools	$140,326,000[3]		$219,134,000	
Total estimated expenditures and transfers		140,326,000		219,134,000
Estimated ending balance		$5,471,683[1]		$3,271,683[1]

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

[2]Fines for violation of state laws - Fine proceeds estimated to be deposited in the state tuition fund during the 2013-15 biennium are based on actual fines deposited into the fund through December 2014 and estimated fine proceeds for the remainder of the 2013-15 biennium based on the December 2014 revenue forecast. Fine proceeds estimated to be deposited in the state tuition fund during the 2015-17 biennium are based on the December 2014 revenue forecast. The amount of state tuition fund distributions from fine proceeds is shown below.

Fiscal Year	Revenue From Fines	Percentage Increase (Decrease) From Previous Year
1998	$3,384,890 (actual)	
1999	$3,818,890 (actual)	12.8%
2000	$4,866,644 (actual)	27.4%
2001	$4,241,256 (actual)	(12.9%)
2002	$4,778,756 (actual)	12.7%
2003	$4,607,423 (actual)	(3.6%)
2004	$4,721,407 (actual)	2.5%
2005	$4,507,137 (actual)	(4.5%)
2006	$4,506,316 (actual)	(0.01%)
2007	$4,590,395 (actual)	1.9%
2008	$4,692,048 (actual)	2.2%
2009	$4,452,118 (actual)	(5.1%)
2010	$4,593,325 (actual)	3.2%
2011	$4,963,691 (actual)	8.1%
2012	$5,769,861 (actual)	16.2%
2013	$6,158,750 (actual)	6.7%
2014	$6,844,632 (actual)	11.1%
2015	$6,774,505 (estimate)	(1.0%)
2016	$5,400,000 (estimate)	(20.3%)
2017	$5,400,000 (estimate)	0.0%

[3]The Legislative Assembly in 2013 provided $140,326,000 from the state tuition fund for state school aid payments during the 2013-15 biennium. In addition, Section 4 of 2013 House Bill No. 1013 provides that any money available in the state tuition fund in excess of the $140,326,000 is appropriated to the Department of Public Instruction for distribution to school districts.

NOTE

The following bill under consideration by the Legislative Assembly may affect the state tuition fund:

- House Bill No. 1171 changes the deposit of fees collected for noncriminal disposition of traffic offenses from the state tuition fund to the highway tax distribution fund. A fiscal note prepared by the judicial branch estimates the fiscal impact of the bill during the 2015-17 biennium would be a reduction of $6.3 million to the state tuition fund and an increase of $6.3 million to the state highway tax distribution fund. House Bill No. 1171 has been approved by the House.

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

ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$4,601,887[1]		$5,247,037
Add estimated revenues and other funds available for benefits				
Principal deposit pursuant to 2013 House Bill No. 1439	$250,000			
Investment income and increases in market value	700,000[2]		$700,000[2]	
Total deposits, estimated revenues, and other increases in market value		950,000		700,000
Total available		$5,551,887		$5,947,037
Less estimated expenditures and transfers				
Grants and related expenditures	$179,165			
Administrative Committee travel				
Veterans' Home equipment				
Vehicles - Vans				
Veterans' transportation programs	6,152			
Other veterans' programs	1,165			
Appeals Committee				
Stand Down (outreach to homeless veterans)				
Remaining funds available for programs that benefit veterans	118,368[3]		300,000[4]	
Total estimated expenditures and transfers		304,850[3]		300,000[4]
Estimated ending balance		$5,247,037		$5,647,037

[1]Revenue from the sale of vans during the 2011-13 biennium ($8,000) and funding available from the 2009-11 biennium ($20,326) is available for programs during the 2013-15 biennium and is included in the beginning balance.

[2]The State Treasurer has not provided investment income estimates for the 2013-15 or the 2015-17 bienniums. Investment income for the 2013-15 and the 2015-17 biennium is estimated based on the change in the fund value, biennium to date, during the 2013-15 biennium. See footnote 4 below regarding payable income.

[3]Prior to July 2011, North Dakota Century Code Section 37-14-14 appropriated on a continuing basis all income of the veterans' postwar trust fund to the Administrative Committee on Veterans' Affairs for programs that benefit veterans or their dependents. The Legislative Assembly in 2011 House Bill No. 1468 amended Section 37-14-14 to provide that all income earned in a biennium is appropriated to the Administrative Committee on Veterans' Affairs on a continuing basis in the following biennium, and not in the biennium in which it is earned, for authorized programs. In addition to 2011-13 biennium earnings totaling $262,372, funds available for benefits during the 2013-15 biennium include funds continued from prior bienniums ($28,326), interest income ($152), and funds available from the sale of vans ($14,000). Investment income earned by the fund during the 2013-15 biennium will not be available for programs until the 2015-17 biennium.

[4]Pursuant to provisions of House Bill No. 1468, investment income earned during the 2013-15 biennium is not available for program expenditures until the 2015-17 biennium. The amount shown for income available for benefits does not include investment changes in market value. Funds available for benefits during the 2015-17 biennium are estimated based on average monthly payable income earned through December 2014.

FUND HISTORY

Established

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

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

1988 Initiated Measure No. 4

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

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

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

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

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

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

1996 Initiated Constitutional Measure No. 4

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

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

2011 House Bill No. 1468

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

2013 House Bill No. 1439

The Legislative Assembly in House Bill No. 1439 provided $250,000 from the general fund to increase the principal balance of the veterans' postwar trust fund.

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2013-15 AND 2015-17 BIENNIUMS (INCLUDING PROPOSED CHANGES AS OF JANUARY 27, 2015)

	2013-15 Biennium		2015-17 Biennium	
Beginning balance		$26,550,736		$9,501,107
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	$10,240,371[1]			
Projected remaining transfers from tobacco settlement trust fund	9,000,000[2]		$17,910,000[2]	
Total estimated revenues		19,240,371[3]		17,910,000[5]
Total available		$45,791,107		$27,411,107
Less estimated expenditures and transfers				
Water projects	$19,408,500[4]		$27,500,000[5]	
State Water Commission (2013 HB 1020; 2015 SB 2020)	16,881,500[4]			
Total estimated expenditures and transfers		36,290,000		27,500,000
Estimated ending balance		$9,501,107		($88,893)

[1]As of December 2014, $10,240,371 has been transferred from the tobacco settlement trust fund for the 2013-15 biennium. Total transfers of $162,774,059 have been made from the tobacco settlement trust fund to the water development trust fund.

[2]Revenues - Interest earned on the water development trust fund is deposited in the state general fund. Water development trust fund revenues have been estimated based on the average of actual annual revenues received into the tobacco prevention and control trust fund during fiscal years 2013 and 2014.

[3]Initiated Measure No. 3 (2008) resulted in the following estimated allocation of the revised estimated collections for tobacco settlement payments through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund	Water Development Trust Fund	Community Health Trust Fund
Actual payment April 2008	$36.4 million	N/A	$16.4 million	$16.4 million	$3.6 million
Actual payment April 2009	39.2 million	$14.1 million	11.3 million	11.3 million	2.5 million
Actual payments 2009-11 biennium	64.0 million	23.5 million	18.2 million	18.2 million	4.1 million
Actual payments 2011-13 biennium	63.0 million	22.8 million	18.1 million	18.1 million	4.0 million
Estimated 2013-15 biennium	65.2 million	22.5 million	19.2 million	19.2 million	4.3 million
Estimated 2015-17 biennium	62.6 million	22.6 million	18.0 million	18.0 million	4.0 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	$540.4 million	$105.5 million	$195.6 million	$195.6 million	$43.7 million

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.

[4]Sections 1 and 4 of 2013 House Bill No. 1020 appropriated $44,250,000, or any additional funding that becomes available subject to Budget Section approval, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium, including bond payments. Bond payments for the 2013-15 biennium were estimated to total $16,881,500. The remainder of the funds appropriated totaling $27.4 million were available for water projects. However, if funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds $287 million, Section 13 of House Bill No. 1020 provided legislative intent that, of the funds appropriated to the commission in the water and atmospheric resources line item, $60 million from the resources trust fund was provided to the commission for the purpose of paying off or defeasing the commission's outstanding bond issues. Funding from the water development trust fund provided for bond payments ($16.9 million) and contingent funding from the resources trust fund ($60 million) totaling $76.9 million would be available to defease the commission's outstanding bond issues of $75,250,000 and pay related fees. Through October 2014, $403.8 million has been credited to the resources trust fund. The State Water Commission has retired five Southwest Pipeline Project series bonds and defeased another. In addition, the State Water Commission anticipated using funds available in the water development trust fund and the resources trust fund to pay off two remaining water development series bonds before the end of the 2013-15 biennium.

[5]Sections 1 and 4 of 2015 Senate Bill No. 2020 appropriate $27.5 million, 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 2015-17 biennium.

FUND HISTORY

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

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

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

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

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