

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

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**ANALYSIS OF THE STATE BONDING FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$2,599,756		\$2,663,756
Add estimated revenues				
Investment income	\$450,000		\$400,000	
State bonding fund claims collections	37,000		40,000	
Other income	6,000		6,000	
Total estimated revenues		493,000		446,000
Total available		\$3,092,756		\$3,109,756
Less estimated expenditures and transfers				
Insurance Department administration (2005 HB 1010; 2007 SB 2010)	\$35,000		\$44,131	
State bonding fund claims losses	375,000		200,000	
Claims-related expenditures	19,000		20,000	
Total estimated expenditures and transfers		429,000		264,131
Estimated ending balance		\$2,663,756		\$2,845,625

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, as amended by the 2003 Legislative Assembly in Senate Bill No. 2015, 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. Senate Bill No. 2015 (2003) lowered the minimum fund balance from \$2.5 million to \$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 2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$99,472,631		\$200,000,000
Add estimated revenues				
Transfer from general fund - June 30, 2007	\$100,527,369 ¹			
Investment income	0 ²			
Total estimated revenues		100,527,369		
Total available		\$200,000,000		\$200,000,000
Less estimated expenditures and transfers				
None				
Total estimated expenditures and transfers		0		0
Estimated ending balance		<u>\$200,000,000</u>		<u>\$200,000,000</u>

¹The executive budget recommends increasing the maximum balance in the budget stabilization fund from 5 percent of the general fund appropriations provided by the most recently adjourned Legislative Assembly to \$200 million (Sections 14 and 15 of 2007 Senate Bill No. 2015) effective with the close at the 2005-07 biennium. The Senate removed these provisions from Senate Bill No. 2015.

The House approved House Bill No. 1429 which provides for the \$100,527,369 transfer from the ending 2005-07 biennium general fund balance and provides that effective July 1, 2009, the maximum balance allowed in the fund be increased from **5 to 10 percent** of the general fund budget.

²Interest 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.

FUND HISTORY

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

- Section 54-27.2-01 establishes the budget stabilization fund and provides that any interest earned on the balance of the budget stabilization fund must be retained in the fund. The section currently provides that any money in the fund in **excess of 5 percent of the general fund budget** as approved by the most recently adjourned Legislative Assembly must be deposited in the state general fund.
- Section 54-27.2-02 provides that any amount in the state general fund at the end of a biennium in excess of \$65 million must be transferred to the budget stabilization fund.
- Section 54-27.2-03 provides that the Governor may order a transfer from the budget stabilization fund to the general fund if the director of the Office of Management and Budget projects that general fund revenues for the biennium will be at least 2.5 percent less than estimated by the most recently adjourned Legislative Assembly. The amount transferred is limited to the difference between an amount 2.5 percent less than the original legislative general fund revenue forecast and the revised forecast prepared by the Office of Management and Budget. Any transfer made must be reported to the Budget Section.

**ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)¹**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$566,503		\$745,366
Add estimated revenues				
Investment income	\$54,177		\$41,248	
Rentals, royalties, bonuses, and contracts	239,332		202,837	
Total estimated revenues		293,509		244,085
Total available		\$860,012		\$989,451
Less estimated expenditures				
Administrative expenses	\$33,229		\$32,789	
Income payments to counties	6,417	2	6,808	2
Capitol Grounds Planning Commission operating expenses (2005 HB 1015; 2007 SB 2015)	25,000		750,000	
Capitol Grounds Planning Commission continuing appropriation (2007 SB 2090)	50,000		100,000	
Total estimated expenditures and transfers		114,646		889,597
Estimated ending balance		<u>\$745,366</u>		<u>\$99,854</u>

¹The analysis reflects the legislative appropriation for the 2007-09 biennium and does not include the land owned by the fund.

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

NOTE: The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$637,909. The increase in the estimated balance of \$107,457 is due to the net effect of the actual July 1, 2005, balance of \$566,503 being \$37,310 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$529,193, the 2005-07 revised estimated revenue of \$293,509 being \$74,237 more than the estimate made at the close of the 2005 legislative session of \$219,272, and the 2005-07 estimated expenditures of \$114,646 being \$4,090 higher than the estimate made at the close of the 2005 legislative session of \$110,556.

ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2005-07 Biennium		2007-09 Biennium	
Beginning balance ¹		\$122,653		\$53,674
Add estimated revenues				
Investment income	\$1,911,921		\$1,895,258	
School construction loan income	1,366,701		1,520,000	
Oil, gas, and coal impact loan income	203,590		153,538	
Total estimated revenues		3,482,212		3,568,796
Total available		\$3,604,865		\$3,622,470
Less estimated expenditures and transfers				
Administrative expenses	\$28,538		\$10,328	
Transfer to the general fund	3,522,653		3,500,000	
Total estimated expenditures and transfers		3,551,191		3,510,328
Estimated ending balance ¹		\$53,674		\$112,142

¹The beginning and ending balances do not include the value of permanent assets of the coal development trust fund which must be maintained, pursuant to North Dakota Century Code (NDCC) Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of December 31, 2006, the total value of permanent fund assets was \$60.1 million, of which \$37 million was school construction loans receivable, \$1.6 million was coal impact loans receivable, and \$21.5 million was either invested or was a receivable of investment or other earnings.

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

NOTE: The 2005-07 estimated ending balance of \$53,674 is \$17,185 more than estimated at the close of the 2005 legislative session. The increase is primarily a result of revised revenue estimates being more than original projections. The beginning balance was \$110,723 more than projected and revised 2005-07 revenue estimates exceed original projections by \$337,461, resulting in an estimated transfer to the general fund of \$422,653 more than projected by the 2005 Legislative Assembly.

FUND HISTORY

The coal development trust fund originated in 1979 with passage of House Bill No. 1257, now codified as various sections of NDCC 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.

North Dakota Century Code Section 57-62-02 provides that 30 percent of the coal severance tax must be deposited in the coal development trust fund. Section 57-62-02 provides that the Board of University and School Lands shall administer the fund and use money in the fund for loans to coal-impacted counties, cities, and school districts and for loans to school districts for school construction. Section 15.1-36-02 limits the outstanding principal balance of school construction loans from the coal development trust fund to \$40 million.

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

**ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$4,502,525		\$1,981,564
Add estimated revenues				
Transfers to date from the tobacco settlement trust fund	\$2,161,049 ¹			
Projected remaining transfers from the tobacco settlement trust fund	2,182,346		\$7,000,290	
Total estimated revenues		4,343,395 ²		7,000,290 ²
Total available		\$8,845,920		\$8,981,854
Less estimated expenditures and transfers				
State Department of Health (2005 SB 2004; 2007 HB 1004)				
Tobacco prevention and control	\$4,700,000 ³		\$4,700,000 ³	
Dentists' loan program	420,000 ⁴		380,000 ⁴	
Community health grant program and advisory committee	495,000 ⁵		360,000 ⁵	
Tobacco "quit line"	884,000 ⁶		1,069,000 ⁶	
Tobacco cessation coordinator and operating expenses	111,000 ⁷		142,075 ⁷	
Physician loan repayment program			150,000 ⁸	
Colorectal cancer screening initiative			150,000 ⁹	
Emergency medical services grants			300,000 ¹⁰	
Automated external defibrillators (2007 SB 2313)			352,000 ¹¹	
Governor's office				
Governor's Prevention and Advisory Council (2007 SB 2276)			440,000 ¹²	
Department of Human Services				
Breast and cervical cancer assistance (2005 HB 1012; 2007 SB 2012)	254,356 ¹²		213,904 ¹³	
Total estimated expenditures and transfers		6,864,356		8,256,979
Estimated ending balance		<u>\$1,981,564</u>		<u>\$724,875</u>

¹For the 2005-07 biennium, four transfers totaling \$2,161,049 have been made from the tobacco settlement trust fund as of February 15, 2007. Total transfers of \$17,445,766 have been made from the tobacco settlement trust fund to the community health trust fund.

²Revenues - Interest earned on the community health trust fund is deposited in the state general fund. The tobacco settlement revenues for the community health trust fund were estimated to be \$5,127,121 for the 2005-07 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$783,726 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million, of which \$270,000 would have been deposited in the community health trust fund. The tobacco companies are 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 tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$4,343,395 do not include the \$270,000 withheld by tobacco companies. Due to the uncertainty of the lawsuit, the Office of Management and Budget has further reduced remaining estimated tobacco settlement revenues for the 2005-07 and 2007-09 bienniums by 5 percent. The community health trust fund share of the 5 percent reduction represents \$114,860 for 2005-07 and \$368,436 for 2007-09. The revenues for the community health trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments and legal challenges are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$5,759,377	\$5,290,078
2001-03	6,114,358	5,363,637
2003-05	5,127,121	4,631,001
2005-07	5,127,121	4,343,395
2007-09	8,223,108	7,000,290
2009-11	8,223,108	7,368,727
2011-17 (\$8,223,108/\$7,368,727 per biennium)	24,669,324	22,106,181
2017-25 (\$5,859,149/\$5,250,383 per biennium)	23,436,596	21,001,532
Total	\$86,680,113	\$77,104,841

³North Dakota Century Code (NDCC) Section 54-27-25 provides that money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage. The executive budget recommendation provides an appropriation of \$4.7 million, the same as the 2005-07 biennium appropriation, to the State Department of Health for tobacco prevention and control programs.

⁴The dentists' loan repayment program, which is administered by the Health Council, was established in 2001 Senate Bill No. 2276 (NDCC 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). Senate Bill No. 2276 (2001) provided for one dentist to be selected annually for the program from each of the following community-size categories--small (less than 2,500 residents), medium (less than 10,000 residents), and large (10,000 or more residents). The dental loan repayment program is to provide the highest priority for acceptance into the program to dentists willing to serve the smallest and most underserved communities in North Dakota. 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 to date)	Fargo Community Health Center Bismarck (serving special populations) Mott Minot

⁵The community health grant program was established in 2001 Senate Bill No. 2380 (NDCC Section 23-38-01) with the intent to prevent or reduce tobacco usage. The Community Health Grant Program Advisory Committee is to advise the State Department of Health regarding the community health grant program. The 2005 Legislative Assembly authorized \$495,000 for tobacco cessation grants (\$395,000) and the Community Health Grant Program Advisory Committee (\$100,000). The grants to cities and counties for cessation programs are to be matched with \$1 of local funds for every \$3 of state funds. The 2007-09 biennium executive budget recommends \$360,000 for city and county cessation programs (\$260,000) and the Community Health Grant Program Advisory Committee (\$100,000).

⁶The 2003 Legislative Assembly authorized the establishment of a telephone tobacco "quit line." The 2005 Legislative Assembly appropriated \$884,000 to operate the "quit line" for the 2005-07 biennium. The executive budget recommendation increases the funding for the "quit line" to \$1,069,000 to provide nicotine replacement therapy and cessation counseling.

⁷The Legislative Assembly authorized one full-time equivalent tobacco prevention coordinator position and related funding for salaries and wages (\$95,666) and operating expenses (\$15,334). The executive budget recommendation includes funding for salaries (\$117,101) and operating expenses (\$22,296) for the position. In addition, \$2,678 for operating costs is included in this amount to balance the department's total authorization from the community health trust fund.

⁸North Dakota Century Code Chapter 43-17.2 provides for the state community matching physician loan repayment program. A qualifying physician may receive up to \$22,500 per year for up to two years for a total of \$45,000. Section 43-12.2-01 provides for midlevel practitioners to receive up to \$2,500 per year for up to four years for a total of \$10,000. Communities must contribute an amount at least equal to the amount of the state contribution for the physicians and midlevel practitioners. The executive budget recommendation provided \$75,000 from the community health trust fund for the physician loan repayment program. The House appropriated an additional \$75,000 from the community health trust fund for this program. The total funding for this program is \$75,000 from the general fund and \$150,000 from the community health trust fund.

⁹The House appropriated \$150,000 from the community health trust fund and \$50,000 from the general fund for a grant to the North Dakota Cancer Coalition to provide for a colorectal cancer screening initiative.

¹⁰The House appropriated \$300,000 from the community health trust fund for emergency medical services training grants.

¹¹Engrossed Senate Bill No. 2313 provides an appropriation from the community health trust fund to the State Department of Health for providing grants to school districts to purchase automated external defibrillators. The State Department of Health is authorized a .5 FTE position for fiscal year 2008 or when the grant money is exhausted, whichever occurs first.

¹²Engrossed Senate Bill No. 2276 provides an appropriation from the community health trust fund to the Governor for the Governor's Prevention and Advisory Council.

¹³The executive budget recommends an appropriation of \$213,904, a decrease of \$40,452 from the 2005-07 biennium appropriation of \$254,356, to the Department of Human Services for providing the state matching funds for medical assistance coverage for women screened and found to have breast and cervical cancer.

FUND HISTORY

The community health trust fund was created by the 1999 Legislative Assembly through passage of House Bill No. 1475. This bill creates a tobacco settlement trust fund for the deposit of all tobacco settlement money obtained by the state. Money in the fund must be transferred within 30 days of its deposit in the fund as follows:

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

**ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE
2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$915,396		\$462,509
Add estimated revenues		3,005,000	¹	3,030,000 ²
Total available		\$3,920,396		\$3,492,509
Less estimated expenditures				
Agriculture Commissioner				
Noxious weed control (2005 HB 1009; 2007 SB 2009)	\$1,473,831		\$1,683,355	
Pesticide disposal project (Safe Send) (2005 HB 1009; 2007 SB 2009)	580,371		622,462	
Pesticide programs (2005 HB 1009; 2007 SB 2009)	425,875		506,792	
Agriculture in the classroom project (2005 HB 1009; 2007 SB 2009)	100,000		100,000	
Pride of Dakota and marketing (2007 SB 2009)			79,500	
Saltcedar control (2005 HB 1009)	250,000			
Pesticide Control Board				
Minor use pesticide registration (2005 HB 1009; 2007 SB 2009)	200,000 ³		200,000 ³	
Crop Protection Product Harmonization and Registration Board ⁴				
Crop protection product registration and labeling and grants (2005 HB 1009; 2007 SB 2009)	25,000		50,000	
State Department of Health				
Ground water testing (2005 SB 2004; 2007 HB 1004)	202,808		216,119	
North Dakota Stockmen's Association environmental services program (2005 SB 2004; 2007 HB 1004)	50,000		50,000	
Endangered species (2007 SB 2323)			325,000	
Blackbird research (2007 SB 2179)			79,500	
Agricultural Experiment Station				
Environmental research (2005 SB 2020)	150,000			
Total estimated expenditures and transfers		3,457,885		3,912,728
Estimated ending balance		\$462,511		(\$420,219)

¹The 1999 Legislative Assembly approved Senate Bill No. 2009, which included a provision increasing the biennial pesticide registration fee by \$50, from \$300 to \$350 only for the 1999-2001 biennium. The \$350 pesticide registration fee was extended for the 2001-03 biennium (2001 House Bill No. 1009), the 2003-05 biennium (2003 Senate Bill No. 2319), and the 2005-07 biennium (2005 House Bill No. 1009). This increase is estimated to generate \$500,000 of additional revenues to be deposited in the environment and rangeland protection fund during the 2005-07 biennium. Charges for the collection of rinsate are estimated to generate \$5,000 in additional revenue to be deposited in the environment and rangeland protection fund during the 2005-07 biennium.

²The estimated revenues for the 2007-09 biennium include \$505,000 of additional revenue from the biennial pesticide registration fee. Senate Bill No. 2009 (2007) continues the biennial pesticide registration fee of \$350, with \$50 of each pesticide registration deposited in the general fund. The increase is estimated to generate \$505,000 of additional revenue to be deposited in the environment and rangeland protection fund during the 2007-09 biennium. Senate Bill No. 2323 (2007) returns the biennial pesticide registration fee to \$300 on July 1, 2007, and eliminates the transfer of \$50 per pesticide registration to the general fund, resulting in an estimated \$505,000 of additional revenue to be deposited in the environment and rangeland protection fund during the 2007-09 biennium. Senate Bill Nos. 2009 and 2323 both provide that the environment and rangeland protection fund receive \$300 of the registration fee; however, both bills amend

the same section (North Dakota Century Code 19-18-04) and they conflict (one provides for a \$350 fee and the other a \$300 fee). One or both of these bills need to be amended to resolve the conflict prior to the end of the 2007 legislative session.

³This amount is transferred to the minor use pesticide fund and appropriated to the Crop Protection Product Harmonization and Registration Board on a continuing basis. House Bill No. 1328 (2001) changed the control of the minor use pesticide fund from the Agriculture Commissioner to the Crop Protection Product Harmonization and Registration Board.

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

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

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

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

NOTE: The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$263,983. The increase of \$198,528 is due to the increased number of pesticide products registered in the state.

FUND HISTORY

North Dakota Century Code 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. The biennial fee is \$350 per pesticide product registered in the state for the 2005-07 biennium. Of this amount, \$300 is deposited in the environment and rangeland protection fund and \$50 in the general fund.

**ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$22,820,012		\$25,333,516
Add estimated revenues				
Premium collections	\$9,825,000		\$10,000,000	
Investment income	2,100,000		1,600,000	
Boiler inspection fees	280,000		300,000	
Loss claims and insurance recoveries			1,500,000	
Anhydrous ammonia storage facility inspection fund	150,000		150,000	
Total estimated revenues		12,355,000		13,550,000
Total available		\$35,175,012		\$38,883,516
Less estimated expenditures and transfers				
Loss claims payments	\$5,000,000		\$4,900,000	
Claims-related payments	3,150,000		3,200,000	
Insurance Department administration and anhydrous ammonia tank inspection costs (2005 HB 1010; 2007 SB 2010)	1,138,576		1,153,804	
State Fire Marshal program (2007 SB 2097; 2007 SB 2003)	426,920		310,000	
Firefighters Association grants (2005 HB 1015)	126,000			
Transfers to the North Dakota merit award trust fund (2007 SB 2347)			10,000,000	
Total estimated expenditures and transfers		9,841,496		19,563,804
Estimated ending balance		\$25,333,516		\$19,319,712

FUND HISTORY

The state fire and tornado fund originated in 1919. The fund is maintained to ensure 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 2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$16,098,385		\$28,191,467
Add estimated revenues				
Oil extraction tax allocations	\$12,093,082 ¹		\$16,990,581 ³	
Total available		28,191,467		45,182,048
Less estimated expenditures and transfers				
Transfer to foundation aid program	\$0 ²		\$0 ²	
Estimated ending balance		<u>\$28,191,467</u>		<u>\$45,182,048</u>

¹2005-07 estimated revenues - Based on actual oil extraction tax allocations through January 2007 and estimated allocations for the remainder of the 2005-07 biennium (per the February 2007 revenue forecast).

²Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. No foundation aid reductions as a result of a revenue shortfall are currently anticipated for the 2005-07 or 2007-09 biennium.

³2007-09 estimated revenues - Based on the estimated allocations for the 2007-09 biennium per the February 2007 revenue forecast.

FUND HISTORY

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

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

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

Article X, Section 24, of the Constitution of North Dakota provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2005, through January 31, 2007, \$692,126 of interest from the foundation aid stabilization fund has been allocated to the general fund.

**ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$20,134,411		\$1,830,102
Add estimated revenues				
Investment earnings	\$1,086,596		\$109,806	
Loan repayments - Principal and interest	834,095		805,531	
Total estimated revenues		1,920,691		915,337
Total available		\$22,055,102		\$2,745,439
Less estimated expenditures and transfers				
State Department of Health quick response unit pilot project (2005 SB 2004; 2007 HB 1004)	\$125,000		\$125,000	
Department of Human Services personal care allowance increase (2007 SB 2012)			170,500	
Department of Human Services inflationary increases and developmental disabilities services (2005 HB 1012)	3,200,000			
Transfer to the general fund (2005 HB 1445)	16,900,000			
Total estimated expenditures and transfers		20,225,000		295,500
Estimated ending balance		\$1,830,102		\$2,449,939

FUND HISTORY

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

**ANALYSIS OF THE LANDS AND MINERALS TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$6,820,579		\$12,947,419
Add estimated revenues				
Production royalties	\$7,512,205		\$6,795,428	
Mineral leases	266,592		245,235	
Oil and gas bonuses	5,097,312		500,000	
Investment earnings	1,098,685		1,486,389	
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020; 1985 SB 2249)	1,060,651		1,136,677	
Total estimated revenues		15,035,445		10,163,729
Total available		\$21,856,024		\$23,111,148
Less estimated expenditures and transfers				
Payments to common schools trust fund - Developmentally disabled loan fund Nos. 2 and 3 (2005 SB 2013 - Continuing appropriation)	\$1,652,538 ¹		\$1,643,060 ¹	
Industrial Commission - Oil and Gas Division contingency (2005 SB 2014; 2007 HB 1014)	225,000 ²		285,000 ²	
Transfer to the general fund (2005 HB 1015)	6,800,000		³	
Administrative costs/other fees	231,067		271,972	
Total estimated expenditures and transfers		8,908,605		2,200,032
Estimated ending balance		\$12,947,419		\$20,911,116 ³

¹Payments to common schools trust fund - North Dakota Century Code Section 15-08.1-09 provides an annual continuing appropriation from the lands and minerals trust fund of the amount necessary to make payments of principal and interest to the common schools trust fund for loans made to developmentally disabled loan fund Nos. 2 and 3.

²Industrial Commission - Oil and Gas Division contingency - Senate Bill No. 2014 (2005) provides a \$225,000 contingency appropriation from the lands and minerals trust fund to the Oil and Gas Division for the purpose of hiring, upon Emergency Commission approval, up to two full-time equivalent positions if the average drilling rig count exceeds 30 active rigs for each month in any consecutive three-month period. The Emergency Commission approved a transfer of \$142,000 at its March 2, 2006, meeting and a transfer of \$83,000 at its November 27, 2006, meeting. House Bill No. 1014 (2007) provides a \$285,000 contingency appropriation from the lands and minerals trust fund to the Oil and Gas Division for the purpose of hiring, upon Emergency Commission approval, up to two full-time equivalent positions if the average drilling rig count exceeds 45 active rigs for each month in any consecutive three-month period.

³The executive budget, in Senate Bill No. 2015, recommended a transfer of \$15,000,000 to the general fund. The Senate removed the transfer.

FUND HISTORY

The lands and minerals trust fund originated in 1977 when the Legislative Assembly transferred to the Board of University and School Lands possessory interest in properties obtained by the Bank of North Dakota, including tracts of real property and reserved mineral interests. All income from the sale, lease, and management of the mineral interests relating to these properties is deposited in the lands and minerals trust fund, pursuant to North Dakota Century Code Section 15-08.1-08. The principal and interest of the trust fund may be used only for purposes approved by the Legislative Assembly.

**ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION AS OF CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$10,362,794		\$6,723,794
Add estimated revenues				
Separate two-cent coal severance tax	\$1,200,000		\$1,200,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,375,000		3,375,000	
Twenty percent of coal severance taxes deposited in the coal development trust fund (committed to clean coal projects) (result of passage of constitutional amendment passed by voters in June 1994)	1,350,000		1,350,000	
Investment income on Dakota Gasification Company ammonia plant and Red Trail	1,350,000		1,372,000	
Two and one-half percent of the general fund share of coal conversion tax (2007 HB 1093)			1,250,000	
Revenue bonds			4,000,000 ¹	
Interest income	180,000		180,000	
Total estimated revenues		7,455,000		12,727,000
Total available		\$17,817,794		\$19,450,794
Less estimated expenditures ^{2,3}				
Administration	\$400,000		\$400,000	
Lignite feasibility studies (nonmatching grants)	1,715,000		1,000,000	
Small research grants	2,801,000		1,466,300	
Lignite marketing	1,594,000		1,594,300	
Demonstration projects	4,584,000		14,950,000	
Total estimated expenditures and transfers		11,094,000 ⁴		19,410,600 ⁴
Estimated ending balance		\$6,723,794 ⁵		\$40,194

¹The Industrial Commission may issue revenue bonds if all projects proceed as scheduled in the 2007-09 biennium.

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

³The Industrial Commission has waived the fund allocation policy and has committed \$22,185,443 through the 2009-11 biennium with \$1,653,481 to be spent during the 2005-07 biennium, \$14,950,000 during the 2007-09 biennium, and \$5,581,962 during the 2009-11 biennium for the Lignite Vision 21 program. The object of the Lignite Vision 21 program is to construct new lignite-fired power plants in North Dakota.

⁴The 2005 Legislative Assembly appropriated \$15,200,000 for lignite research grants; however, the Industrial Commission anticipates spending \$11,094,000 for lignite research grants during the 2005-07 biennium. The legislative appropriation for the 2007-09 biennium is \$19,410,600.

⁵The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$449,128. The increase of \$6,274,666 is primarily due to an increase in revenue from income investment from the Dakota Gasification Company ammonia plant and a decrease in expenditures for grants as projects were delayed.

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

**ANALYSIS OF THE PERMANENT OIL TAX TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING FEBRUARY 2007 REVENUE FORECAST AND LEGISLATIVE ACTION AS OF CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$50,369,096		\$141,966,681
Add estimated revenues				
Oil and gas production tax and oil extraction tax collections - December 2006	\$158,543,405		\$167,036,607	
Oil and gas production tax and oil extraction tax collections adjustment - February 2007	8,372,000		(8,443,000)	
Other adjustments:				
HB 1044 - Increases county share			(11,800,000)	
HB 1128 - Increases transfer to oil and gas research fund			(1,700,000)	
HB 1279 - Decreases shallow gas gross production taxes			(1,100,000)	
SB 2397 - Changes in oil extraction tax rates			(1,940,000)	
Total estimated revenues		166,915,405 ¹		142,053,607 ²
Total available		\$217,284,501		\$284,020,288
Less estimated expenditures and transfers				
Transfer to the general fund (Section 32 of 2005 HB 1015)	\$55,300,000			
Parks and Recreation Department - International Music Camp grant for International Arts Center (2005 SB 2228)	350,000			
Office of Management and Budget - Repayment of loans for centers of excellence (Section 12 of 2005 SB 2018)	16,000,000			
Department of Human Services - Medicaid management information system project (Section 8 of 2005 HB 1012)	3,667,820			
Property tax relief (2007 HB 1051)			\$116,700,000 ³	
Regional child support units (2007 SB 2205)			7,181,707	
Service rig program - Williston State College (2007 HB 1003)			900,000	
Agriculture research and extension operating pool (2007 HB 1020)			750,000	
Total estimated expenditures and transfers		75,317,820		125,531,707
Estimated ending balance		\$141,966,681		\$158,488,581 ⁴

¹Estimated revenues - 2005-07 - The February 2007 revised revenue forecast for the 2005-07 biennium projects state oil and gas production tax and oil extraction tax revenues to exceed \$71 million by \$166.9 million; therefore, \$166.9 million is projected to be transferred to the permanent oil tax trust fund during the biennium.

²Estimated revenues - 2007-09 - The February 2007 executive budget revenue forecast for the 2007-09 biennium projects state oil and gas production tax and oil extraction tax revenues to exceed \$71 million by \$158.6 million; however, proposed legislation increases the county share of taxes and transfers to the oil and gas research fund, decreases shallow gas gross production taxes, and changes oil extraction tax rates. Therefore, \$142 million is projected to be transferred to the permanent oil tax trust fund during the biennium.

³Property tax relief - 2007 House Bill No. 1051 provides a continuing appropriation of \$116.7 million from the permanent oil tax trust fund for property tax relief.

⁴Centers of excellence loan repayment - This balance will be reduced by \$5,300,000 related to the loan repayment to the Bank of North Dakota for the 2005-07 centers of excellence loan and related interest removed by the Senate from Senate Bill No. 2015. The net balance will be \$153,188,581 after the payment.

FUND HISTORY

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

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2005-07 Biennium		2007-09 Biennium	
	Beginning balance		\$36,743,173	
Add estimated revenues				
Oil extraction tax collections	\$25,210,729		\$33,981,165	
Repayments and reimbursements	2,005,000		2,007,000	
Investment earnings/miscellaneous	1,406,266		1,148,600	
Total estimated revenues		28,621,995 ¹		37,136,765
Total available		\$65,365,168		\$62,801,933
Less estimated expenditures and transfers				
State Water Commission - Grants and administration	\$39,700,000 ²		\$62,801,933 ³	
Total estimated expenditures and transfers		39,700,000		62,801,933
Estimated ending balance		\$25,665,168		\$0

¹Estimated revenues - 2005-07 - The estimated revenues for the 2005-07 biennium reflect actual revenues through February 23, 2007, and estimated revenues for the remainder of the biennium. The current estimate of revenues for the biennium is **\$9,342,462 more than the estimate of \$19,279,533** made at the close of the 2005 legislative session. The increase is attributable to the following changes:

Increase in oil extraction tax collections	\$8,775,173
Decrease in repayments for previously funded water projects	0
Increase in investment income	567,289
	567,289

Net increase from revenue amount previously estimated for 2005-07 \$9,342,462

²Section 4 of House Bill No. 1021 (2005) provided \$54,013,116, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission. The State Water Commission estimates 2005-07 biennium expenditures from the resources trust fund to be \$39.7 million.

³Section 4 of Engrossed Senate Bill No. 2020 (2007) provides \$69,352,698, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission. Total expenditures will be limited to available funding.

FUND HISTORY

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

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

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

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

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

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

**ANALYSIS OF THE SENIOR CITIZEN SERVICES AND PROGRAMS FUND
FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Allocation from sales, use, and motor vehicle excise tax collections	\$2,057,109		\$2,297,942	
Total estimated revenues		2,057,109		2,297,942
Total available		\$2,057,109		\$2,297,942
Less estimated expenditures				
State Treasurer - County senior citizen matching grants	\$2,057,109		\$2,297,942	
Total estimated expenditures and transfers		2,057,109		2,297,942
Estimated ending balance		\$0		\$0

FUND HISTORY

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

**ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Sales, use, and motor vehicle excise taxes (based on 4/10 of 1%)		83,953,429 ¹		88,648,946
Total available		\$83,953,429		\$88,648,946
Less estimated expenditures				
Payments to political subdivisions				
County share (53.7%)	\$45,082,991		\$47,604,484	
City share (46.3%)	38,870,438		41,044,462	
Total estimated expenditures and transfers		83,953,429		88,648,946
Estimated ending balance		\$0		\$0

¹A total of \$78,336,470 was anticipated to be in the fund for the 2005-07 biennium based on the forecast at the close of the 2005 Legislative Assembly.

NOTE: The amounts shown reflect the February 2007 revenue forecast.

FUND HISTORY

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

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

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

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

**ANALYSIS OF THE STATE TUITION FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
	Beginning balance		\$1,102,694 ¹	
Add estimated revenues				
Fines for violation of state laws	\$9,206,315 ²		\$9,400,000 ²	
Transfers from the common schools trust fund	62,200,000		66,800,000	
Total estimated revenues		71,406,315		76,200,000
Total available		\$72,509,009		\$77,109,009
Less estimated expenditures and transfers				
Tuition payments to schools	71,600,000 ³		76,200,000 ⁴	
State aid to schools				
Estimated ending balance		\$909,009 ¹		\$909,009 ¹

¹Beginning/ending balance - North Dakota Century Code (NDCC) 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. Fines proceeds deposited in the tuition fund during May and June of each fiscal year are carried forward for distribution in August of the subsequent year.

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

Fiscal Year	Revenue From Fines	Percentage Increase 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	\$4,700,000 (estimate)	4.3%
2008	\$4,700,000 (estimate)	0.0%
2009	\$4,700,000 (estimate)	0.0%

³Tuition payments - Pursuant to NDCC Section 15.1-28-03, payments are made on the basis of census units, which is the number of school-age children in each district as determined by the last census. Actual and estimated census unit payments are shown below for fiscal years 1998 through 2007:

Fiscal Year	Tuition Fund Payments Per Census Unit	Percentage Increase From Previous Year
1998	\$216 (actual)	
1999	\$223 (actual)	3.2%
2000	\$248 (actual)	11.2%
2001	\$244 (actual)	(1.6%)
2002	\$310 (actual)	27.0%
2003	\$310 (actual)	0.0%
2004	\$332 (actual)	7.1%
2005	\$332 (actual)	0.0%
2006	\$351 (actual)	5.7%
2007	\$351 (estimate)	0.0%

⁴State aid to schools - The 2007-09 executive budget recommendation, in Senate Bill No. 2200, consolidates 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.

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 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.

North Dakota Century Code Section 15.1-28-01 provides that the state tuition fund consists of the net proceeds from all fines for violation of state laws and leasing of school lands (included in transfers from the common schools trust fund) and the interest income from the state common schools trust fund. Section 15.1-28-03 directs the Office of Management and Budget, on or before the third Monday in January, February, March, April, August, September, October, November, and December of each year, to certify to the Superintendent of Public Instruction the amount of the state tuition fund. The Superintendent of Public Instruction then apportions the money in the fund among the school districts in the state based on the number of school-age children in the district. For the 2007-09 biennium, the 2007-09 executive budget recommendation, in Senate Bill No. 2200, consolidates 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.

**ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium ¹		2007-09 Biennium ¹	
	Beginning balance		\$28,026,050	
Add estimated revenues				
Fund earnings (net)	\$3,200,000 ²		\$1,900,000 ²	
Total available		\$31,226,050		\$23,863,550
Less estimated expenditures and transfers				
Transfer to the general fund	\$9,000,000 ³		\$0 ⁵	
Funding for veterinary medicine program (2005 HB 1397, 2007 HB 1003)	262,500 ⁴		317,460 ⁶	
Transfer to low-interest student loan fund (2007 HB 1487)			3,100,000 ⁷	
Total estimated expenditures and transfers		9,262,500		3,417,460
Estimated ending balance		\$21,963,550		\$20,446,090

¹This analysis reflects the estimated revenues, expenditures, and ending balance for the 1979 bond resolution only.

²The projected income is based on interest rates as of December 1, 2006, and a student loan portfolio that is diminishing as loans are repaid.

³The 2005 Legislative Assembly provided for a transfer of \$9 million from the student loan trust fund to the general fund.

⁴House Bill No. 1397 (2005) provides the State Board of Higher Education a \$262,500 appropriation from the student loan trust fund for the purpose of reducing the amount of tuition and other costs payable by or on behalf of eligible students enrolled in the veterinary medicine education program at Kansas State University. The State Board of Higher Education is to develop a plan for the continuation of funding for the program from a funding source other than the student loan trust fund.

⁵The 2007-09 executive budget recommends transferring \$3.1 million from the student loan trust fund to the general fund. The \$3.1 million is the projected income for both the 1979 and the 1996 student loan trust resolutions; however, the transfer to the general fund is only being made from the 1979 resolution. As of February 2007, the Senate removed all transfers to the general fund, including transfers from the Bank of North Dakota, the lands and minerals trust fund, and the student loan trust fund.

⁶The 2007-09 executive budget recommends a \$317,460 appropriation from the student loan trust fund for continuing the Kansas State University veterinary medicine program.

⁷House Bill No. 1487 provides for a transfer of \$3.1 million from the student loan trust fund to a low-interest student loan fund. The Bank of North Dakota is to use the low-interest student loan fund to make or participate in low-interest loans to eligible students.

FUND HISTORY

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

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

The student loan trust is comprised of funds held under two general bond resolutions. The first general bond resolution includes funds from bonds issued in 1979, 1988, 1989, 1992, and 2004. The second general bond resolution referred to as the 1996 bond resolution includes funds from bonds issued in 1996, 1997, 1998, and 2000. All issuances prior to 2004 with bonds outstanding are insured by Ambac Assurance Corporation.

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

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

In addition, North Dakota Century Code Section 6-09-40 provides that the Bank of North Dakota shall request from the Industrial Commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds. Section 10-03.5-04(3) provides that the maximum amount of funds that may be borrowed from the Bank of North Dakota for the purpose of investing in North Dakota alternative and venture capital investments and early-stage capital funds is \$10 million. The Bank has not informed the Industrial Commission it will not be seeking a transfer for any losses the Bank may have incurred from investments made in North Dakota alternative and venture capital investments and early-stage capital funds. House Bill No. 1088 (2007) repeals Section 6-09-40.

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

The 2003 Legislative Assembly with the passage of Senate Bill No. 2232 authorized the Industrial Commission to issue subordinate or residual bonds of up to \$23 million, and as a result the Industrial Commission issued \$23 million of subordinate bonds on December 1, 2004. House Bill No. 1152 (2005) enables the Industrial Commission to issue subordinate or residual bonds when so determined by the Industrial Commission.

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Tobacco settlement revenues collected to date	\$21,610,487 ¹		\$0	
Projected tobacco settlement revenues	21,823,464		70,002,902	
Total estimated revenues		43,433,951 ²		70,002,902 ²
Total available		\$43,433,951 ³		\$70,002,902 ³
Less estimated expenditures and transfers				
Transfers to the community health trust fund (10%)	\$4,343,395		\$7,000,290	
Transfers to the common schools trust fund (45%)	19,545,278		31,501,306	
Transfers to the water development trust fund (45%)	19,545,278		31,501,306	
Total estimated expenditures and transfers		43,433,951		70,002,902
Estimated ending balance		\$0		\$0

¹For the 2005-07 biennium, the state has received four tobacco settlement payments totaling \$21,610,487 as of February 15, 2007. The state has received total tobacco settlement collections of \$174,457,644.

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

³The tobacco settlement proceeds for the 2005-07 biennium were estimated to be \$51,271,214 at the end of the 1999 legislative session. The decrease in the amount of tobacco settlement revenues collected for the biennium of \$7,837,263 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million. The tobacco companies are 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 tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$43,433,951 do not include the \$2.7 million withheld by tobacco companies. Due to the uncertainty of the lawsuit, the Office of Management and Budget has further reduced the remaining estimated tobacco settlement revenues for the 2005-07 and 2007-09 bienniums by 5 percent or \$1,148,603 for 2005-07 and \$3,684,363 for 2007-09. The total original estimated tobacco settlement collections made during the 1999 legislative session and the total estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments and legal challenges are:

Biennium	1999 Original Estimated Collections	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	43,433,951
2007-09	82,231,080	70,002,903
2009-11	82,231,080	73,687,266
2011-17 (\$82,231,080/\$73,687,266 per biennium)	246,693,240	221,061,798
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
Total	\$866,801,136	\$771,048,403

NOTE: Additional annual tobacco settlement funds are anticipated to be received beginning in 2008 through 2017 based on each state's contribution to litigation or resolution of state tobacco lawsuits. The anticipated increase in annual payments is reflected in the above table.

FUND HISTORY

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

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

**ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$4,524,911		\$4,775,561
Add estimated revenues				
Investment income	\$569,000		\$483,000	
Sale of vans			14,000	
Total estimated revenues		569,000		497,000
Total available		\$5,093,911		\$5,272,561
Less estimated expenditures				
Grants	\$225,000		\$240,000	
Operating expenses	2,500		2,500	
Administrative committee travel	22,350		22,350	
Veterans Home activities	23,000		0	
Vehicles - Vans	25,000		48,000	
Veterans' transportation programs	5,000		4,000	
Other veterans' programs	15,000		10,000	
Appeals Committee	500		500	
Total estimated expenditures and transfers		318,350		327,350
Estimated ending balance		\$4,775,561		\$4,945,211

NOTE: The principal balance of the fund is \$4,101,849, leaving an estimated available investment income balance of \$673,712 as of June 30, 2007, and \$843,362 as of June 30, 2009. The Administrative Committee on Veterans Affairs has a policy of reserving a portion of the investment income balance to generate additional investment income. The reserve balance was \$250,000 as of July 1, 2005. The committee anticipates setting aside \$100,000 in both the 2005-07 and 2007-09 bienniums for the reserve account.

The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$4,582,146. The increase of \$193,415 is primarily due to investment income being greater than originally estimated.

**FUND HISTORY
Established**

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

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

1988 Initiated Measure No. 4

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

- Established the veterans' postwar trust fund as a permanent fund.
- Required the State Treasurer to transfer \$740,000 per year for five years commencing July 1, 1989, from the state general fund or other sources as appropriated by the Legislative Assembly to the veterans' postwar trust fund to total \$3.7 million.

- Appropriated the income from the veterans' postwar trust fund on a continuing basis to the Administrative Committee on Veterans Affairs to be spent for veterans' programs as authorized by law.
- Required the State Treasurer to invest the fund in legal investments as provided by North Dakota Century Code Section 21-10-07.

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

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

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

House Bill No. 1001 (1993) transferred \$745,670 from the general fund to the veterans' postwar trust fund during the 1993-95 biennium. This was the final transfer required by the initiated measure and includes \$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 North Dakota Constitution:

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

**ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS
(REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)**

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$13,200,239		\$9,723,234
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	\$9,724,719 ¹		\$0	
Projected remaining transfers from tobacco settlement trust fund	9,820,559		31,501,306	
Total estimated revenues		19,545,278 ²		31,501,306 ²
Total available		\$32,745,517		\$41,224,540
Less estimated expenditures and transfers				
State Water Commission (2005 HB 1021)				
Water projects	\$4,108,925 ³		\$24,995,375 ⁵	
Bond payments	9,777,033 ³		13,992,714 ⁵	
Administrative expenses	9,116,325 ³		1,067,910 ⁵	
North Dakota Legislative Assembly				
Legislators' Forum dues	20,000 ⁴		0	
Total estimated expenditures and transfers		23,022,283		40,055,999
Estimated ending balance		\$9,723,234		\$1,168,541

¹For the 2005-07 biennium, four transfers totaling \$9,724,719 have been made from the tobacco settlement trust fund as of February 15, 2007. Total transfers of \$78,505,939 have been made from the tobacco settlement trust fund to the water development trust fund.

²Revenues - Interest earned on the water development trust fund is deposited in the state general fund. The tobacco settlement revenues for the water development trust fund were estimated to be \$23,072,046 for the 2005-07 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$3,526,768 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million, of which \$1,215,000 would have been deposited in the water development trust fund. The tobacco companies are 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. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$19,545,278 do not include the \$1,215,000 withheld by tobacco companies. Due to the uncertainty of the lawsuit, the Office of Management and Budget has further reduced the remaining estimated tobacco settlement revenues for the 2005-07 and 2007-09 bienniums by 5 percent. The water development trust fund share of the 5 percent reduction represents \$516,871 for 2005-07 and \$1,657,963 for 2007-09. The revenues for the water development trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments and legal challenges are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$25,917,197	\$23,805,353
2001-03	27,514,610	24,136,363
2003-05	23,072,046	20,839,504
2005-07	23,072,046	19,545,278
2007-09	37,003,986	31,501,306
2009-11	37,003,986	33,159,270
20011-17 (\$37,003,986/\$33,159,270 per biennium)	111,011,958	99,477,810
2017-25 (\$26,366,170/\$23,626,724 per biennium)	105,464,680	94,506,896
Total	\$390,060,509	\$346,971,780

³Section 5 of House Bill No. 1021 (2005) provides \$29,963,873, or any additional amount that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission.

The total bond payments, including anticipated principal and interest payments on the \$60 million bond issuance (2005) and the \$27.5 million bond issuance (2000), is estimated to be \$9,777,033 for the 2005-07 biennium. The Legislative Assembly also authorized, in House Bill No. 1021, the State Water Commission to issue up to \$7 million in bonds during the 2005-07 biennium. However, the State Water Commission is estimating that sufficient funding will be available for water projects in the water development trust fund and resources trust fund without the additional bond issuance.

The Legislative Assembly appropriated \$9,116,325 from the water development trust fund for administrative expenses of the State Water Commission. The State Water Commission is estimating that approximately \$4.1 million from the water development trust fund will be used for water projects during the 2005-07 biennium.

⁴Section 37 of House Bill No. 1015 (2005) appropriates \$20,000 from the water development trust fund to the North Dakota Legislative Assembly for paying North Dakota's contribution to the Legislators' Forum for Manitoba, Minnesota, North Dakota, and South Dakota for the 2005-07 biennium.

⁵Section 5 of Engrossed Senate Bill No. 2020 (2007) provides \$40,055,999, or any additional amount that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission.

Total 2007-09 biennium bond payments will be \$13,992,714. The remaining balance of approximately \$26.1 million will be available for State Water Commission projects and administrative expenses.

FUND HISTORY

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

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

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