ANALYSIS OF STATE TRUST FUNDS FOR THE 2017-19 AND 2019-21 BIENNIUMS

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ANALYSIS OF THE ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$17,382,475		$22,139,680
Add revenues				
Fees, forfeitures, transfers, and recoveries penalties[1]	$3,340,334		$1,958,000	
Oil and gas tax collections (2017 SB 2013; 2019 HB 1014)[2,3]	8,399,588		10,643,929	
Total revenues		11,739,922		12,601,929
Total available		$29,122,397		$34,741,609
Less expenditures and transfers				
Reclamation of well sites placed into service after July 31, 1983 (2019 SB 2123)[4]	$2,700,217		$2,000,000	
Reclamation of well sites placed into service on or before July 31, 1983 (2017 HB 1347)	3,326,749		1,000,000	
Transfer to the environmental quality restoration fund[5]	0		400,000	
Brine pond and soil remediation studies (2017 HB 1347)	865,361		500,000	
Pipeline restoration and reclamation oversight program - Agriculture Commissioner (2017 HB 1009; 2019 SB 2009)[6]	71,327		200,000	
Oil database information technology project (2019 HB 1014)			5,000,000	
Miscellaneous[7]	19,063		14,800	
Total expenditures and transfers		6,982,717		9,114,800
Ending balance		$22,139,680		$25,626,809

[1]Revenues to the fund include:

- Fees collected by the Oil and Gas Division of the Industrial Commission for permits or other services;
- Funds received from the forfeiture of drilling and reclamation bonds;
- Funds received from any federal agency or from donations related to well plugging and site reclamation;
- Transfers or grant awards from the oil and gas impact fund; and
- Funds recovered from the sale of confiscated equipment and oil and from certain civil penalties.

[2]In Senate Bill No. 2013 (2017), the Legislative Assembly decreased the oil and gas tax allocations to the fund by $3.5 million per fiscal year, from $7.5 million to $4 million; however, the decrease is effective only for the 2017-19 biennium.

House Bill No. 1014 (2019) decreases the allocation limit related to the fund balance by $50 million, from $100 million to $50 million.

[3]Estimated revenues - The estimated allocations for the 2019-21 biennium are based on actual allocations through August 2020 and the Office of Management and Budget's (OMB) September 2020 revised forecast for the remainder of the biennium.

[4]Senate Bill No. 2123 (2019) clarifies the fund may be used for the reclamation of saltwater handling facility sites and treating plant sites.

[5]For the 2017-19 biennium, the State Department of Health did not request any transfers. For the 2019-21 biennium to date through March 31, 2020, the State Department of Health has not requested any transfers. North Dakota Century Code Section 38-08-04.5 allows for transfers from the abandoned oil and gas well

plugging and site reclamation fund with the requirement that any transfers into the environmental quality restoration fund will be returned by the State Department of Health to the abandoned oil and gas well plugging and site reclamation fund.

[6]The Legislative Assembly appropriated $200,000 in House Bill No. 1009 (2017). Senate Bill No. 2009 (2019) includes an appropriation of $200,000 from the fund for the program.

[7]Miscellaneous expenditures include credit card merchant fees and audit fees.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $28,380,063. The estimated balance decreased by $2,757,183 primarily related to a decrease in estimated oil and gas tax revenue collections for the 2019-21 biennium.

FUND HISTORY

The fund was established in 1983 under Section 38-08-04.5. The purpose of the fund is to defray the costs of plugging or replugging oil wells, the reclamation of well sites, and all other related activities for wells or pipelines. The money in the fund may be spent, pursuant to a continuing appropriation, for contracting for the plugging of abandoned wells; contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads; paying mineral owners their royalty share of confiscated oil; and paying any contract-related expenses. The Industrial Commission is to report to the Budget Section each biennium on the expenditures of the fund and the fund balance.

The Legislative Assembly, in House Bill No. 1032 (2015), increased the oil and gas tax allocation to the fund by $2.5 million per fiscal year, from $5 million to $7.5 million, and increased the allocation limit from an amount that would bring the balance of the fund over $75 million to an amount that would bring the balance of the fund over $100 million. In Senate Bill No. 2013 (2017), the Legislative Assembly decreased the oil and gas tax allocations to the fund by $3.5 million per fiscal year, from $7.5 million to $4 million; however, the decrease was effective only for the 2017-19 biennium.

ANALYSIS OF THE ATTORNEY GENERAL REFUND FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$8,432,608		$11,446,254
Add revenues				
Refunds of consumer protection and antitrust expenditures, attorney's fees, and civil penalties[1]	$5,609,580		$2,500,000	
Cash deposit bonds	3,000		3,000	
Tribal gaming, licensing, and investigation fees	348,019		350,000	
Background checks	34,598		35,000	
Wells Fargo lawsuit proceeds[2]	1,215,561			
Total revenues		7,210,758		2,888,000
Total available		$15,643,366		$14,334,254
Less expenditures and transfers authorized in Section 54-12-18				
Refunds to specifically named consumers (54-12-18(1))[3]				
Claims against cash deposit bonds (54-12-18(2))				
Refund of cash deposit bond balance (54-12-18(3))				
Consumer Protection and Antitrust Division expenditures (54-12-18(4))	$1,942,369		$2,295,650	
Tribal gaming background investigations (54-12-18(5))	18,644		50,000	
Tribal gaming licensing expenditures (54-12-18(5))			58,800	
Tribal gaming enforcement expenditures (54-12-18(5))	665,417		750,000	
Less other expenditures and transfers[4]				
Bureau of Criminal Investigation salaries and operating expenses	415,367		915,600	
State Crime Laboratory operating expenditures	264,999		360,560	
Information technology contractual program maintenance	512,698		944,000	
Information technology operating expenditures	68,682		374,500	
Criminal justice information sharing system improvements (2019 SB 2003)			140,000	
Criminal history improvement project carryover[5]	308,936			
Criminal history improvement project (2019 SB 2003)[5,6]			400,000	
Automated fingerprint identification system replacement project (2019 SB 2003)[6]			158,000	
Attorney salary equity increases (2019 SB 2003)[2]			377,000	
Total expenditures and transfers		4,197,112		6,824,110
Ending balance[7]		$11,446,254		$7,510,144

[1]The Attorney General has indicated that it is not possible to separately identify refunds, attorney's fees, and civil penalties received, as a court judgement often includes a lump sum amount awarded for the payment of attorney's fees, investigation costs, or payment in lieu of civil penalties.

[2]On April 10, 2019, the Consumer Protection Division of the Attorney General's office received a $1,215,561 settlement for a Wells Fargo lawsuit related to Wells Fargo's automobile gap insurance, the company opening accounts without consumers knowledge, and its mortgage interest rate extension fees. The funding was deposited in the Attorney General refund fund.

In Senate Bill No. 2003 (2019) the Legislative Assembly appropriated $425,000, of which $25,000 relates to anticipated interest and earnings of the settlement amount, of this funding to the Attorney General for the 2019-21 biennium. In Section 14 of the bill, the Legislative Assembly provided legislative intent that the Attorney General use up to $425,000 from the April 2019 settlement for providing salary equity increases to attorney positions in the Attorney General's office for the 2019-21 biennium. Further intent was provided that the remaining settlement proceeds and investment earnings on the remaining proceeds be retained in the Attorney General refund fund and be used for the cost to continue the salary equity increases provided in the 2019-21 biennium during the 2021-23 and 2023-25 bienniums, subject to legislative appropriations. Section 15 of the bill allows the Attorney General to invest up to $1,215,561 of the settlement proceeds under the supervision of the State Investment Board for the period beginning July 1, 2019, and ending June 30, 2025.

In September 2019, the Attorney General invested $1.1 million with the State Investment Board. Through March 2020, the Attorney General has provided $141,354 of salary equity raises to 29 full-time equivalent (FTE) attorney positions. The Attorney General anticipates spending $377,000 of the $425,000 appropriation during the 2019-21 biennium.

[3]The Attorney General has indicated that a court rarely awards refunds to specific consumers, instead awarding refunds to organizations such as the Housing Finance Agency.

[4]The other expenditures are not specifically authorized in Section 54-12-18 but are appropriated as part of the Attorney General's biennial appropriation.

[5]Technology project carryover expenditures relate primarily to the criminal history repository replacement project, which was started during the 2011-13 biennium to rewrite the existing criminal history repository system. The criminal history repository replacement project consists of various smaller projects. The Attorney General budgeted $450,000 on the project during the 2011-13 biennium, $2.3 million during the 2013-15 biennium, and $970,000 during the 2015-17 biennium, totaling $3.72 million, all from the Attorney General refund fund. Actual project expenditures during the 2015-17 biennium totaled $1,293,452, of which $188,608 was for general information technology operating expenditures and $1,104,844 was from project carryover authority from the 2013-15 biennium. Of the total $3,720,000 approved for the project since the 2011-13 biennium, actual expenditures through the 2015-17 biennium totaled $3,091,659. The Attorney General spent an additional $308,936 on the project during the 2017-19 biennium and anticipates spending an additional $400,000 during the 2019-21 biennium, resulting in a total estimated project cost of $3,800,595.

[6]Senate Bill No. 2003 (2019) includes one-time funding of $558,000 from the Attorney General refund fund, of which $400,000 is for the criminal history improvement project and $158,000 is for an automated fingerprint identification system replacement project. The bill also appropriates $158,000 from federal funds for the automated fingerprint identification system replacement project, providing a total of $316,000 for the project during the 2019-21 biennium.

[7]Section 54-12-18 provides at the end of each biennium, any balance in the Attorney General refund fund in excess of the amount necessary to fulfill the requirements of the fund must be deposited in the general fund. In Section 3 of Senate Bill No. 2003 (2019), the Legislative Assembly authorized the Attorney General to retain the June 30, 2019, balance in the Attorney General refund fund rather than transferring the balance to the general fund. As a result, no funding from the Attorney General refund fund was transferred to the general fund at the end of the 2017-19 biennium, allowing the Attorney General to use the remaining balance in the Attorney General refund fund during the 2019-21 biennium. See the **FUND HISTORY** section for additional information on exemptions granted to the Attorney General.

FUND HISTORY

Section 54-12-18, created by House Bill No. 1141 (1989), establishes the Attorney General refund fund. The section was amended by the 1991, 1993, 1999, and 2001 Legislative Assemblies and currently provides when the Attorney General's Consumer Protection Division recovers funding for cases involving the violation of consumer fraud laws, the Attorney General is required to deposit the funding in the Attorney General refund fund. Funding recovered by the Consumer Protection Division for the following costs must also be deposited in the fund:

1. Refunds related to Consumer Protection Division expenditures, attorney's fees, and civil penalties regarding consumer protection or antitrust matters;
2. Cash deposit bonds paid by applicants for a transient merchant's license when surety bonds are not provided; and
3. Funds and fees collected by the gaming section for licensing tribal gaming and the investigation of gaming employees, applicants, organizations, manufacturers, distributors, or tribes involved in state or tribal gaming.

Funding in the Attorney General refund fund is appropriated to the Attorney General on a continuing basis for the following purposes:

1. Provide refunds from funds recovered by the Consumer Protection Division to specifically named consumers;
2. Pay valid claims against cash deposit bonds posted by transient merchant licensees;
3. Refund the balance of any cash deposit bond remaining after the payment of valid claims. Refunds will be issued 2 years after the expiration of the transient merchant's license;
4. Pay expenditures, attorney's fees, and salaries incurred in the operation of the Consumer Protection Division; and
5. Pay the actual costs of background investigations, licensing, and enforcement of gaming in the state or pursuant to Indian gaming compacts.

At the end of each biennium, any money in the fund in excess of the amounts required for numbers 1, 2, 3, and 5 above must be deposited in the general fund. The Attorney General and director of OMB are required to establish accounting procedures for the Attorney General refund fund.

Since the 2001 legislative session, each Legislative Assembly has provided the Attorney General with an exemption to allow unexpended funds from the Attorney General refund fund to continue to be spent in each subsequent biennium. The following table provides information regarding these exemptions:

Biennium	Bill No.	Section	Exemption Limitation[1]
2001-03	1003	8	$100,000
2003-05	2003	4	No limitation specified
2005-07	1003	11	No limitation specified
2007-09	2003	15	No limitation specified
2009-11	1003	13	No limitation specified
2011-13	2003	9	No limitation specified
2013-15	1003	3	No limitation specified
2015-17	2003	4	No limitation specified
2017-19	1003	16	No limitation specified
2019-21	2003	3	No limitation specified

[1]Section 8 of House Bill No. 1003 (2001) allowed the Attorney General to continue up to $100,000 of unexpended funds from the Attorney General refund fund to be spent during the 2001-03 biennium while any remaining amount in excess of $100,000 was required to be returned to the general fund at the end of the 1999-2001 biennium. Exemptions granted in subsequent bienniums have not been limited to a specific dollar amount, allowing the Attorney General to continue using the full balance of the Attorney General refund fund each biennium.

ANALYSIS OF THE BEGINNING FARMER REVOLVING LOAN FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual[1]		2019-21 Biennium Estimated[1]	
Beginning cash balance		$6,080,229		$5,944,481
Add revenues				
Transfers of Bank of North Dakota profits (2017 SB 2014; 2019 HB 1014)	$6,000,000		$6,000,000	
Transfers from partnership in assisting community expansion (PACE) funds[2]	500,000		0	
Recoveries from loans previously written-off	0		0	
Investment interest	13,107		31,200	
Total revenues		6,513,107		6,031,200
Total available		$12,593,336		$11,975,681
Less expenditures and transfers				
Interest rate buydowns	$5,137,355		$5,500,000	
Transfers to PACE funds[2]	1,500,000		70,000	
Transfers to the value-added agriculture equity loan program[3]	0		0	
Public Service Commission rail rate complaint case (2017 HB 1008; 2019 SB 2008)[4]	0		0	
Intermodal container transportation shipping fees (2019 HB 1018)[5]	0		0	
Administrative expenses including audit fees	11,500		12,000	
Total expenditures and transfers		6,648,855		5,582,000
Ending cash balance		$5,944,481		$6,393,681

[1]The beginning and ending cash balances do not include the value of the outstanding loans because the loans are reflected on the Bank of North Dakota's balance sheet.

[2]Sections 6-09.13-04 and 6-09-15.5 authorize the Bank of North Dakota to transfer any unobligated funds that have been appropriated for interest rate buydowns between the beginning farmer revolving loan fund, the Ag PACE fund and other PACE funds. The Bank transferred $1,500,000 for the 2017-19 biennium and $70,000 for the 2019-21 biennium through March 2020. No other transfers are anticipated for the 2019-21 biennium.

[3]Section 6-09-15.5 authorizes the Bank of North Dakota to transfer up to $1 million per biennium of unobligated funds from the beginning farmer revolving loan fund to the value-added agriculture equity loan program. No transfers are anticipated for the 2019-21 biennium.

[4]The 2017 and 2019 Legislative Assemblies authorized the transfer of up to $900,000 from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. Any amounts spent by the Public Service Commission must be reimbursed to the beginning farmer revolving loan fund using the amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail rate complaint case. No transfers are anticipated during the 2019-21 biennium.

[5]House Bill No. 1018 (2019) provides up to $1.3 million from the beginning farmer revolving loan fund to the Department of Commerce to pay intermodal container transportation shipping fees if the containers are unable to be shipped resulting in fees to transport the containers to new locations. No transfers are anticipated during the 2019-21 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $5,780,229. The estimated balance increased by $613,452 primarily related to a decrease in interest rate buydowns and a decrease in funding for intermodal container transportation shipping fees.

FUND HISTORY

The beginning farmer revolving loan fund was established in Senate Bill No. 2220 (1983) and is maintained to provide interest rate buydowns on loans to beginning farmers for the first purchase of farm real estate or chattels. The beginning farmer revolving loan fund is administered by the Bank of North Dakota pursuant to Section 6-09-15.5.

ANALYSIS OF THE STATE BONDING FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Estimated beginning balance		$3,568,246		$3,642,127
Add estimated revenues				
Investment income	$242,849		$281,515	
State bonding fund claims collections	0		30,000	
Game and fish bonds	2,661		1,190	
Total estimated revenues		245,510		312,705
Total available		$3,813,756		$3,954,832
Less estimated expenditures and transfers				
Claim liabilities/payments/write-offs	$104,232		$102,986	
Claims-related expenses	0		0	
Investment expense	7,140		9,023	
Administration	60,257		11,641	
Total expenditures and transfers		171,629		123,650
Estimated ending balance		$3,642,127		$3,831,182

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. 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.

Senate Bill No. 2010 (2019) authorizes the Insurance Commissioner to contract with the North Dakota Insurance Reserve Fund for administration of the state bonding fund. The bill also provides continuing appropriation authority from the state bonding fund to the Insurance Commissioner to pay contractual fund administration costs to the North Dakota Insurance Reserve Fund.

ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$38,308,669		$666,415,898
Add revenues				
Investment income	$5,096,375[1]		$11,687,319[1]	
Oil and gas tax collections	75,000,000[2]		48,431,258[2]	
Transfer from general fund	548,010,854[3]		0	
Total revenues		628,107,229		60,118,577
Total available		$666,415,898		$726,534,475
Less expenditures and transfers				
None	$0		$0	
Total expenditures and transfers		0		0
Ending balance		$666,415,898		$726,534,475

[1]Interest earnings are retained in the fund unless the balance of the fund is at the maximum amount allowed under Section 54-27.2-01.

[2]Section 57-51.1-07.5 provides for the deposit of up to $75 million of the state share of oil and gas tax collections into the budget stabilization fund each biennium. The entire $75 million amount is not anticipated to be deposited into the fund during the 2019-21 biennium due to the fund reaching its fund limit.

[3]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 15 percent of the general fund budget approved by the most recently adjourned Legislative Assembly. The 2019-21 biennium general fund appropriations approved by the 2019 Legislative Assembly total $4,843,563,166; therefore, the 15 percent maximum budget stabilization fund balance is $726,534,475 for the 2019-21 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $483,883,648. The increase in the estimated balance of $242,650,827 is due to the transfer from the general fund to the budget stabilization fund at the end of the 2017-19 biennium being larger than anticipated.

FUND HISTORY

The budget stabilization fund was established by the Legislative Assembly in House Bill No. 1596 (1987). 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 originally provided any money in the fund in excess of 10 percent of the general fund budget, as approved by the most recently adjourned Legislative Assembly, must be deposited in the general fund. House Bill No. 1451 (2011) decreased 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. House Bill No. 1155 (2017) increased the maximum balance allowed in the fund from 9.5 to 15 percent of the general fund budget, as approved by the most recently adjourned Legislative Assembly.
- Section 54-27.2-02 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.
- 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 OMB projects a general fund revenue shortfall. The section originally limited the transfer 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. House Bill No. 1155 (2017) revised the section to allow for transfers from the budget stabilization fund to the general fund as follows:

After general fund allotments totaling at least 3 percent have been made under Section 54-44.1-12, the Governor may order a transfer of up to an amount equal to 3 percent of general fund appropriations;

After the previous transfer has been made and an additional 1 percent general fund budget allotment has been made, the Governor may order a transfer of up to 2 percent of general fund appropriations;

After the previous transfer has been made and an additional 1 percent general fund budget allotment has been made, the Governor may order a transfer of up to 3 percent of general fund appropriations; and

After the previous transfer has been made and an additional 1 percent general fund budget allotment has been made, the Governor may order a transfer of any remaining funds in the budget stabilization fund.

The amount of transfers from the budget stabilization fund to the general fund may not exceed the difference between the original and revised general fund revenue forecasts less general fund allotments made under Section 54-44.1-12. For purposes of the transfers, total general fund allotment percentages must be based on allotments made after any allotment exemption granted by the director of the budget.

ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS[1]

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$5,089,876		$6,548,609
Add revenues				
Investment income	$294,183		$293,313	
Governor's residence fundraising	387,000		0	
Rentals, royalties, and bonuses	4,031,139		2,338,481	
Total revenues		4,712,322		2,631,794
Total available		$9,802,198		$9,180,403
Less expenditures and transfers				
Administrative expenses	$43,986		$46,000	
Investment expenses	28,023		0	
Income payments to counties[2]	6,580		6,800	
Capitol Grounds Planning Commission continuing appropriation (Section 48-10-02)[3]	175,000		250,000	
Capitol Grounds Planning Commission operating expenses (2017 HB 1015; 2019 SB 2015)	25,000		25,000	
OMB Capitol projects (2017 HB 1015; 2019 SB 2015)	1,245,563[4]		4,220,000[4]	
Legislative Assembly digital signage and voting system upgrades (2019 HB 1001)			140,000	
Judicial branch Supreme Court law library space remodel (2019 HB 1002)			970,000	
Governor's residence (2015 SB 2304)	1,729,437[5]			
Total expenditures and transfers		3,253,589		5,657,800
Ending balance		$6,548,609		$3,522,603

[1]The analysis reflects the legislative appropriations for the 2017-19 and 2019-21 bienniums 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 20 of Senate Bill No. 2015 (2019) amended Section 48-10-02 to increase a continuing appropriation to the Capitol Grounds Planning Commission from $175,000 per biennium to $250,000 per biennium of income and interest of the Capitol building fund. The amount that may be spent may not exceed 50 percent of the unencumbered balance of the fund on the 1st day of the biennium.

[4]The Legislative Assembly, in House Bill No. 1015 (2017), authorized the $1.4 million appropriated by the 2015 Legislative Assembly for Capitol building entrance and signage projects to be continued into the 2017-19 biennium to provide up to $1 million for extraordinary repairs and the remaining amount for Capitol building entrance and signage projects. Senate Bill No. 2015 (2019) appropriates one-time funding of $4.22 million from the fund for a Capitol building south entrance project ($2 million), extraordinary repairs ($1.9 million) and special assessments on the Capitol grounds ($320,000).

[5]Funding of $4 million was appropriated from the Capitol building fund by the Legislative Assembly in Senate Bill No. 2304 (2015), for the demolition of the existing Governor's residence and the construction of a new residence. The bill also included an appropriation of $1 million from private donations for a total appropriation of $5 million for the project, which continued into the 2017-19 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $2,629,136. The increase in the estimated balance of $893,467 is primarily due to an increase in the estimated revenue from mineral royalties, rents, and bonuses, during the 2019-21 biennium.

ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$623,004[1]		$352,336[2]
Add revenues				
Investment income	$2,282		$147[3]	
Refunds from previously awarded grants	292,940[4]			
Total revenues		295,222		147
Total available		$918,226		$352,483
Less expenditures and transfers				
Administrative expenses	$5,975[5]			
Centers of excellence grants funding distributions	559,915			
Transfers to Research North Dakota fund			$352,483[2,3]	
Total expenditures and transfers		565,890		352,483
Ending balance		$352,336[2]		$0[2,3]

[1]The 2009 Legislative Assembly provided $31,070,541 for the centers of excellence fund, including a transfer of $15 million from the general fund, a contingent transfer of $5 million from the general fund, a transfer of $4.45 million from the general fund related to centers of excellence grants awarded but not distributed, and $6,620,541 from the permanent oil tax trust fund related to unexpended 2007-09 biennium centers of excellence funding.

[2]In Section 7 of Senate Bill No. 2224 (2019), the Legislative Assembly provided for a transfer of any balance in the centers of excellence fund to the Research North Dakota fund on July 1, 2019. Section 6 of the bill repeals the centers of excellence program and fund on July 1, 2019. The balance remaining at the end of the 2017-19 biennium was $352,336, which was transferred to the Research North Dakota fund in August 2019.

[3]Investment income earned on money in the centers of excellence fund during the 2017-19 biennium was credited to the fund in August and September 2019. In October 2019, a transfer of $147 was made from the centers of excellence fund to the Research North Dakota fund, resulting in a centers of excellence fund balance of $0.

[4]In February 2018 and February 2019 the Department of Commerce received refunds totaling $292,940 from North Dakota State University (NDSU). North Dakota State University had been awarded this funding during the 2005-07, 2009-11, and 2011-13 bienniums for six centers of excellence centers. Of this amount, $158,984 was received due to the Center for Advanced Technology Development and Commercialization not spending centers of excellence funding prior to closing in December 2016. The remaining $133,956 was received from five centers due to the allowable time for grant expenditures expiring.

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

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $0, the same as the current estimate, due to the repeal of the centers of excellence program and fund.

FUND HISTORY

Section 15-69-06 (Senate Bill No. 2018 (2009)) established a centers of excellence fund. Money in the fund was 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 was retained in the fund. The Legislative Assembly did not appropriate new funding to the centers of excellence fund for the 2011-13, 2013-15, 2015-17, or 2017-19 bienniums. Estimated expenditures relate to centers of excellence grants awarded in prior bienniums. The Legislative Assembly approved Senate Bill No. 2057 (2011), which would have repealed the centers of excellence program and fund on August 1, 2023. The Legislative Assembly approved Senate Bill No. 2224 (2019), which repealed Chapter 15-69 related to the centers of excellence program and fund on July 1, 2019.

ANALYSIS OF THE CENTERS OF RESEARCH EXCELLENCE FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance[1]		$2,264,626[1]		$1,085,658[2]
Add revenues				
Investment income	$4,124		$453[3]	
Refunds from previously awarded grants[4]	5,970			
Total revenues		10,094		453
Total available		$2,274,720		$1,086,111
Less expenditures and transfers				
Administrative expenses[5]	$3,000			
Centers of research excellence grants				
NDSU[6]	972,872			
University of North Dakota (UND)[6,7]				
Base realignment grants				
UND[7]	213,190			
Transfers to the Research North Dakota fund			$1,086,111[2,3]	
Total expenditures and transfers		1,189,062		1,086,111
Ending balance		$1,085,658[2]		$0[2,3]

[1]The 2011 Legislative Assembly 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. Of this amount, $4 million was designated 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. The remaining $8 million was designated for centers of research excellence grants. See footnote 6 for additional information.

[2]In Section 7 of Senate Bill No. 2224 (2019), the Legislative Assembly provided for a transfer of any balance in the centers of research excellence fund to the Research North Dakota fund on July 1, 2019. Section 6 of the bill repealed the centers of research excellence program and fund on July 1, 2019. The balance remaining at the end of the 2017-19 biennium was $1,085,658, which was transferred to the Research North Dakota fund in August 2019.

[3]Investment income earned on money in the centers of research excellence fund during the 2017-19 biennium was credited to the fund in August and September 2019. In October 2019, a transfer of $453 was made from the centers of research excellence fund to the Research North Dakota fund, resulting in a centers of research excellence fund balance of $0.

[4]In February 2018 the Department of Commerce received a refund of $4,672 from NDSU. North Dakota State University had been awarded this funding during the 2011-13 biennium for the NDSU Center for Life Sciences Research and Applications. However, the allowable time for the center to spend centers of research excellence funding expired, resulting in the refund. In May 2018 the department received a refund of $1,298 from UND. The University of North Dakota was awarded this funding during the 2015-17 biennium for the Center for Gas Utilization. However, the allowable time for the center to spend centers of research excellence funding expired, resulting in the refund.

[5]Section 54-65-05 authorized the Department of Commerce to use funds available within the centers of research excellence fund for the department's administrative expenses.

[6]The amount of centers of research excellence grants awarded originally in the 2011-13 biennium totaled $4,813,750. Of this amount, the Center for Life Sciences Research and Applications at NDSU was awarded $1,350,000. However, the center has been closed by NDSU, resulting in $1,100,000 of grants becoming uncommitted. As a result, the Centers of Excellence Commission opened a special base realignment grant round under Section 54-65-04 during the 2015-17 biennium. In February 2017 the Department of Commerce awarded $1,212,145 of grant funds to UND for base realignment grants.

Of the remaining $250,000 awarded and distributed to the Center for Life Sciences Research and Applications, $44,672 was refunded to the Department of Commerce due to the allowable time for the center to spend the centers of research excellence funding expiring, resulting in $205,328 awarded and spent by the Center for Life Sciences Research and Applications. The Center for Gas Utilization also refunded $1,298 of the $300,000 awarded and distributed by the department, resulting in $298,702 available to the Center for Gas Utilization.

The Department of Commerce distributed $972,872 of centers of research excellence grants to NDSU during the 2017-19 biennium. However, funding previously awarded, but not distributed, was not accepted by the NDSU Center for Technologically Innovative Processes and Products and the UND Center for Biobased Materials Science and Technology due to the centers believing certain projects could not be completed within the time frame allowed for the program, resulting in a total of $2,889,050 awarded and distributed for the program.

NDSU	
Center for Life Sciences Research and Applications	$205,328
Center for Technologically Innovative Processes and Products	320,000
Center for Technologically Innovative Processes and Products 2	1,009,970
UND	
Center for Avian Therapeutics for Infectious Diseases	700,000
Center for Gas Utilization	298,702
Center for Biobased Materials Science and Technology 1	355,050
Total	$2,889,050

[7]Of the $4,000,000 available to UND through the centers of research excellence program from funds appropriated for the 2011-13 biennium, $3,000,000 was designated for Grand Forks 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 2011-13 biennium are available for the centers of research excellence program. The amount of base realignment grants awarded originally totaled $2,840,400. Due to NDSU closing the Center for Life Sciences Research and Applications, $1,212,145 of centers of research excellence grants became uncommitted. In February 2017 the Department of Commerce awarded an additional $1,212,145 of grant funds to UND for base realignment grants, resulting in a total amount of base realignment grants awarded of $4,052,545.

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 - Unmanned Aircraft System National Test Site	500,000
Enhanced Use Lease for Grand Forks Air Force Base	921,050
Enhanced Use Lease Phase IV for Grand Forks Air Force Base	160,000
Beyond Visual Line of Sight Radar - Unmanned Aircraft System National Test Site	1,212,145
Total	$4,052,545

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $0, the same as the current estimate, due to the repeal of the centers of research excellence program and fund.

FUND HISTORY

Section 12 of Senate Bill No. 2057 (2011) established the centers of research excellence fund. Money in the fund was 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 was retained in the fund.

The 2013 Legislative Assembly designated $8 million of the $12 million for centers of research excellence grants. The Centers of Excellence Commission was not allowed to 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 replaced 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 2nd 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.)

The Legislative Assembly did not appropriate new funding to the centers of research excellence fund for the 2013-15, 2015-17, or 2017-19 bienniums. Expenditures for these bienniums relate to centers of research excellence grants awarded in prior bienniums.

The Legislative Assembly approved Senate Bill No. 2224 (2019), which repealed Sections 54-65-02, 54-65-03, 54-65-04, and 54-65-05 related to the centers of research excellence program and fund on July 1, 2019.

ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual[1]		2019-21 Biennium Estimated[1]	
Beginning balance		$41,579		$83,795
Add revenues				
Investment income[2]	$503,470		$589,500	
School construction loan income[2]	1,413,636		1,211,250	
Total revenues		1,917,106		1,800,750
Total available		$1,958,685		$1,884,545
Less expenditures and transfers				
Investment expense	$74,730		$23,580	
Administrative expenses	5,909		5,000	
Transfer to the general fund[2]	1,794,251		1,680,000	
Total expenditures and transfers		1,874,890		1,708,580
Ending balance		$83,795		$175,965

[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 Section 57-62-02 and Section 21 of Article X of the Constitution of North Dakota. As of December 31, 2019, the total value of permanent fund assets was $70.3 million, of which $41.4 million was school construction loans receivable, $10.9 million was coal impact loans receivable, and $18 million was either cash or short-term investments.

Senate Bill No. 2014 (2017) reduces the allocation of coal severance tax allocations to the coal development trust fund from 30 to 15 percent and provides an allocation of 15 percent to the lignite research fund. The coal severance tax allocations become part of the fund assets which are not reflected in the amounts shown in the table. Senate Bill No. 2272 (2017) amends Section 15.1-36-02 to make available up to $60 million from the fund for loans of up to $2 million for unanticipated school construction projects or emergency repairs.

[2]Section 57-62-02 and Section 21 of Article X 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.

In Senate Bill No. 2039 (2015), the Legislative Assembly created a new school construction assistance loan fund and identified the income from the coal development trust fund as income to the new fund. However, the income from the coal development trust fund will not be transferred to the school construction assistance loan fund because Section 57-62-02 and Section 21 of Article X of the Constitution of North Dakota require the income to be transferred to the general fund. The provisions to continue to transfer the income to the general fund are included in Senate Bill Nos. 2101 and 2272 (2017).

FUND HISTORY

The coal development trust fund originated with the passage of House Bill No. 1257 (1979), now codified as various sections of Chapter 57-62. In 1980 the voters of North Dakota approved Constitutional Measure No. 5, Section 21 of Article X 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 2017-19 AND 2019-21 BIENNIUMS

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

The following is a summary of actual and estimated assets, distributions, and investment returns for the common schools trust fund for the 1997-99 through 2019-21 bienniums:

Biennium	Fiscal Year	Beginning Assets (Excluding Land and Mineral 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	.50%
2015-17	2016	$3,437,988,002	$103,067,000	(0.63%)
	2017	$3,512,355,582	$103,067,000	9.50%
2017-19	2018	$3,940,114,988	$144,132,000	6.50%
	2019	$4,318,989,728	$144,132,000	3.87%
2019-21[1]	2020	$4,651,515,837	$183,378,000	[2]
	2021	[2]	$183,378,000	[2]

[1]The Legislative Assembly approved Senate Bill No. 2362 (2019), which changed the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands, increasing the allocation to the common schools trust fund. In addition, Senate Bill No. 2362 provides, if the actual legacy fund earnings transferred to the general fund at the end of the 2019-21 biennium in accordance with Section 26 of Article X of the Constitution of North Dakota exceed the estimate made by the 66th Legislative Assembly by at least $64,370,000, the State Treasurer must immediately transfer $64,370,000 from the general fund to the common schools trust fund, for the biennium beginning July 1, 2019, and ending June 30, 2021.

[2]Section 2 of Article IX of the Constitution of North Dakota was amended in November 2006 through voter approval of Measure No. 1 (House Concurrent Resolution No. 3037 (2005)). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. The amendment became effective July 1, 2009, and distributions 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 5-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 $4,621,113,550 as of June 30, 2020.**

MONEY DEPOSITED IN THE COMMON SCHOOLS TRUST FUND
Select Constitutional Provisions

Article IX, Section 1

This section provides 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. Measure No. 1 (2006), approved by voters, removed the reference to bonuses related to leasing and provided that revenues earned by a perpetual trust fund must be deposited in the fund.

Article IX, Section 5

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

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

Article X, Section 24

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

This section was enacted in 1994 through voter approval of Measure No. 1 (Senate Concurrent Resolution No. 4011 (1993)). In November 2016 voters approved Senate Concurrent Resolution No. 4003 (2015), which provided for a constitutional amendment to Section 24. The amendment allows 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 the most recently completed biennium for education-related purposes and simplifies other language in the section. However, the amendment does not change deposits to the fund or limit the balance in the common schools trust fund, which has not been changed since enactment.

The Legislative Assembly approved Senate Bill No. 2362 (2019), which changed the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands, increasing the allocation to the foundation aid stabilization fund.

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. The Legislative Assembly, in Senate Bill No. 2003 (2015), amended Section 54-27-25 related to the tobacco settlement trust fund to provide the principal and interest of the fund may be appropriated to the Attorney General for the enforcement of the Master Settlement Agreement and any disputes with the agreement. Appropriations made to the Attorney General for enforcement of the Master Settlement Agreement reduce the amount available for transfer from the tobacco settlement trust fund to the common schools trust fund.

Until July 1, 2017, 45 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 was transferred to the common schools trust fund and became a part of the principal of the fund. In House Bill No. 1012 (2017), the Legislative Assembly amended Section 54-27-25 to suspend transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increase transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.

In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to remove authorization for appropriation to the Attorney General for enforcement of the settlement agreement and to provide all money in the fund must be transferred within 30 days of receipt to the community health trust fund. As a result, no additional tobacco settlement proceeds will be deposited into the common schools trust fund.

Tobacco settlement money received by the state and transferred to the common schools trust fund totaled $189,745,840. The following is a summary of actual transfers to the common schools trust fund from the tobacco settlement trust fund, net of funds appropriated from the tobacco settlement trust fund to the Attorney General's office for the enforcement of the Master Settlement Agreement.

Biennium	Total Transfers
1999-2001	$23,805,353
2001-03	23,998,745
2003-05	20,977,122
2005-07	19,722,653
2007-09	27,672,929
2009-11	18,248,834
2011-13	18,108,052
2013-15	19,003,716
2015-17	18,208,436
Total	$189,745,840

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 5-year average value of the trust assets, excluding the value of lands and minerals. This section was amended in November 2006 through voter approval of Measure No. 1 (House Concurrent Resolution No. 3037 (2005)). The

measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. Previously, distributions were based on the amount of interest and income earned by each trust during a fiscal year. The amendment became effective July 1, 2009, and distributions from the common schools trust fund for the 2009-11 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 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 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 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$609,221		$19,858,323
Add revenues				
Transfers to date from the tobacco settlement trust fund	$40,718,102[1]		$21,435,674[1]	
Projected remaining transfers from the tobacco settlement trust fund			18,000,000[2]	
Total revenues		40,718,102[2]		39,435,674[2]
Total available		$41,327,323		$59,293,997
Less expenditures and adjustments				
State Department of Health (2017 SB 2004; 2019 HB 1004)				
Tobacco prevention and control program grants to local public health units for tobacco prevention and control			$6,500,000[3]	
Tobacco prevention and control, including the Tobacco Quitline and the tobacco cessation coordinator and operating expenses	$2,985,394[4]		3,200,000[4]	
Women's Way program	324,519		329,500	
Behavioral Risk Factor State Survey	159,087		270,500	
Dentists' loan repayment program			324,000[5]	
Behavioral health loan repayment program			200,000[6]	
Department of Human Services (DHS) (2017 HB 1012; 2019 SB 2012) - Medical Services Division	18,000,000		32,400,000	
Total expenditures and adjustments		21,469,000		43,224,000
Ending balance		$19,858,323		$16,069,997

[1]Through April 2020 the state has received tobacco settlement payments totaling $21,280,388 for the 2019-21 biennium, all of which has been transferred from the tobacco settlement trust fund to the community health trust fund for the 2019-21 biennium. In addition, the community health trust fund received a transfer of $155,286 from the tobacco settlement trust fund related to funding returned to the tobacco settlement trust fund from an appropriation to the Attorney General for the 2017-19 biennium. During the 2017-19 biennium, tobacco settlement payments included funding released from an escrow account related to the settlement of an ongoing dispute between the state and major tobacco companies over enforcement of the 1998 Tobacco Master Settlement Agreement. The funding released from the escrow account resulted in an additional $20.5 million being deposited in the community health trust fund. In addition, the community health trust fund received a transfer of $87,407 from the tobacco settlement trust fund related to funding returned to the tobacco settlement trust fund from an appropriation to the Attorney General for the 2015-17 biennium. Total transfers of $104,319,518, including funding returned by the Attorney General, 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 general fund. Community health trust fund revenues have been estimated based on actual revenues received through April 2020 and legislative estimates for the 2019-21 biennium. Revenues for the 2017-19 biennium are net of funds provided to the Attorney General's office for the enforcement of the Master Settlement Agreement and related disputes.

Initiated Measure No. 3 (2008) resulted in the allocation shown below of the revised estimated collections for tobacco settlement payments through 2025. In House Bill No. 1012 (2017), the Legislative Assembly amended Section 54-27-25 to suspend transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increase transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund. Transfers from the tobacco settlement trust fund to the water development trust

fund remained at 45 percent. In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to provide all money in the tobacco settlement trust fund must be transferred within 30 days of receipt to the community health trust fund. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on reallocations approved by the 2017 and 2019 Legislative Assemblies:

	Actual and Estimated Total Tobacco Settlement Proceeds, Including Attorney General Costs	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
Actual payments 2013-15 biennium	64.6 million	22.4 million	19.0 million	19.0 million	4.2 million
Actual payments 2015-17 biennium	63.5 million[1]	22.9 million	18.2 million	18.2 million	4.0 million
Actual payments 2017-19 biennium	74.1 million[1]	N/A	0	33.3 million	40.7 million
Estimated 2019-21 biennium	39.2 million	N/A	0	0	39.4 million[2]
Estimated 2021-23 biennium	52.5 million	N/A	0	0	52.5 million
Estimated 2023-25 biennium	52.5 million	N/A	0	0	52.5 million
Total	$549.0 million	$105.7 million	$101.2 million	$134.5 million	$207.5 million

[1]This amount includes $200,000 made available from the tobacco settlement trust fund to the Attorney General for enforcement of the Master Settlement Agreement and any disputes with the agreement, net of unspent funds returned by the Attorney General.

[2]This amount includes unspent funding returned to the tobacco settlement trust fund by the Attorney General.

[3]In 2017 the Legislative Assembly provided $6.5 million from the tobacco prevention and control trust fund to the State Department of Health for grants to local public health units for tobacco prevention and control programs. The Legislative Assembly, in House Bill No. 1004 (2019), provided $6.5 million from the community health trust fund for grants to local public health units for tobacco prevention and control programs during the 2019-21 biennium.

[4]Section 54-27-25 provides money in the community health trust fund may be appropriated 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 Tobacco Quitline to provide nicotine replacement therapy and cessation counseling. The 2007 Legislative Assembly authorized 1 FTE tobacco prevention coordinator position and related funding for salaries and wages and operating expenses for the position. The Legislative Assembly did not approve direct funding for the Tobacco Quitline or the tobacco prevention coordinator position, but appropriated $3.2 million from the community health trust fund for tobacco prevention and control programs during the 2017-19 biennium and the 2019-21 biennium. The State Department of Health anticipates spending $3.2 million from the fund for tobacco prevention and control during the 2019-21 biennium.

[5]In 2017 the Legislative Assembly provided $600,000 to the State Department of Health for the dental loan repayment program for the 2017-19 biennium, of which $360,000 was from the student loan trust fund and $240,000 was from the general fund. The 2019 Legislative Assembly approved a total of $740,000 for the dental loan repayment program, of which $324,000 is from the community health trust fund and $416,000 is from the general fund.

[6]In 2017 the Legislative Assembly provided $243,640 from the tobacco prevention and control trust fund to the State Department of Health for the behavioral health loan repayment program in the 2017-19 biennium. The 2019 Legislative Assembly approved a total of $364,000 for the behavioral health loan repayment program, of which $200,000 is from the community health trust fund and $164,000 is from the general fund.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $12,103,323. The increase in the estimated balance of $3,966,674 is due to the beginning 2019-21 biennium balance being $531,000 more than anticipated due to lower than estimated expenditures from the fund during the 2017-19 biennium and 2019-21 biennium to date and estimated transfers from the tobacco settlement trust fund being $3,435,674 more than estimated.

FUND HISTORY

Section 54-27-25, created by House Bill No. 1475 (1999), established the community health trust fund. This section created 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. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the common schools trust fund. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the water development trust fund.

Section 54-27-25, as amended in Senate Bill No. 2012 (2019), provides all money in the fund must be transferred within 30 days of receipt to the community health 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 pursuant to Section 54-27-25. In 2009, tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, relating to strategic contribution payments, which began in 2008 and continued through 2017, was deposited into the tobacco prevention and control trust fund. The measure also provided 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. However, in Senate Bill No. 2004 (2017), the Legislative Assembly amended Section 54-27-25 to remove the 80 percent restriction on transfers to the community health trust fund.

The Legislative Assembly, in Senate Bill No. 2003 (2015), amended Section 54-27-25 related to the tobacco settlement trust fund to provide the principal and interest of the fund may be appropriated to the Attorney General for the enforcement of the Master Settlement Agreement and any disputes with the agreement. Appropriations made to the Attorney General for enforcement of the Master Settlement Agreement reduce the amount available for transfer from the tobacco settlement trust fund to the community health trust fund. The Legislative Assembly, in Senate Bill No. 2012 (2019), removed this authorization.

ANALYSIS OF THE STATE DISASTER RELIEF FUND FOR THE 2013-15, 2015-17, 2017-19, AND 2019-21 BIENNIUMS

	2013-15 Biennium Actual		2015-17 Biennium Actual		2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$77,651,986		$75,867,942		$36,687,549		$21,987,295
Add revenues								
Interest income	$81,030		$50,723		$73,130		$40,000	
Miscellaneous reimbursements	1,007,480		2,716,118		698,534		100,000	
Oil and gas tax collections	22,000,000[2]		3,482,364[7]		0[8]		0[18]	
Total revenues		23,088,510		6,249,205		771,664		140,000
Total available		$100,740,496		$82,117,147		$37,459,213		$22,127,295
Less estimated expenditures								
Disasters occurring prior to 2009	1,306,121[6]							
2009 flooding	2,530,274[6,11]		247,214[15]		57,462[17]			
January 2010 snowstorm	310,392[6,11]							
2010 flooding	320,896[6,11]		269,007[15]		1,199,702[17]			
April 2010 ice storm	565,976[6,11]		102,560[15]					
2011 flooding	7,430,968[6,11]		6,366,153[15]		2,923,747[17]		3,716,261[19]	
2011 ice storm	616,217[11]		925[15]					
Costs relating to flooding in incorporated cities	1,461,014[6]							
Disaster response coordination contract	400,000[3]		200,000[3]					
State disasters and flood mitigation efforts (road grade raising projects)	91,986[6]		2,562[15]		18,620[17]			
Housing rehab and retention	2,461,071[1]							
Flood-impacted housing assistance grant program	1,500,000[4]		1,088,468[15]					
Disaster recovery planning and technical services	1,031,218[5]		34,810[5]					
Fargo interior flood protection			30,000,000[9]					
Chronic flooding relief			2,000,000[10]					
2013 Red River Valley flood	1,591,135[11]		589,741[15]		912,450[17]			
2013 winter storm	36,116[11]		59,539[15]		628,258[17]		113[19]	
2014 rain storms	219,170[11]		84,122[15]		72,201[17]		100,126[19]	
2017 flooding							613,494[19]	

Federal Emergency Management Agency (FEMA) flood mitigation programs							533,475[19]	
Valley City flood protection	3,000,000[12]							
Double Ditch Historic Site repairs			384,497[13]		1,694,478[13]			
Bismarck area flood protection			4,000,000[14]					
Dickey County FEMA repayment							200,000[19]	
Non-oil-producing township road maintenance and improvement					7,965,000[20]			
Total estimated expenditures and transfers		24,872,554		45,429,598		15,471,918		5,163,469[16]
Estimated ending balance		$75,867,942		$36,687,549		$21,987,295		$16,963,826

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

Relief Assistance	Transfer Amount	Appropriation Authority
Disaster-related expenses	$32,700,000	Section 15 of Senate Bill No. 2371 (2011) 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 the bill 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.
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 and funding to political subdivisions for flood-impacted housing rehabilitation.
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 (DOT) for grants to counties for road grade raising projects on federal aid-eligible roads.
Total	$48,700,000	

[2]House Bill No. 1451 (2011) created Section 57-51.1-07.5 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 $543.79 million is deposited in the general fund, property tax relief fund, and 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.

[3]In Senate Bill No. 2016 (2011), 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. Senate Bill No. 2016 (2015) provided a $200,000 appropriation from the state disaster relief fund for disaster response coordination for the 2015-17 biennium.

[4]Section 4 of House Bill No. 1016 (2013) 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.

[5]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. Senate Bill No. 2016 (2015) appropriated $1 million for continuing the disaster recovery planning and technical assistance contracted services for the 2015-17 biennium.

[6]Section 1 of House Bill No. 1016 (2013) included spending authority of $13.9 million from the state disaster relief fund for expenses related to unclosed state disasters in the 2013-15 biennium.

[7]This amount reflects actual oil tax revenue allocations for the 2015-17 biennium. House Bill No. 1377 (2015) amended Section 57-51.1-07.5 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 $700 million is deposited in the general fund, tax relief fund, and strategic investment and improvements fund;
- The next $22 million is deposited in the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than $25 million; and
- Any additional revenues:

  70 percent into the strategic investment and improvements fund; and

  30 percent into the political subdivision allocation fund.

[8]This amount reflects actual oil tax revenue allocations for the 2017-19 biennium. House Bill No. 1152 (2017) amended Section 57-51.1-07.5 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 $775 million is deposited in the general fund, tax relief fund, budget stabilization fund, strategic investment and improvements fund, and lignite research fund;
- The next $20 million is deposited in the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than $20 million; and
- Any additional revenues are deposited in the strategic investment and improvements fund.

[9]Section 11 of Senate Bill No. 2020 (2015) appropriates $30 million from the state disaster relief fund to the State Water Commission for flood protection projects within the city limits of Fargo.

[10]Section 3 of Senate Bill No. 2016 (2015) appropriates $2 million from the state disaster relief fund to the Adjutant General to provide for repair and replacement of infrastructure and for removal of debris and other health hazards in organized service districts that are experiencing chronic flooding. The Adjutant General is required to consult with the Environmental Division of the State Department of Health regarding the process of environmental cleanup.

[11]Subdivision 9 of Section 1 of Senate Bill No. 2023 (2015) provides a deficiency appropriation of $5 million from the state disaster relief fund for four disasters occurring in 2013 and 2014 ($2.1 million) and for disasters occurring in 2009, 2010, and 2011 ($2.9 million).

[12]Subdivision 6 of Section 1 of Senate Bill No. 2023 (2015) provides a deficiency appropriation of $3 million from the state disaster relief fund to Valley City State University for flood protection.

[13]Section 5 of Senate Bill No. 2018 (2015) appropriates $2 million from the state disaster relief fund for Double Ditch Historic Site repairs. Section 6 of House Bill No. 1018 (2017) appropriates $500,000 from the state disaster relief fund for Double Ditch Historic Site repairs.

[14]Section 15 of Senate Bill No. 2020 (2015) appropriates $4 million from the state disaster relief fund to the State Water Commission for levee projects for the Missouri River Correctional Center ($1.2 million) and for Lincoln Township's Fox Island area ($2.8 million).

[15]Section 1 of Senate Bill No. 2016 (2015) included spending authority of $17.8 million from the state disaster relief fund for expenses related to unclosed state disasters in the 2015-17 biennium.

[16]This amount is an estimate based on actual expenditures through March 31, 2020, and agency estimated expenditures through June 30, 2021.

[17]Section 1 of House Bill No. 1016 (2017) includes spending authority of $8.5 million from the state disaster relief fund for expenses related to unclosed state disasters in the 2017-19 biennium. Section 13 of House Bill No. 1016 (2017) includes carryover authority for amounts related to disaster costs for road grade raising projects. The amount of carryover was estimated to be approximately $100,000.

[18]This amount reflects estimated oil tax revenue allocations for the 2019-21 biennium based on the 2019 legislative revenue forecast. House Bill No. 1066 (2019) and Senate Bill No. 2016 (2019) amend Section 57-51.1-07.5 to provide for the allocation of the state's share of oil and gas tax revenues under Chapters 57-51 and 57-51.1. As amended, the allocation provides that after $685 million is deposited in the general fund, tax relief fund, budget stabilization fund, and lignite research fund, then the next $15 million is deposited in the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than $15 million.

[19]Section 1 of Senate Bill No. 2016 (2019) includes spending authority of $7.1 million from the state disaster relief fund for expenses related to unclosed state disasters in the 2019-21 biennium.

[20]Section 4 of Senate Bill No. 2016 (2019) provides a 2017-19 biennium appropriation of $8.1 million from the state disaster relief fund to the State Treasurer for the purpose of providing distributions to townships in non-oil-producing counties for maintenance and improvement of township roads and bridges.

FUND HISTORY

Section 37-17.1-27 (Section 4 of Senate Bill No. 2012 (2009)) establishes a state disaster relief fund. Any interest or other fund earnings must be deposited in the fund. In Senate Bill No. 2369 (2011), 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 presidentially declared disasters in the state and to require Emergency Commission and Budget Section approval of the use of money in the fund. In Senate Bill No. 2292 (2013), the Legislative Assembly further amended the section to allow money in the fund to be used for wide area search and rescue activities. Section 6 of Senate Bill No. 2055 (2019) further amends Section 37-17.1-27 to allow the fund to be used for the state share of FEMA disaster response, recovery, and mitigation grants, to remove the requirement for Emergency Commission and Budget Section approval of the use of money that has been appropriated by the Legislative Assembly, and to provide for the Adjutant General to report to the Budget Section on fund expenditures.

ANALYSIS OF THE ELECTRONIC HEALTH INFORMATION EXCHANGE FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance[1]		$2,533,511		$2,429,516
Add revenues				
Funds from health information network participants	$1,486,150		$1,454,290	
Funds from DHS[2]	6,333,134		22,034,089	
eHealth Summit	6,488		11,500	
Total revenues		7,825,772		23,499,879
Total available		$10,359,283		$25,929,395
Less expenditures and transfers				
Statewide health information technology and exchange network[2]	$7,929,767		$24,482,321	
Total expenditures and transfers		7,929,767		24,482,321
Ending balance		$2,429,516		$1,447,074

[1]Section 8 of Senate Bill No. 2332 (2009) provided the Industrial Commission transfer, during the 2009-11 biennium, as requested by the director of the Health Information Technology Office, up to $8 million from the Bank of North Dakota's profits 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.

Section 6 of House Bill No. 1021 (2011) amended Section 8 of Senate Bill No. 2332 (2009) to provide the Industrial Commission transfer, during the 2009-11 or 2011-13 biennium, up to $8 million from the Bank of North Dakota's profits to the 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 to the electronic health information exchange fund, and during the 2011-13 biennium, $7.5 million was transferred to the electronic health information exchange fund.

[2]Section 2 of Senate Bill No. 2021 (2017) provides a special funds appropriation of $43,555,133 to the Information Technology Department for a project to expand the North Dakota health information network. The purpose of the funding is to enhance the overall functionality of the North Dakota health information network by providing comprehensive interoperability between all Medicaid providers throughout the state. The project will allow for statewide repositories for analytics, care coordination, credentialing, and advanced directives.

The Department of Human Services anticipates receiving federal Medicaid funding of $40.8 million for the project, which was included in House Bill No. 1012 (2017). The balance will be provided by the payers, providers, and existing state health information network. Funds are expected to be used through the 2021-23 biennium.

The Information Technology Department received $125,100 during the 2015-17 biennium from DHS for advanced planning documents, a state Medicaid plan, and to conduct a care coordination study for the North Dakota health information network. The Information Technology Department received $6,333,134 in the 2017-19 biennium and anticipates receiving $22 million in the 2019-21 biennium from DHS for the network. Expenditures for the network totaled $2,193,908 during the 2015-17 biennium and $7,929,767 during the 2017-19 biennium. The Information Technology Department anticipates total expenditures for the North Dakota health information network of $24.5 million during the 2019-21 biennium and $11.1 million during the 2021-23 biennium.

FUND HISTORY

Section 54-59-27 (Senate Bill No. 2332 (2009)) 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 director of the Health Information Technology Office, in collaboration with the Health Information Technology Advisory Committee.

ANALYSIS OF THE ENERGY IMPACT FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$4,997,365
Add revenues				
Oil and gas tax allocations	$4,000,000		$0	
Transfer from political subdivision allocation fund (2017 SB 2013)	8,000,000[1]		0	
Transfer from strategic investment and improvements fund (2017 SB 2013)	3,000,000		0	
Total revenues		15,000,000		0
Total available		$15,000,000		$4,997,365
Less expenditures and transfers				
Grant to Williston airport (2017 SB 2013)	$10,002,635[2]		$4,997,365[2]	
Transfer to oil and gas impact grant fund (2019 HB 1013)			0[3]	
Total expenditures and transfers		10,002,635		4,997,365
Ending balance		$4,997,365		$0

[1]The Legislative Assembly created the political subdivision allocation fund (House Bill No. 1377 (2015)) to provide additional allocations from oil and gas tax collections to political subdivisions. In Senate Bill No. 2013 (2017), the Legislative Assembly provided the State Treasurer transfer $8 million from the political subdivision allocation fund to the energy impact fund in August 2017.

[2]The 2017 Legislative Assembly appropriated $15 million from the energy impact fund to the Department of Trust Lands for a grant to the Williston airport. A grant may be awarded only when any related federal funding is committed and available to be spent on the new airport construction project. The entire $15 million was awarded to the Williston airport in the 2017-19 biennium. The amounts shown reflect the grant payments to the Williston airport.

[3]In House Bill No. 1013 (2019), the Legislative Assembly repealed the fund and provided for a transfer of any remaining funds to the oil and gas impact grant fund at the end of the 2019-21 biennium. The Department of Trust Lands does not anticipate any remaining funds will need to be transferred to the oil and gas impact grant fund.

FUND HISTORY

The energy impact fund was established by the Legislative Assembly (Senate Bill No. 2013 (2017)), and the funds may be spent pursuant to legislative appropriations. The fund receives oil and gas gross production tax allocations pursuant to Section 57-51-15. The section provides that from the first $5 million allocated to counties that received $5 million or more of oil and gas gross production tax allocations in the most recently completed even-numbered fiscal year, a total of $2 million per fiscal year is allocated to the energy impact fund with the remainder allocated to the counties. This allocation change is only for the 2017-19 biennium. In House Bill No. 1013 (2019), the Legislative Assembly repealed the fund and provided for a transfer of any remaining funds to the oil and gas impact grant fund at the end of the 2019-21 biennium.

ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$4,527,455		$3,655,681
Add revenues				
Pesticide registration fees (Section 4.1-34-03)[1]	$4,746,704		$4,700,000	
Weed seed-free forage (Section 4.1-14-04)[2]	31,323		38,000	
Fertilizer registration, inspection, and tonnage fees (Sections 4.1-40-02, 4.1-40-03, and 4.1-40-07)[3,4]	1,360,039		1,400,000	
Commercial feed registration, inspection, and tonnage fees (Section 4.1-41-19)[5]	727,500		727,500	
Total revenues		6,865,566		6,865,500
Total available		$11,393,021		$10,521,181
Less expenditures and transfers				
Agriculture Commissioner (2017 HB 1009; 2019 SB 2009)				
Administrative Services Division	$95,186		$333,953	
Marketing and Information Division[6]	260,960		325,947	
Wildlife Services program[7]	384,400		433,800	
Animal Health Division (State Veterinarian)[7]	74,989		108,666	
Plant Industries Division[8]	1,572,362		1,712,163	
Livestock Development Division[6]	287,408			
Pesticide and Fertilizer Division	2,847,065		3,279,018	
Grain Inspection and Feed Division[6]			337,252	
Crop Protection Product Harmonization and Registration Board (2017 HB 1009; 2019 SB 2009)[9]				
Crop protection product registration, labeling, and grants	63,967		75,000	
Minor use pesticide registration	325,000		325,000	
State Department of Health (2017 SB 2004) / Department of Environmental Quality (2019 HB 1024)				
Ground water testing, including a $50,000 grant for the North Dakota Stockmen's Association environmental services program[10]	252,955		250,000	
Adjutant General (2019 SB 2024)[11]				
Emergency hay operation loan repayment	1,573,048			
Total expenditures and transfers		7,737,340		7,180,799
Ending balance		$3,655,681		$3,340,382

[1]The Legislative Assembly approved Senate Bill No. 2009 (1999), which amended Section 19-18-04, increased the biennial pesticide registration fee by $50, from $300 to $350. House Bill No. 1009 (2009) further amended Section 19-18-04 to deposit all pesticide registration fees in the environment and rangeland protection fund rather than a portion in the general fund. In Senate Bill No. 2027 (2017), Section 19-18-04 was repealed and rewritten as Section 4.1-34-03 as part of the rewrite of agriculture statutes.

[2]Chapter 4.1-14 allows the Agriculture Commissioner to certify forage acreage as being free of certain weeds and weed seed. Section 4.1-14-04 provides the Agriculture Commissioner a continuing appropriation to certify forage acreage using fees charged for certifications. The Agriculture Commissioner may set and charge the fees. All weed seed-free forage fee revenue must be deposited in the environment and rangeland protection fund.

[3]House Bill No. 1321 (2011) repealed Section 19-20.2-08.1 that provided for the deposit of 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. In Senate Bill No. 2017 (2017), Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 were rewritten as Sections 4.1-40-02, 4.1-40-03, and 4.1-40-07, respectively.

[5]Section 4.1-41-19 provides for the deposit of 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]Beginning in the 2019-21 biennium, the Agriculture Commissioner combined the Livestock Development Division with the Marketing and Information Division for budgeting purposes. A Livestock Industries Division has been created for the administration of the department's meat inspection and dairy inspection programs; however, this division is not budgeted for environment and rangeland protection funding for the 2019-21 biennium. The Agriculture Commissioner also created a Grain Inspection and Feed Division as a result of the 2019 Legislative Assembly transferring the grain warehouse license and inspection program from the Public Service Commission to the Agriculture Commissioner.

[7]House Bill No. 1009 (2017) provides for a portion of funding for the Wildlife Services program ($384,400) and the State Board of Animal Health ($74,989) to be paid from the environment and rangeland protection fund during the 2017-19 biennium. Senate Bill No. 2009 (2019) provides for a portion of funding for the Wildlife Services program ($433,800) and the State Board of Animal Health ($108,666) to be paid from the environment and rangeland protection fund during the 2019-21 biennium.

[8]House Bill No. 1009 (2017) included a one-time appropriation of $120,000 from the environment and rangeland protection fund to the Agriculture Commissioner for the national genomics center during the 2017-19 biennium.

[9]Section 4-35-30, as created by House Bill Nos. 1009 (2001) and 1328 (2001), created the Crop Protection Product Harmonization and Registration Board. In Senate Bill No. 2027 (2017), Section 4-35-30 was rewritten as Section 4.1-39-02. The duties of the board relate to crop protection product labeling and registration. In House Bill No. 1009 (2017), the Legislative Assembly appropriated $75,000 from the environment and rangeland protection fund to the Agriculture Commissioner for the Crop Protection Product Harmonization and Registration Board for the 2017-19 biennium. During the biennium, the board spent $63,967 of the $75,000 appropriation. In Senate Bill No. 2009 (2019), the Legislative Assembly appropriated $75,000 from the fund for the board for the 2019-21 biennium.

[10]In Senate Bill No. 2004 (2017), the Legislative Assembly appropriated $250,000, including a $50,000 grant for the North Dakota Stockmen's Association environmental services program, to the State Department of Health for the 2017-19 biennium. The department spent a total of $252,955, exceeding the appropriation by $2,955. The State Auditor has identified this discrepancy in the June 30, 2019, audit report of the State Department of Health. In House Bill No. 1024 (2019), the Legislative Assembly appropriated $250,000, including a $50,000 grant for the North Dakota Stockmen's Association environmental services program to the Department of Environmental Quality for the 2019-21 biennium.

[11]Senate Bill No. 2024 (2019) appropriated $1,586,061 from the environment and rangeland protection fund to the Adjutant General during the 2017-19 biennium to repay a Bank of North Dakota loan authorized during an August 2017 special meeting of the Emergency Commission. The Adjutant General obtained loan proceeds of $1.5 million from the Bank for disaster costs for an emergency hay transportation program for livestock producers experiencing hardship from drought conditions in the state. The loan proceeds were transferred to the Agriculture Commissioner to administer the program. The amount appropriated in Senate Bill No. 2024 included the repayment of $86,061 of interest on the loan, which was calculated based on a repayment date of June 30, 2019. The loan was repaid in April 2019 at a total cost of $1,573,048, including $73,048 of interest. The remaining $13,013 was canceled at the end of the 2017-19 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $2,666,648. The increase of $673,734 in the estimated balance of $3,340,382 is due to the department experiencing multiple vacancies during the 2017-19 biennium, resulting in less funding needed from the environment and rangeland protection fund for salaries in the administrative services, plant industries, livestock development, and pesticide and fertilizer divisions.

FUND HISTORY

Section 19-18-02.1, created by Senate Bill No. 2451 (1991), established 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 Section 19-18-04, as amended by House Bill No. 1009 (2009), beginning with the 2009-11 biennium, the entire pesticide registration fee is deposited in the environment and rangeland protection fund rather than a portion in the general fund.

In Senate Bill No. 2027 (2017), Sections 19-18-02.1 and 19-18-04 were repealed and rewritten as Sections 4.1-39-07 and 4.1-34-03, respectively, as part of the rewrite of agriculture statutes.

ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$20,804,390		$21,927,895
Add estimated revenues				
Premium collections	$10,664,351		$11,257,462	
Investment income (loss)	2,604,815		2,071,277	
Boiler inspection fees	688,246		175	
Loss claims and insurance recoveries	81,291		1,099,332	
Total estimated revenues		14,038,703		14,428,246
Total available		$34,843,093		$36,356,141
Less estimated expenditures and transfers				
Loss claims payments	$4,441,907		$5,306,588	
Claims-related payments, including reinsurance costs	6,862,787		8,353,037	
Administration	750,250		1,005,432	
Boiler inspection program (2017 HB 1010, 2019 HB 1024)	688,248		882,249	
Investment expense	69,968		79,202	
State Fire Marshal program (Section 18-01-35)	102,038		130,000	
Total estimated expenditures and transfers		12,915,198		15,756,508
Estimated ending balance		$21,927,895		$20,599,633

FUND HISTORY

The 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. 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. Chapter 26.1-22.1 provides for a boiler inspection program under the Insurance Commissioner and provides for the deposit of boiler inspection fees in the state fire and tornado fund.

Senate Bill No. 2010 (2019) authorizes the Insurance Commissioner to contract with the North Dakota Insurance Reserve Fund for administration of the state fire and tornado fund. The bill also provides continuing appropriation authority from the state fire and tornado fund to the Insurance Commissioner to pay contractual fund administration costs to the North Dakota Insurance Reserve Fund. The bill also transfers the boiler inspection program from the Insurance Commissioner to the Department of Environmental Quality.

ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$621,854,625		$422,117,621
Add revenues				
Oil extraction tax allocations	$178,752,284		$145,147,362[1]	
Total revenues		178,752,284[2]		145,147,362[2]
Total available		$800,606,909		$567,264,983
Less expenditures and transfers				
Department of Public Instruction - State school aid (2017 HB 1013; 2019 SB 2013)	$110,000,000		$110,000,000	
Department of Public Instruction - One-time funding for state school aid (2017 HB 1013)	185,000,000			
Department of Public Instruction - One-time funding to rewrite the state automated reporting system application (2019 SB 2013)			1,200,000	
Department of Public Instruction - One-time funding for regional education association merger grants (2017 HB 1013)	25,000			
Department of Public Instruction - One-time funding for rapid enrollment grants (2017 SB 2272; 2019 SB 2265)	6,000,000[3]		3,000,000[3]	
Department of Public Instruction - One-time funding for music education grants (2019 SB 2265)			800,000[3]	
Department of Public Instruction - One-time funding for English language learner grants (2017 SB 2272)	495,317[3]			
Department of Career and Technical Education - One-time funding for grants to school districts and area centers, including $50,000 for the Marketplace for Kids program (2017 SB 2019)	1,968,971[3]			
Transfer to the school construction assistance revolving loan fund (2017 SB 2272; 2019 SB 2214)	75,000,000[3]		75,000,000[3]	
Total expenditures and transfers		378,489,288[4]		190,000,000[4]
Ending balance		$422,117,621		$377,264,983
Less required reserve of 15 percent of the general fund appropriation for state school aid and career and technical education grants to school districts and area centers during the prior biennium		269,168,800[5]		214,831,704[6]
Ending balance available		$152,948,821		$162,433,279

[1]Estimated revenues - Estimated allocations are based on actual allocations through August 2020 and OMB's September revised revenue forecast for the remainder of the 2019-21 biennium. The estimates include the fiscal impact of oil extraction tax allocation adjustments in Senate Bill No. 2362 (2019). The bill changes the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands, increasing the allocation to the foundation aid stabilization fund.

[2]Section 24 of Article X of the Constitution of North Dakota provides 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. During the 2017-19

biennium $1,025,156 of interest income from the foundation aid stabilization fund was allocated to the general fund. For the period July 1, 2019, through August 31, 2020, $905,999 of interest has been allocated to the general fund.

[3]The Legislative Assembly approved Senate Bill No. 2272 (2017), which provides for a transfer of $75 million from the foundation aid stabilization fund to the school construction assistance revolving loan fund and for appropriations from the foundation aid stabilization fund to the Department of Public Instruction for rapid enrollment grants ($6 million) and English language learner grants ($500,000). The Legislative Assembly also provided, in Senate Bill No. 2019 (2017), one-time funding of $2,477,000 from the foundation aid stabilization fund for grants to school districts and area centers, including $50,000 for the Marketplace for Kids program. In Senate Bill No. 2265 (2019) the Legislative Assembly provided $3 million from the foundation aid stabilization fund for rapid enrollment grants to qualifying school districts during the 1st year of the 2019-21 biennium and $800,000 from the foundation aid stabilization fund for music education grants for grades kindergarten through grade five. Senate Bill No. 2214 (2019) provides for a transfer of $75 million from the foundation aid stabilization fund to the school construction assistance revolving loan fund and legislative intent that the 67th Legislative Assembly appropriate $110 million from the foundation aid stabilization fund to the Department of Public Instruction to provide ongoing funding for state school aid and transfer an additional $75 million from the foundation aid stabilization fund to the school construction assistance revolving loan fund.

[4]Expenditures - Prior to December 8, 2016, Section 24 of Article X of the Constitution of North Dakota provided the principal of the foundation aid stabilization fund could only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. Senate Concurrent Resolution No. 4003 (2015), approved by voters in November 2016, amended Section 24 of Article X of the Constitution of North Dakota 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 the most recently completed biennium for education-related purposes.

[5]Amendments to the constitution approved by the voters, as provided in Senate Concurrent Resolution No. 4003 (2015), require the balance in the foundation aid stabilization fund be at least 15 percent of the general fund appropriation for state aid to school districts for the most recently completed biennium as determined by OMB. Any excess balance in the fund is available for education-related purposes. The Legislative Assembly, in Senate Bill No. 2272 (2017) and House Bill No. 1155 (2017), amended Section 54-44.1-12 to provide any reductions to the general fund appropriation to the Department of Career and Technical Education for grants to school districts due to allotment are also to be offset by funding from the foundation aid stabilization fund. Senate Bill No. 2272 also created a new section to Chapter 54-27 indicating that state school aid includes general fund appropriations for state school aid, transportation aid, and special education aid in the Department of Public Instruction as well as general fund appropriations for career and technical education grants to school districts and area centers in the Department of Career and Technical Education. Based on general fund appropriations to the Department of Career and Technical Education for career and technical education grants to school districts and area centers during the 2015-17 biennium, this change increases the required reserve during the 2017-19 biennium by $3,397,900. The adjusted appropriation for integrated formula payments, transportation aid, and special education grants totaled $1,990,940,000 during the 2015-17 biennium, of which $219,134,000 is provided from the state tuition fund, $116,053,293 is from the foundation aid stabilization fund, and $1,655,752,707 is provided from the general fund. Based on this level of funding from the general fund during the 2015-17 biennium, the required balance in the foundation aid stabilization fund during the 2017-19 biennium would be $251,760,806. However, OMB reported in its 2017-19 executive budget documents a required reserve balance of $265,770,900, which is the reserve balance required based on the original 2015-17 biennium state school aid appropriations. Therefore, based on original 2015-17 biennium appropriations for state school aid appropriations and for career and technical education grants to school districts and area centers, the required reserve totals $269,168,800 for the 2017-19 biennium.

[6]The appropriation for integrated formula payments, transportation aid, and special education grants totals $2,009,904,163 during the 2017-19 biennium, of which $305,546,905 is provided from the state tuition fund, $295,000,000 is from the foundation aid stabilization fund, and $1,409,357,258 is provided from the general fund. In addition, general fund appropriations for career and technical education grants to school districts and area centers in the Department of Career and Technical Education totaled $22,854,100 during the 2017-19 biennium. Based on this level of funding from the general fund during the 2017-19 biennium, OMB, in its 2019-21 executive budget documents, reported a required reserve balance of $214,831,704 for the 2019-21 biennium. In 2019, the Legislative Assembly provided $2,178,702,429 for integrated formula payments, transportation aid, and special education grants during the 2019-21 biennium, of which $377,764,000 is provided from the state tuition fund, $110,000,000 is from the foundation aid stabilization fund, and $1,690,938,429 is provided from the general fund. In addition, general fund appropriations for career and technical education grants to school districts and area centers in the Department of Career and Technical Education totaled $24,887,780 during the 2019-21 biennium. Based on this level of funding from the general fund during the 2019-21 biennium, it is anticipated the required reserve balance for the 2021-23 biennium will be approximately $257,373,931, $42,542,227 more than the reserve required for the 2019-21 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $442,497,625. The decrease in the estimated balance of $65,232,642 is due to increased oil activity resulting in the 2017-19 biennium ending balance being $2,909,996 higher than estimated, offset by decreasing oil activity during the 2019-21 biennium, resulting in actual and estimated 2019-21 biennium revenues of $145,147,362 being $68,142,638 less than originally projected revenues of $213,290,000.

FUND HISTORY

The foundation aid stabilization fund was created in 1994 when the voters of North Dakota approved a constitutional amendment--now Section 24 of Article X 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; and
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

In November 2016 voters approved Senate Concurrent Resolution No. 4003 (2015), which amended the Constitution of North Dakota 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 education-related purposes. In addition the Legislative Assembly approved Senate Bill No. 2039 (2015), which included certain provisions effective December 1, 2016, based on the approval of Senate Concurrent Resolution No. 4003 by voters. Those provisions of Senate Bill No. 2039 established a scholarship endowment fund and a school construction assistance loan fund and provided for transfers from the foundation aid stabilization fund to the school construction assistance loan fund (the lesser of $200 million or 50 percent of the balance of the fund on December 1, 2016), and to the scholarship endowment fund (the lesser of $200 million or 50 percent of the balance of the fund on December 1, 2016). Other provisions of Senate Bill No. 2039 provided any accessible funds that remain in the foundation aid stabilization fund, after completion of the required transfers to other funds, must be used for education-related purposes, including state aid to school districts and education-related property tax relief to school district patrons. The Legislative Assembly approved Senate Bill No. 2272 (2017), which provided for uses of the foundation aid stabilization fund and repealed Sections 9 and 10 of Chapter 153 of the 2015 Session Laws related to the transfers to the scholarship endowment fund and the school construction assistance loan fund.

Prior to December 8, 2016, the principal of the foundation aid stabilization fund was only available upon order of the Governor to offset foundation aid reductions made by executive action due to a revenue shortfall. Section 54-44.1-12 provides the director of the budget may order an allotment to control the rate of expenditures of state agencies. This section provided that an allotment must be made by a 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 the allotment can be offset by transfers from the foundation aid stabilization fund. The Legislative Assembly approved Senate Bill No. 2272 (2017) and House Bill No. 1155 (2017), which amended Section 54-44.1-12 to provide any reductions to the general fund appropriation to the Department of Career and Technical Education for grants to school districts due to allotment are offset by funding from the foundation aid stabilization fund. Senate Bill No. 2272 also created a new section to Chapter 54-27 indicating that state school aid includes general fund appropriations for state school aid, transportation aid, and special education aid in the Department of Public Instruction, as well as general fund appropriations for career and technical education grants to school districts and area centers in the Department of Career and Technical Education.

The Legislative Assembly approved Senate Bill No. 2362 (2019), which changed the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands, increasing the allocation to the foundation aid stabilization fund.

Section 24 of Article X of the Constitution of North Dakota provides 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.

ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$833,144		$189,101
Add revenues				
Investment earnings	$1,544		$1,600	
Loan repayments - Principal and interest	1,126,481		1,029,012	
Total estimated revenues		1,128,025		1,030,612
Total available		$1,961,169		$1,219,713
Less expenditures and transfers				
DHS increased payments to basic care and long-term care facilities (2017 HB 1012)	$546,786[1]		$0	
DHS increased nursing home per-bed property cost limitation for single- and double-occupancy construction (2017 HB 1012)	139,405[2]		0	
DHS nursing facility operating margin increases (2017 HB 1012; 2019 SB 2012)	1,000,000		1,000,000	
State Department of Health operation and maintenance of the nurse aide registry (2017 SB 2004)	85,877		0	
Total estimated expenditures and transfers		1,772,068		1,000,000
Estimated ending balance		$189,101[3]		$219,713

[1]House Bill No. 1012 (2017) appropriates $546,786 to DHS for increased payments to basic care and long-term care facilities to continue funding for a portion of the bed layaway program from the health care trust fund.

[2]House Bill No. 1012 (2017) appropriates funding from the health care trust fund to continue 2015-17 biennium nursing home rate increases for property cost limitations of a single- or double-occupancy room.

[3]Section 19 of House Bill No. 1012 (2017) requires DHS to deposit any federal funding received in excess of the state's regular federal medical assistance percentage resulting from the department establishing requisite agreements with tribal health care organizations in the health care trust fund. The department also is required to maintain a separate account within the health care trust fund for this funding. No funds have been deposited into the fund relating to requisite agreements with tribal health care organizations. House Bill No. 1194 (2019) requires DHS to facilitate care coordination agreements between health care providers and tribal health care organizations. Any federal funding received in excess of the state's regular federal medical assistance percentage resulting from the agreements is to be deposited in the general fund (40 percent) and tribal health care coordination fund (60 percent). Money in the tribal health care coordination fund are to be distributed to the tribal governments and used for health-related purposes.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $82,765. The increase in the estimated balance of $136,948 is primarily due to loan repayments being more than anticipated.

FUND HISTORY

The health care trust fund was established by the Legislative Assembly in Senate Bill No. 2168 (1999) for providing nursing alternative loans or grants. The Legislative Assembly in House Bill No. 1196 (2011) 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 DHS 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. The Legislative Assembly, in House Bill No. 1012 (2009), amended Section 50-30-02 to preclude the Governor from recommending spending from the health care trust fund in draft appropriation acts under Section 54-44.1-06, except for the operation and maintenance of the nurse aide registry.

ANALYSIS OF THE HEALTH INFORMATION TECHNOLOGY PLANNING LOAN FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance[1]		$2,727,944		$4,717,323
Add revenues				
Loan repayments - Principal	$2,662,589		$2,305,260	
Loan repayments - Interest and miscellaneous income	125,120		119,450	
Total revenues		2,787,709		2,424,710
Total available		$5,515,653		$7,142,033
Less expenditures and transfers				
Loans to health care entities[2]	$740,652		$4,000,000	
Bank of North Dakota fees	57,678		47,150	
Total expenditures and transfers		798,330		4,047,150
Ending balance		$4,717,323		$3,094,883

[1]Section 9 of Senate Bill No. 2332 (2009) provided for a transfer of up to $5 million of Bank of North Dakota profits to the health information technology planning loan fund, which was transferred during the 2009-11 biennium. Section 4 of House Bill No. 1021 (2011) provided for a transfer of up to $5 million of Bank profits to the health information technology planning loan fund in the 2011-13 biennium. During the 2011-13 biennium, approximately $4.3 million of Bank profits were transferred to the fund.

[2]The Health Information Technology Advisory Committee has approved $14,227,024 of loans since the program's inception in the 2009-11 biennium through March 31, 2020:

St. Andrew's Health Center (Bottineau)	$625,000	Nelson County Health System	$305,000
Cooperstown Medical Center	396,996	Southwest Healthcare System	605,000
Wishek Hospital	761,149	CHI St. Alexius Medical Center	1,250,000
Towner County Medical Center (Cando)	924,018	Pediatric Therapy Partners	100,000
Presentation Medical Center (Rolla)	625,000	Valley Health	72,155
West River Health Services (Hettinger)	1,250,000	Knife River Care Center	125,000
Ashley Medical Center	815,652	Golden Acres Manor	98,648
Tioga Medical Center	931,320	St. Luke's Home	115,053
St. Luke's Community Hospital and Clinics (Crosby)	874,542	Richard P. Stadter Psychiatric Center	463,000
Midgarden Family Clinic (Park River)	101,590	Elm Crest Manor	74,500
7-Day Clinic Walk-In Express Care (Fargo)	50,000	Northwood Deaconess	920,125
Linton Hospital	1,073,012	Pharmacists Association	120,070
McKenzie County Health Care System	600,000	St. Gerard's Community of Care	150,194
Garrison Memorial Hospital	800,000		
		Total	$14,227,024

FUND HISTORY

Section 6-09-43 (Senate Bill No. 2332 (2009)) established 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. Pursuant to 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 House Bill No. 1021 (2011) 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 was 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 director of the Health Information Technology Office, 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.

Loans are provided at a fixed interest rate of 1.00 percent. Of the 1.00 percent of interest collected, 0.50 percent is deposited in the fund and 0.50 percent is retained by the Bank as the service fee for administering the loans.

ANALYSIS OF THE HIGHWAY TAX DISTRIBUTION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$0
Add revenues[1,2]				
Motor vehicle fuel tax	$196,766,608		$200,300,000	
Special fuels taxes	192,604,558		186,600,000	
Motor vehicle registration fees	197,166,208		181,800,000	
Estimated revenue reduction (See NOTE below)			(24,952,355)	
Total revenues		586,537,374		543,747,645
Total available		$586,537,374		$543,747,645
Less expenditures and transfers				
Highway Patrol	$6,912,904		$7,204,043	
Motorboat safety account	309,528		200,000	
State snowmobile fund	165,462		200,000	
Rail safety fund	570,000		589,018	
Administrative assistance to transferees	5,500,000		5,500,000	
Ethanol production incentives	4,776,741		4,700,000	
Total deductions before distributions		18,234,635		18,393,061
Total available for distributions and transfers		$568,302,739		$525,354,584
Less estimated distributions and transfers				
State highway fund	$348,369,579		$322,042,360	
Counties	125,288,738		115,578,009	
Cities	70,775,707		65,669,323	
Townships	15,344,174		14,184,573	
Transit	8,524,541		7,880,319	
Total distributions and transfers		568,302,739		525,354,584
Ending balance		$0		$0

[1]Revenues do not include funds collected and disbursed for the administration of DOT's Motor Vehicle Division, through tribal agreements, or funds collected for vanity license plates and disbursed to nonprofit organizations.

[2]The amounts shown reflect actual revenue collections for the 2017-19 biennium and estimated collections for the 2019-21 biennium are based on DOT's March 2020 revised revenue forecast. This analysis does not reflect the effect of House Bill No. 1291 and Senate Bill No. 2061 (2019), because the fiscal impact of the bills could not be determined.

NOTE: The estimated revenue projection for the 2019-21 biennium made at the end of the 2019 legislative session for deposits in the fund was $568,700,000. The estimated fund revenues are $24,952,355 less than the 2019 estimate provided by DOT at the end of the 2019 legislative session. The reduction in revenue is due to less fuel consumption resulting from the Coronavirus (COVID-19) pandemic.

FUND HISTORY

Section 11 of Article X of the Constitution of North Dakota provides:

> Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, except revenue from aviation gasoline and unclaimed aviation motor fuel refunds and other aviation motor fuel excise and license taxation used by aircraft, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

The majority of funds received from motor fuels taxes and motor vehicle registration fees are deposited in the highway tax distribution fund. Section 54-27-19 provides the highway tax distribution fund consists of the "moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes." This section provides after the first $5.5 million per biennium is transferred to the state highway fund for the purpose of providing administrative assistance to other transferees, the money in the fund must be distributed by the State Treasurer as follows:

1. Sixty-one and three-tenths percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Two and seven-tenths percent must be transferred monthly to the township highway fund.
3. One and five-tenths percent must be transferred monthly to the public transportation fund.
4. Thirty-four and five-tenths percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the formulas in this subsection using the incorporated cities' populations as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census.
    a. For counties having no cities with a population of ten thousand or more, twenty-seven percent of the total county allocation must be distributed to all of the incorporated cities within the county on a countywide per capita basis. The remaining county allocation amount must be transferred into the county highway tax distribution fund.
    b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
        (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
        (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under paragraph 1.
        (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under paragraph 1.
        (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under paragraphs 2 and 3 for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under paragraph 1 and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.

5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

Section 54-27-19(1) provides for 61.3 percent of the funds from the highway tax distribution fund be transferred to DOT for deposit in the state highway fund. Section 24-02-37(1) provides, except for investment income, the money of the state highway fund must be applied in the following priority:

a. The cost of maintaining the state highway system.

b. The cost of construction and reconstruction of highways in the amount necessary to match, in whatever proportion may be required, federal aid granted to this state by the United States government for road purposes in North Dakota. Notwithstanding any other provision of law, the department of transportation may repay the United States department of transportation for previous related expenditures from current biennium appropriations to allow the department to reobligate the federal aid to other federal aid projects.

c. Any portion of the highway fund not allocated as provided in subdivisions a and b may be expended for the construction of state highways without federal aid or may be expended in the construction, improvement, or maintenance of such state highways.

Section 54-27-19(2) requires 2.7 percent of the funds from the highway tax distribution fund to be deposited in the township highway fund. Section 54-27-19.1 directs the State Treasurer to distribute the money to the counties of the state based on the length of township roads in each county compared to the length of all township roads in the state. To receive any funds, organized townships must provide 50 percent matching funds. Each county treasurer is required to allocate the funds received to the organized townships in the county which provide 50 percent matching funds based on the length of township roads in each of those organized townships compared to the length of all township roads in the county. The funds received must be deposited in the township road and bridge fund and used for highway and bridge purposes. If a county does not have organized townships, or has some organized and some unorganized townships, the county is required to retain a pro rata portion of the funds received based on the length of roads in unorganized townships compared to the length of township roads in organized townships in the county.

Section 54-27-19(3) allocates 1.5 percent of the funds from the highway tax distribution fund to the public transportation fund. Section 39-04.2-04 provides money in the public transportation fund must be disbursed under guidelines issued by the director of DOT and must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped. In addition, the money may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director.

Motor Vehicle Fuel Tax

Prior to 1983, the motor vehicle fuel excise tax was 8 cents per gallon on motor vehicle fuel sold. The 1983 Legislative Assembly repealed Chapter 57-54 relating to motor vehicle fuel tax and created Chapter 57-43.1 to consolidate the provisions of the motor fuel tax law and the importers for use tax law. Section 1 of House Bill No. 1539 (1983) imposed a 13 cents per gallon tax for all motor vehicle fuel sold except on motor vehicle fuel sold containing a minimum of 10 percent agricultural ethyl or methanol, which was taxed as shown in the following table:

Exception Effective Dates	Tax Rate Per Gallon
Through December 31, 1983	$0.09
January 1, 1984, through December 31, 1984	$0.08
January 1, 1985, through December 31, 1985	$0.07
January 1, 1986, through June 30, 1992	$0.09
July 1, 1992	$0.13

The Legislative Assembly, in Section 1 of Senate Bill No. 2296 (1985), changed the language from agricultural ethyl or methanol to "a qualifying alcohol," adjusted the motor fuel tax on motor vehicle fuel sold containing a minimum of 10 percent agricultural ethyl or methanol as shown in the following table:

Exception Effective Dates	Tax Rate Per Gallon
July 1, 1985, through June 30, 1987	$0.05
July 1, 1987, through December 31, 1992	$0.09
January 1, 1993	$0.13

The Legislative Assembly, in Section 9 of Senate Bill No. 2557 (1987), increased the motor vehicle fuel tax from 13 cents per gallon to 17 cents per gallon for all motor vehicle fuel sold.

The Legislative Assembly, in Section 2 of Senate Bill No. 2029 (1989), increased the motor vehicle fuel tax from 17 cents per gallon to 20 cents per gallon for all motor vehicle fuel sold. The referred measure was disapproved on December 5, 1989, leaving the motor vehicle fuel tax rate at 17 cents per gallon.

The Legislative Assembly, in Section 2 of House Bill No. 1575 (1991), removed Section 57-43.1-02(2) relating to the exception from the motor vehicle fuel tax for motor vehicle fuels containing a minimum of 10 percent of qualifying alcohol.

The Legislative Assembly, in Section 1 of House Bill No. 1163 (1997), increased the motor vehicle fuel tax from 17 cents per gallon to 20 cents per gallon for all motor vehicle fuel sold.

The Legislative Assembly, in Section 2 of House Bill No. 1183 (1999), increased the motor vehicle fuel tax from 20 cents per gallon to 21 cents per gallon for all motor vehicle fuel sold.

The Legislative Assembly, in Section 12 of Senate Bill No. 2012 (2005), increased the motor vehicle fuel tax from 21 cents per gallon to 23 cents per gallon for all motor vehicle fuel sold. Section 2 of House Bill No. 1478 (2005), created a new subsection to Section 57-43.1-02, imposing a 1 cent per gallon motor vehicle fuel tax on E85 fuel effective after June 30, 2005, through the month in which a cumulative total of 1.2 million gallons of E85 fuel has been reported to the Tax Commissioner and after that date is ineffective.

Special Fuels Excise Tax

The 1983 Legislative Assembly also repealed Chapter 57-52, relating to special fuels excise tax and created Chapter 57-43.2 to consolidate the provisions of the Special Fuels Tax Act, the special fuels tax levy, the Importers for Use Tax Act, and the aviation fuel tax. Section 1 of House Bill No. 1072 (1983) created Chapter 57-43.2 related to special fuels taxes and imposed an excise tax of 8 cents per gallon on the sale or delivery of special fuel with some exceptions and an excise tax of 2 cents per gallon on the exempt items in Section 57-43.2-02. Section 1 of House Bill No. 1539 (1983) amended Section 1 of House Bill No. 1072 to increase the special fuels excise tax from 8 cents per gallon to 13 cents per gallon.

The Legislative Assembly, in Section 1 of House Bill No. 1248 (1985), amended the definition of special fuel to include compressed natural gas.

The Legislative Assembly, in Section 10 of Senate Bill No. 2557 (1987), increased the special fuels excise tax from 13 cents per gallon to 17 cents per gallon.

The Legislative Assembly, in Section 3 of Senate Bill No. 2029 (1989), increased the special fuels excise tax from 17 cents per gallon to 19 cents per gallon. The referred measure was disapproved on December 5, 1989, leaving the special fuels excise tax rate at 17 cents per gallon.

The Legislative Assembly, in Section 12 of House Bill No. 1311 (1997), removed exemptions from the 17 cents per gallon on special fuels. Section 2 of House Bill No. 1163 (1997) increased the special fuels excise tax from 17 cents per gallon to 20 cents per gallon.

The Legislative Assembly, in Section 3 of House Bill No. 1183 (1999), increased the special fuels excise tax from 20 cents per gallon to 21 cents per gallon.

The Legislative Assembly, in Section 3 of Senate Bill No. 2454 (2001), amended Section 57-43.2-02 regarding special fuels excise taxes to authorize a reduction of one and five-hundredths cents per gallon on the sale or delivery of diesel fuel that contains at least 2 percent biodiesel fuel by weight.

The Legislative Assembly, in Section 14 of Senate Bill No. 2012 (2005), amended Section 57-43.2-02 regarding special fuels excise taxes to increase the special fuels excise tax from 21 cents per gallon to 23 cents per gallon effective after June 30, 2005.

Motor Vehicle Registration Fees

Motor vehicle registration fees are assessed based on Chapter 39-04 and vary by vehicle type and vehicle weight. Motor vehicles required to be registered in this state must be furnished license plates upon the payment of an initial fee of $10 for plates. Motor vehicle registration fees were last changed in 2005, which increased fees for all weight classes by $10.

ANALYSIS OF THE LEGACY FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$4,630,254,963		$6,093,018,606
Add revenues				
Oil and gas gross production and extraction tax collections (30 percent of collections) (2019 SB 2312)[1]	$1,248,613,201		$913,520,467	
Investment earnings (losses)[2,3]	669,413,658		300,000,000	
Total revenues		1,918,026,859		1,213,520,467
Total available		$6,548,281,822		$7,306,539,073
Less expenditures and transfers				
Transfer of realized earnings to the general fund (2019 SB 2015)[3,4]	$455,263,216		$300,000,000	
Expenditure of principal[4]	0		0	
Total expenditures and transfers		455,263,216		300,000,000
Ending balance		$6,093,018,606		$7,006,539,073

[1]The oil and gas tax revenues reflect allocations for August through July (24 months). The estimated allocations for the 2019-21 biennium are based on actual allocations through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

Senate Bill No. 2312 (2019) amends the oil and gas tax revenue sharing agreement between the state and the Three Affiliated Tribes of the Forth Berthold Reservation increasing the revenue allocated to the Three Affiliated Tribes and decreasing the revenue allocated to the state. As a result, less revenue is available for allocations to the legacy fund.

[2]Based on the provisions of Section 26 of Article X of the Constitution of North Dakota, investment earnings accruing after June 30, 2017, will be transferred to the general fund at the end of each biennium. Section 21-10-12 provides that the investment earnings are the realized earnings of the fund. The schedule below provides more detail on the investment earnings since the 2011-13 biennium.

	2011-13 Biennium Actual	2013-15 Biennium Actual	2015-17 Biennium Actual	2017-19 Biennium Actual	2019-21 Biennium Estimated
Realized earnings (losses)	$18,520,564	$145,255,008	$273,064,100	$502,243,356	$300,000,000
Unrealized earnings (losses)	(12,004,313)	67,871,752	252,305,388	167,170,302	0
Total investment earnings (losses)	$6,516,251	$213,126,760	$525,369,488	$669,413,658	$300,000,000[3]

The investment earnings (losses) for the legacy fund for the 2019-21 biennium through July 31, 2020, were approximately $772.8 million, including realized earnings (losses) of $338.8 million and unrealized earnings (losses) of $434 million.

[3]The investment earnings shown for the 2017-19 biennium reflect actual legacy fund investment earnings through June 2019. The transfer to the general fund for the 2017-19 biennium is based on actual legacy fund investment earnings through May 2019, which excludes June 2019 realized earnings of $46,980,140 due to the timing of the transfer and the reporting of earnings. The 2019-21 biennium amount reflects OMB's September 2020 revised forecast. The actual earnings for the 2019-21 biennium may differ from this estimate based on actual investment performance.

Senate Bill No. 2015 (2019) would have created a new section to Chapter 21-10 to recognize legacy fund earnings as part of the beginning balance for the subsequent biennium rather than as revenue of the biennium in which the transfer is made for budgetary purposes; however, **the Governor vetoed this provision.**

[4]The principal and earnings of the legacy fund may not be spent until after June 30, 2017, pursuant to Section 26 of Article X of the Constitution of North Dakota. After June 30, 2017, the principal and earnings may be spent as follows:

- Up to 15 percent of the principal of the legacy fund may be spent during a biennium subject to approval by at least two-thirds of the members elected to each house of the Legislative Assembly.
- The realized earnings accruing after June 30, 2017, are transferred by the state treasurer to the general fund at the end of the biennium and may be spent from the general fund pursuant to legislative appropriation.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $7,150,914,963. The estimated balance decreased by $144,375,890 primarily related to a decrease in estimated oil and gas tax revenue collections for the 2019-21 biennium.

FUND HISTORY

The legacy fund was created in 2010 when the voters of North Dakota approved a constitutional amendment--now Section 26 of Article X 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. Investment earnings accruing after June 30, 2017, are transferred to the general fund at the end of each biennium.

Prior to July 1, 2015, if the unobligated balance of the strategic investment and improvements fund exceeded $300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund were deposited instead into the legacy fund in the subsequent month. In House Bill Nos. 1176 and 1377 (2015), the Legislative Assembly amended Section 15-08.1-08 to remove the provision related to the additional deposits of revenue in the legacy fund from the strategic investment and improvements fund.

ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance[1]		$23,941,865		$29,908,588
Add revenues				
Separate two-cent coal severance tax	$1,121,829		$1,140,000	
50 percent of coal severance taxes deposited in the coal development trust fund (result of passage of Initiated Measure No. 3 in June 1990) (2017 SB 2014)[2]	1,674,757		1,730,000	
20 percent of coal severance taxes deposited in the coal development trust fund for clean coal projects (result of constitutional amendment approved by voters in June 1994) (2017 SB 2014)[2]	687,382		710,000	
15 percent of coal severance taxes (2017 SB 2014)[2]	3,155,065		3,205,000	
Investment income on Dakota Gasification Company ammonia plant and Spiritwood plant	180,000		180,000	
5 percent of the general fund share of coal conversion tax (2007 HB 1093)	2,324,730		2,310,000	
Oil and gas tax allocation (2017 HB 1152) (2019 HB 1066)[2]	3,000,000		10,000,000	
Revenue bonds/short-term loan[3]	0		0	
Transfer from the strategic investment and improvements fund (2017 SB 2014)	3,000,000		0	
Interest income, return of funds, and litigation contributions	438,868		569,465	
Total revenues		15,582,631		19,844,465
Total available		$39,524,496		$49,753,053
Less expenditures and transfers[4,5]				
Administration	$685,338		$875,000	
Lignite feasibility studies (nonmatching grants)	760,000		3,031,250	
Small research grants	2,237,932		7,426,991	
Lignite marketing	802,128		1,800,000	
Lignite litigation[6]	216,832		1,500,000	
Demonstration projects	0		1,367,678	
Allam Cycle grants (2015 HB 1014)[7]	2,358,678		0	
Advanced energy technology development	2,555,000		22,645,000	
Total expenditures and transfers[8]		9,615,908		38,645,919
Ending balance		$29,908,588		$11,107,134

[1]The beginning balance shown for the 2017-19 biennium is $72,952 less than the $24,014,817 reported in June 2018 due to an adjustment to 2015-17 biennium expenditures.

[2]Senate Bill No. 2014 (2017) reduces the allocation of coal severance tax allocations to the coal development trust fund from 30 to 15 percent and provides an allocation of 15 percent to the lignite research fund. House Bill No. 1152 (2017) changes the allocation of the state's share of oil and gas tax revenue to increase the allocation to the general fund and provide allocations to the budget stabilization fund and the lignite research fund, providing up to $3 million of allocations to the lignite research fund.

House Bill No. 1066 (2019) increases the allocation of oil and gas tax revenue to the lignite research fund by $7 million, from $3 million to $10 million.

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

[4]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.

[5]The Industrial Commission has waived the fund allocation policy. The commission has committed $22 million through the 2011-13 biennium to three projects. In January 2015 the commission learned one of the projects is not proceeding and released the project's 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, $110,000 during the 2013-15 biennium, $914,663 during the 2015-17 biennium, and anticipated expenditures of $1,367,678 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 that were distributed but later returned when projects did not proceed.)

[6]Lignite litigation - House Bill No. 1093 (2007) provides that $500,000 of the amount appropriated to the lignite research fund for the 2007-09 biennium 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, $983,288 during the 2013-15 biennium with $451,555 of that amount paid by industry, $259,159 during the 2015-17 biennium with $122,866 of that amount paid by industry, and $1,500,000 is set aside to be spent during the 2017-19 biennium and the 2019-21 biennium.

The State of North Dakota was successful in its litigation against the State of Minnesota and will be receiving a total of $1,410,000. Of the $1,410,000, $670,000 will be paid to industry partners, and the remaining $740,000 will be deposited in the lignite research fund during the 2017-19 and 2019-21 bienniums. The original $500,000 was spent by the end of the 2011-13 biennium with additional funding being provided from nonmatching program funds in subsequent bienniums. In addition, the lignite industry has paid a portion of the litigation costs.

House Bill No. 1014 (2019) provides legislative intent that at least $500,000 from the lignite research fund, including proceeds from successful litigation, is available for fees associated with lignite litigation brought by the state to protect and promote the continued development of lignite resources.

[7]The 2015 Legislative Assembly provided $5 million from the general fund; however, the appropriation was reduced by $327,500 as the result of the August 2016 budget reductions. All of the funding was committed during the 2015-17 biennium, the funding is distributed as projects are completed. As of February 20, 2019, the remaining $2,358,678 has been distributed.

[8]The Industrial Commission has continuing appropriation authority for all money deposited in the lignite research fund pursuant to Section 57-61-01.6.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $704,270. The estimated balance increased by $10,402,864 primarily related to grants for advanced energy technology development being disbursed later than anticipated.

FUND HISTORY

Section 57-61-01.5(2) and Section 21 of Article X of the Constitution of North Dakota provide for up to 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 MEDICAL MARIJUANA FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$614,188
Add revenues				
General fund appropriation	$677,064[1]		$0	
Program fees:				
Compassion center and manufacturer registration fees	945,000		1,000,000	
Compassion center agents	78,300		592,350	
Total revenues		1,700,364		1,592,350
Total available		$1,700,364		$2,206,538
Less State Department of Health expenditures (2017 SB 2004 and a continuing appropriation pursuant to Section 19-24.1-40)				
Salaries and wages	$633,820		$904,721	
Operating expenditures	265,286		493,359	
Capital improvements	187,070		0	
Total expenditures and adjustments		1,086,176[1]		1,398,080[2]
Ending balance		$614,188		$808,458

[1]The Legislative Assembly, based on the fiscal note for Senate Bill No. 2344 (2017), provided a total of $1,560,770 and authorized 6 FTE positions to establish a Medical Marijuana Division. The Legislative Assembly provided ongoing funding of $1,465,704, of which $723,270 is from the general fund; $742,434 is from the medical marijuana fund; and one-time funding of $95,066 from the medical marijuana fund for costs related to establishing a Medical Marijuana Division.

[2]The State Department of Health presented a budget, funded through the continuing appropriation, totaling $1,398,080, including 5 FTE positions.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $576,108. The increase in the estimated balance of $232,350 is due to registration fees being $232,350 more than estimated for the 2019-21 biennium.

FUND HISTORY

In November 2016, voters approved Initiated Statutory Measure No. 5 (North Dakota Compassionate Care Act) relating to medical marijuana and created Chapter 19-24. In Senate Bill No. 2344 (2017), the Legislative Assembly repealed Chapter 19-24 and created and enacted Chapter 19-24.1 to provide for the legalization of medical marijuana. Senate Bill No. 2344 required the State Department of Health to establish and implement a medical marijuana program to allow for the production, processing, and sale of marijuana for medical use. In Section 19-24.1-40, the Legislative Assembly established a medical marijuana fund. The State Department of Health must deposit all fees related to medical marijuana into the fund and must administer the fund. Money in the fund is appropriated to the department on a continuing basis for use in administering the medical marijuana program. Therefore, the Legislative Assembly removed funding for the Medical Marijuana Division from the State Department of Health's base budget in 2019.

ANALYSIS OF THE NORTH DAKOTA OUTDOOR HERITAGE FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$7,996,508		$4,948,114
Add revenues				
Oil and gas gross production tax collections	$10,799,177[1]		$15,000,000[2]	
Interest income	73,576		54,531	
Total revenues		10,872,753		15,054,531
Total available		$18,869,261		$20,002,645
Less expenditures and transfers				
Grant award commitments	$14,872,054[3]		$14,854,531[4]	
Grant awards withdrawn	(1,049,715)			
Administrative expenses	98,808		200,000	
Total expenditures and transfers		13,921,147		15,054,531
Ending balance		$4,948,114		$4,948,114

[1]Senate Bill No. 2013 (2017) includes provisions amending Section 57-51-15 to adjust the maximum oil and gas gross production tax collection deposits from $40 million to $10 million for the period September 1, 2017, through August 31, 2019, only. The 2017-19 biennium amount reflects actual oil and gas tax revenue collections deposited in the fund through June 30, 2019.

[2]House Bill No. 1014 (2019) limits the oil and gas gross production tax collection deposits in the fund to $7.5 million per fiscal year for the period of September 1, 2019, through August 31, 2021. The estimated allocations for the 2019-21 biennium are based on actual allocations through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

[3]The Industrial Commission established four rounds of grant awards and approved contract awards of $14,872,054 during the 2017-19 biennium. The commission awarded grants of $1,073,507 on December 14, 2017, $4,600,942 on June 5, 2018, $648,346 on September 14, 2018, $3,350,164 on December 7, 2018, and $5,199,095 on June 20, 2019. Many of the grants are for multiyear projects; therefore, not all of the grant funds awarded will be expended during the 2017-19 biennium. The commission expended $6,929,463 from the fund during the 2017-19 biennium for grants.

[4]The amount shown reflects estimated funds that will be available for grants in the 2019-21 biennium is based on actual oil and gas production tax allocations through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $0. The estimated increase of $4,948,114 is primarily related to funds from previous bienniums not being fully committed for projects.

FUND HISTORY

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

- Providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;
- Improving, maintaining, and restoring water quality, soil conditions, plant diversity, animal systems, and by supporting other practices of stewardship to enhance farming and ranching;

- Developing, enhancing, conserving, and restoring wildlife and fish habitat on private and public lands; and
- Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.

For the 2013-15 biennium, pursuant to Section 57-51-15, 4 percent of the first 1 percent of oil and gas gross production tax collections is deposited in the North Dakota outdoor heritage fund, up to $15 million per year. House Bill No. 1176 (2015) amended Section 57-51-15 to increase the amount deposited in the North Dakota outdoor heritage fund from 4 percent of the first 1 percent of oil and gas gross production tax collections to 8 percent, and to increase the maximum oil and gas gross production tax collection deposits from $15 million to $20 million per year and from $30 million to $40 million per biennium. For the period September 1, 2017, through August 31, 2019, a maximum of $10 million of oil and gas gross production tax collections may be deposited in the fund. 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.

House Bill No. 1066 (2019) amends Section 57-51-15 to continue the maximum oil and gas gross production tax collection deposits of 8 percent up to $20 million per fiscal year; however, House Bill No. 1014 (2019) limits the oil and gas gross production tax collection deposits in the fund to $7.5 million per fiscal year for the period September 1, 2019, through August 31, 2021.

ANALYSIS OF THE RESEARCH NORTH DAKOTA FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance[1,2]		$13,632,996		$3,432,289
Add revenues				
Investment income	$15,061		$13,000	
Refunds from previously awarded grants[3]	281,330			
Transfers from the centers of excellence fund (2019 SB 2224)[4,5]			352,483	
Transfers from the centers of research excellence fund (2019 SB 2224)[4,6]			1,086,111	
Total revenues		296,391		1,451,594
Total available		$13,929,387		$4,883,883
Less expenditures and transfers				
Technical review expenses	$8,865		$1,950	
Research North Dakota grants[7]	1,707,132		3,088,319	
Research North Dakota grants designated for biotechnology[8]	1,293,973		75,000	
Research North Dakota venture grants[9]	1,241,906			
Department of Commerce tourism operating[10]	500,000			
Department of Commerce grants - Energy and Environmental Research Center (EERC)[10]	498,744			
Department of Commerce entrepreneurship grants and vouchers[10,11,12]	1,105,006		94,994	
Department of Commerce discretionary grants[10,12]	141,472		858,528	
Transfer to the general fund (2017 SB 2018, 2019 SB 2224)[4,13]	4,000,000		65,092	
Transfer to the bioscience innovation grant fund (2019 SB 2224)[4]			700,000	
Total expenditures and transfers		10,497,098		4,883,883
Ending balance[13]		$3,432,289		$0

[1]In Senate Bill No. 2018 (2013), the Legislative Assembly established the Research North Dakota fund and provided a transfer of $12,000,000 from the general fund to provide funding for the Research North Dakota grant program and the Research North Dakota venture grant program. House Bill No. 1018 (2015) included a transfer of $4,500,000 from the general fund to the Research North Dakota fund. However, the transfer in the 2015-17 biennium was reduced by $146,458 to $4,353,542 due to the general fund budget reductions made during the August 2016 special legislative session. House Bill No. 1018 (2015) also directed OMB to transfer unobligated funds from the centers of excellence fund to the Research North Dakota fund. Unobligated funds of $7,650,000 in the centers of excellence fund were transferred to the Research North Dakota fund in January 2017.

[2]The 2017-19 biennium beginning balance of $13,632,996 included $5,308,699 of funds awarded but not distributed and $8,324,297 of available funds not yet awarded.

[3]During the 2017-19 biennium, the department received a total of $281,330 of previously awarded Research North Dakota grant funding due to the allowable time to expend the funds expiring. Of the total, $154,263 was returned from UND in May 2018, of which $113,572 was awarded for research to manage and monitor patient treatments using smartphones and $40,691 was related to beyond visual line of sight unmanned aircraft funding. In December 2018, UND returned $99,506 of previously awarded funding for wind turbine applied research.

[4]In Section 7 of Senate Bill No. 2224 (2019), the Legislative Assembly provided for the transfer of any balance in the centers of excellence fund and centers of research excellence fund to the Research North Dakota fund on July 1, 2019. Section 6 of the bill repeals the centers of excellence and centers of research excellence programs on July 1, 2019. Section 8 of the bill directs OMB to transfer $700,000 from the Research North Dakota fund to the bioscience innovation grant fund during the 2019-21 biennium, of which up to $200,000 may be awarded to entities providing assistance to develop bioscience companies. Section 9

of the bill directs OMB to transfer any balance in the Research North Dakota fund to the general fund on June 30, 2021. Section 5 of the bill repeals the Research North Dakota fund and program on July 1, 2021.

[5]The total amount transferred from the centers of excellence fund to the Research North Dakota fund was $352,483. Of this amount, $352,336 was the balance in the center of excellence fund at the end of the 2017-19 biennium, which was transferred to the Research North Dakota fund in August 2019. The remaining $147 is from interest earned on money in the centers of excellence fund during the 2017-19 biennium, which was transferred to the Research North Dakota fund in October 2019.

[6]The total amount transferred from the centers of research excellence fund to the Research North Dakota fund was $1,086,111. Of this amount, $1,085,658 was the balance in the center of excellence fund at the end of the 2017-19 biennium, which was transferred to the Research North Dakota fund in August 2019. The remaining $453 is from interest earned on money in the centers of excellence fund during the 2017-19 biennium, which was transferred to the Research North Dakota fund in October 2019.

[7]Of the $12 million appropriated for Research North Dakota for the 2013-15 biennium, $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.

[8]The 2013 Legislative Assembly 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. The Department of Commerce did not receive sufficient applications to award the full $4 million of funding for biotechnology grants; therefore, the department reallocated unawarded funds for other Research North Dakota grants. The 2015 Legislative Assembly designated $1 million of the $4.5 million general fund transfer to the Research North Dakota fund for biotechnology grants. The Legislative Assembly provided if the entire $1 million allocation was not awarded by December 31, 2016, any remaining funds must be reallocated for other Research North Dakota purposes. The funds were not reallocated as the department awarded the entire $1 million prior to December 31, 2016.

[9]The 2013 Legislative Assembly 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 developed guidelines for the grants and established three categories--Phase 1, Phase 2, and Phase 1-2 grants. Phase 1 venture grant recipients are not required to provide a match of grant funds. Phase 2 venture grant recipients must have established a startup or spinoff business during Phase 1 and must provide matching funds for grants received. Phase 1-2 venture grants recipients are not required to match grant funds received during the 1st grant year, but must provide matching funds during the 2nd grant year to receive additional funding. The 2015 Legislative Assembly did not designate any funding for venture grants. However, the Department of Commerce reallocated $3.6 million of unallocated Research North Dakota funding for venture grants. Of this amount, $2.4 million was distributed during the 2015-17 biennium and $1.2 million was distributed during the 2017-19 biennium. The 2017 and 2019 Legislative Assemblies did not designate any funding for venture grants. The department did not reallocate any additional funding for venture grants during the 2017-19 biennium and does not anticipate any additional funding will be reallocated for this purpose during the 2019-21 biennium.

[10]The Legislative Assembly approved a transfer of $4 million from the Research North Dakota fund to the general fund in Section 15 of Senate Bill No. 2018 (2017) to be transferred by OMB during the 2017-19 biennium. The transfer was made in July 2017. Section 14 of the bill also requires $3.5 million of available funding to be used for Department of Commerce programs during the 2017-19 biennium. Of this amount, $500,000 is for the North Dakota tourism program, $1.5 million is for entrepreneurship grants and vouchers, $1 million is for discretionary funds, and $500,000 is appropriated to the department for the purpose of providing a grant to EERC at UND. The grant provided to EERC, as described in Section 13, must be utilized for economic development and diversification of the North Dakota economy and may be spent only to the extent EERC provides $1 of matching funds from private or other public sources for each $1 provided by the department for the 2017-19 biennium. During the 2017-19 biennium, the department awarded $498,744 of the $500,000 appropriation to EERC. The remaining $1,256 was not provided due to a lack of matching funds available from EERC.

[11]Of the $1.5 million available to the Department of Commerce for entrepreneurship grants and vouchers, Governor Doug Burgum vetoed $300,000 designated for an organization that provides workforce safety, resulting in a total of $1.2 million available to the department for entrepreneurship grants and vouchers from Research North Dakota during the 2017-19 biennium.

[12]In Section 12 of Senate Bill No. 2018 (2017) the Legislative Assembly provided an exemption to allow unexpended 2017-19 biennium funds for the entrepreneurship grants and vouchers program to continue and to be spent during the 2019-21 biennium. In Section 4 of House Bill No. 1018 (2019) the Legislative Assembly provided an exemption to allow unexpended 2017-19 biennium funds for the discretionary funds line item to continue and be spent during the 2019-21 biennium. Amounts from the Research North Dakota fund continued into the 2019-21 biennium totaled $94,994 for the entrepreneurship grants and voucher program and $858,528 from the discretionary funds line item. The department anticipates spending these amounts during the 2019-21 biennium.

[13]The 2017-19 biennium ending balance of $3,432,289 has been awarded but not distributed, resulting in no uncommitted funds available at the beginning of the 2019-21 biennium. The department anticipates distributing the entire 2017-19 biennium ending balance during the 2019-21 biennium. Of the $1,451,549 of estimated revenue available for the 2019-21 biennium, the department anticipates distributing $1,386,457 for Research North Dakota and department programs. The estimated remaining amount of $65,092 will be transferred to the general fund at the end of the 2019-21 biennium, resulting in a balance of $0 in the Research North Dakota fund. The 2019 Legislative Assembly anticipated the transfer to the general fund would be $581,000.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $0, the same as the current estimate, due to the repeal of the Research North Dakota program and fund.

FUND HISTORY

Section 17 of Senate Bill No. 2018 (2013) established a Research North Dakota fund in Section 54-65-08. 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.

The Legislative Assembly approved Senate Bill No. 2224 (2019), which repeals Section 10-30.5-14 and Chapter 54-65 related to the Research North Dakota program and fund on July 1, 2021.

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance, excluding infrastructure revolving loan fund		$306,411,028		$326,742,618
Add revenues and transfers				
Oil extraction tax collections	$357,504,568		$293,352,091[1]	
Repayments and reimbursements	11,756,065		13,568,805	
Investment earnings/miscellaneous income	10,724,424		4,492,000	
Total revenues		379,985,057		311,412,896
Total available		$686,396,085		$638,155,514
Less funds designated for the infrastructure revolving loan fund (Section 61-02-78)	$0[2]		$0[2]	
Less estimated expenditures and transfers				
State Water Commission - Grants, projects, and project administration, pursuant to 2017 HB 1020 and 2019 SB 2020 for the 2019-21 biennium	356,016,811[3]		633,955,514[4]	
Industrial Commission - Western Area Water Supply Authority asset study	150,000			
Total estimated State Water Commission expenditures and loans		356,166,811		633,955,514
Transfer to renewable energy development fund (Section 57-51.1-07)	$3,000,000[5]		$3,000,000[5]	
Transfer to energy conservation grant fund (Section 57-51.1-07)	486,656[5]		1,200,000[5]	
Total transfers		3,486,656		4,200,000
Ending balance, excluding funds designated for infrastructure revolving loan fund		$326,742,618		$0

[1]Oil extraction tax revenues - Estimated allocations for the 2019-21 biennium are based on actual allocations through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

[2]House Bill No. 1020 (2017) amended Section 61-02-78 to provide no more than $26,000,000 of total resources trust fund revenue may be allocated to the infrastructure revolving loan fund. As a result, excess transfers of $8,440,473 were returned to the resources trust fund during the 2017-19 biennium and there will be no more transfers to the infrastructure revolving loan fund.

Infrastructure Revolving Loan Fund Share of Oil Extraction Tax Collections	
	Infrastructure Revolving Loan Fund Transfers
2013-15 biennium	$11,407,864
2015-17 biennium	23,032,609
2017-19 biennium	(8,440,473)
Total	$26,000,000[1]

[1]Loans outstanding as of August 31, 2020, totaled $22,920,659.

[3]Sections 1 and 3 of House Bill No. 1020 (2017) appropriate $542,515,358 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 2017-19 biennium.

[4]The State Water Commission expended $10,366,811 more than anticipated during the 2017-19 biennium, resulting in an equivalent reduction to project carryover anticipated during the 2019-21 biennium and increased utilization of the water development trust fund of $1,339,845 by the State Water Commission in place of utilizing funds from the resources trust fund. Grants, projects, and project administration for the 2019-21 biennium has been reduced by ($143,186,847) as a result of the revenue shortfall.

[5]The Legislative Assembly approved Senate Bill No. 2362 (2019), which changed the method of allocating oil extraction tax revenue related to the state's share of revenue associated with production on tribal lands. The changes also restored the maximum allocation to the energy conservation grant fund from $200,000 to $1.2 million, resulting in additional transfers of $260,000. The actual transfer during the 2017-19 biennium was $26,656 more than anticipated in the 2019 legislative revenue forecast.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $5,300,000. The decrease in the estimated balance of $5,300,000 is due to actual 2019-21 biennium collections through August 2020 and the estimated revenues for the remainder of the biennium being $143,887,909 less than anticipated in the 2019 legislative revenue forecast.

INFRASTRUCTURE REVOLVING LOAN FUND HISTORY

The infrastructure revolving loan fund was created by the Legislative Assembly in Senate Bill No. 2233 (2013), which became effective on January 1, 2015. The bill established an infrastructure revolving loan fund within the resources trust fund. The bill provided 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 with a fixed interest rate of 1.5 percent and administered by the Bank of North Dakota. Annually, the Bank receives .5 percent of the balance of issued loans to cover costs associated with administering the loans. The fund beginning balance and revenue earned in a biennium are carried over from biennium to biennium within the resources trust fund. House Bill No. 1020 (2017) provided the maximum to be allocated to the infrastructure revolving loan fund is **$26 million**.

RESOURCES TRUST FUND HISTORY

The resources trust fund was created pursuant to the passage of Initiated Measure No. 6 in the November 1980 general election. Initiated 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; and
- Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Section 24 of Article X 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; and
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

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

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

- 20 percent to the resources trust fund;
- 20 percent allocated as provided in Section 24 of Article X of the Constitution of North Dakota;
- 30 percent to the legacy fund; and
- 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 House Bill No. 1451 (2011).

The Legislative Assembly in Senate Bill No. 2014 (2013) 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 .5 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 (2013), 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. House Bill No. 1020 (2017) reduced the allocation to the renewable energy development fund from 5 to 3 percent and the maximum allocation to the energy conservation grant fund from $1.2 million to $200,000 for the 2017-19 biennium, restored the maximum allocation to the energy conservation grant fund to $1.2 million after July 31, 2019, and provided for a $26 million maximum allocation of resources trust fund revenues to the infrastructure revolving loan fund.

The Legislative Assembly in Senate Bill No. 2020 (2015) directed the State Water Commission to refinance all remaining bonds through the Bank of North Dakota and to continue annual loan payments on the newly refinanced bonds. The State Water Commission refinanced the bonds with the Bank on July 29, 2015, in the amount of $45,840,221 at a variable interest rate of 1.75 percent. The Bank loan will mature on June 30, 2030.

The Legislative Assembly in Senate Bill No. 2020 (2019) provided $37.2 million to pay off the Bank of North Dakota loan. The bill contains an emergency clause, added in Senate Bill No. 2015; therefore, the State Water Commission paid off the Bank loan from the water development trust fund during the 2017-19 biennium.

ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$5,775,798		$4,950,402
Add revenues				
Premiums	$1,699,415[1]		$2,512,212[2]	
Interest and other revenue	533,700[3]		240,000[3]	
Total revenues		2,233,115		2,752,212
Total available		$8,008,913		$7,702,614
Less expenditures and transfers				
Administration	$1,030,665		$1,152,108	
Claims-related expenses	0[4]		0[4]	
Claims, litigation, and excess insurance	2,027,846		2,645,896	
Total expenditures and transfers		3,058,511		3,798,004
Ending balance		$4,950,402		$3,904,610

[1]In response to an actuarial review completed in 2016 by Aon plc, OMB's Risk Management Division assessed a total of $1,871,440 in risk management premiums to state agencies, boards, and commissions and the University System for the 2017-19 biennium. Assessments were subject to a risk management discount program for agencies that adopt proactive loss control practices, with a maximum available discount of 15 percent. The amount shown for premiums reflects fiscal year 2018 discounts of $83,126 and fiscal year 2019 discounts of $88,899.

[2]In response to an actuarial review completed in 2018 by Aon plc, OMB's Risk Management Division is assessing a total of $2,755,796 in risk management premiums to state agencies, boards, and commissions and the University System for the 2019-21 biennium. Contributions reflect $121,792 in discounts for fiscal year 2020 and estimated $121,792 in discounts for fiscal year 2021.

[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

The North Dakota Supreme Court abolished the doctrine of sovereign immunity in September 1994. As a result of this court decision, the 1995 Legislative Assembly passed the Tort Claims Act (Senate Bill No. 2080 (1995)), which created a risk management fund and assigned the responsibility of administering a risk management program to OMB.

Section 32-12.2-19 allows OMB to pay notification and remediation costs or insurance costs from the risk management fund in the event of an information technology security breach at a state agency.

ANALYSIS OF THE SENIOR CITIZEN SERVICES AND PROGRAMS FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Allocation from sales, use, and motor vehicle excise tax collections	$7,947,463[1,2]		$8,513,710[1,2]	
Total estimated revenues		7,947,463		8,513,710
Total available		$7,947,463		$8,513,710
Less estimated expenditures and transfers				
State Treasurer - County senior citizen matching grants	$7,546,388[3]		$8,242,217[3]	
Transfer to the general fund	401,075[4]		271,493[4]	
Total estimated expenditures and transfers		7,947,463		8,513,710
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
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	$2,654,064 (actual)	14.8%
2016	$3,169,878 (actual)	19.4%
2017	$3,627,787 (actual)	14.4%
2018	$3,886,950 (actual)	7.1%
2019	$4,060,513 (actual)	4.5%
2020	$4,163,710 (actual)	2.5%
2021	$4,350,000 (estimate)	4.5%

[2]Senate Bill No. 2242 (2011) increased the amount of 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 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.

Senate Bill No. 2143 (2015) increased the amount of general fund revenue to be allocated to the senior citizen services and programs fund from 85 percent of one mill levied statewide to 87.5 percent of the amount appropriated up to one mill levied statewide effective for taxable years beginning after December 31, 2014. The bill also increased 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 senior citizen programs to 87.5 percent of the amount appropriated 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
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	$2,650,725 (actual)	15.7%
2016	$3,143,803 (actual)	18.6%
2017	$3,504,725 (actual)	11.5%
2018	$3,723,317 (actual)	6.2%
2019	$3,823,071 (actual)	2.7%
2020	$3,892,217 (actual)	1.8%
2021	$4,350,000 (estimate)	11.8%

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

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 legislative session was $0. Any money remaining in the fund at the end of each biennium is transferred to the general fund. The total estimated revenues for the 2019-21 biennium made at the end of the 2019 regular legislative session was $8,700,000. The decrease in the total estimated revenues of $186,290 is due to lower than anticipated mill levy values for the 2019-21 biennium.

FUND HISTORY

Senate Bill No. 2267 (2005) created the senior citizen services and programs fund. Statutory provisions are contained in 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 87.5 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 87.5 percent of the amount appropriated 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. Senate Bill No. 2242 (2011) 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. Senate Bill No. 2162 (2013) increased these amounts to 85 percent of the amounts levied for senior citizen programs, limited to one mill. Senate Bill No. 2143 (2015) increased these amounts to 87.5 percent of the amounts appropriated for senior citizen programs, limited to one mill.

ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Sales, use, and motor vehicle excise taxes (based on 43.5 percent of an equivalent one-cent sales tax effective July 1, 2014)	$193,012,192		$190,310,868[1]	
Total revenues		193,012,192		190,310,868
Total available		$193,012,192		$190,310,868
Less expenditures and transfers				
Payments to political subdivisions				
County share (53.7 percent)	$103,647,547		$102,196,936	
City share (46.3 percent)	89,364,645		88,113,932	
Total expenditures and transfers		193,012,192		190,310,868
Ending balance		$0		$0

[1]The estimated revenues for the 2019-21 biennium are based on actual revenue collections through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

NOTE: The estimated revenue projection for the 2019-21 biennium made at the end of the 2019 legislative session for deposits in the fund was $201,845,127. The estimated fund revenues are $11,534,259 less than the 2019 legislative estimate.

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.

House Bill No. 1067 (2015), which became effective July 1, 2015, and expires on June 30, 2021, changes the state aid distribution formula from allocations based on the decennial census to allocations based on most recent actual or estimated census data.

ANALYSIS OF THE STRATEGIC INVESTMENT AND IMPROVEMENTS FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$374,001,957		$1,142,813,831
Add revenues				
Production royalties (2017 SB 2134; 2019 HB 1192)[1,2]	$231,464,611		$153,536,120	
Mineral leases[1]	1,071,945		2,166,893	
Oil and gas bonuses[1]	3,608,462		1,381,335	
Investment earnings[1]	25,506,174		28,032,358	
Oil and gas tax collections (2017 HB 1152; 2017 SB 2013; 2019 HB 1014, 2019 HB 1066; 2019 SB 2249, 2019 SB 2312, 2019 SB 2362)[3,4]	780,137,707		311,560,210	
Transfer from political subdivision allocation fund (2017 SB 2013)[5]	7,660,518			
Unspent appropriations from prior bienniums returned to fund	100,000			
Total revenues		1,049,549,417		496,676,916
Total available		$1,423,551,374		$1,639,490,747
Less expenditures and transfers				
Secretary of State				
Voting system information technology project (2019 SB 2002)			$8,200,000	
Office of Management and Budget				
Litigation funding pool (2019 SB 2015)			3,500,000	
Comprehensive real estate assessment (2019 SB 2015)			500,000	
Transfer to preliminary planning revolving fund (2019 SB 2015)			100,000	
Information Technology Department				
Information technology projects (2019 HB 1021)			5,150,000	
Statewide interoperable radio network (2019 HB 1435)			20,000,000	
State Treasurer				
Transfer to energy impact fund (2017 SB 2013)	$3,000,000			
Information technology project (2019 SB 2005)			35,000	
Attorney General				
Contingent court-ordered payments to a bankruptcy estate (2017 HB 1024)	15,872,000			
Domestic violence and sexual assault examiner grants (2017 SB 2191)	143,613			
Department of Trust Lands				
Oil and gas impact grants (2019 HB 1013)			2,000,000	
Contract costs to determine mineral revenue repayments (2019 SB 2211)			1,088,635	
State Department of Health				
Federal litigation costs (2017 SB 2004)	143,738			
Department of Environmental Quality				
Contingent appropriation for the implementation of air pollution control primacy (2019 HB 1024)			1,040,000	
Department of Human Services				
Information technology projects and capital projects (2019 SB 2012)			11,490,695	

Industrial Commission				
Federal litigation costs (2017 SB 2014)	1,000,000			
Transfer to the lignite research fund (2017 SB 2014)	3,000,000			
Limited survey review contract related to mineral revenue disputes (2017 SB 2134)	800,000			
Rare earth elements and fracturing sand studies (2019 HB 1014)			270,000	
Public Service Commission				
Litigation costs (2017 HB 1008)	47,182			
Aeronautics Commission				
Airport grants (2019 HB 1006)			20,000,000	
Highway Patrol				
Equipment (2017 SB 2011)	308,597			
Department of Emergency Services				
Mobile radios and programming radios (2017 HB 1016)	300,000			
Department of Corrections and Rehabilitation				
Electronic medical records information technology project (2017 SB 2015)	935,907			
Equipment, repairs, and a facility assessment (2019 HB 1015)			1,218,000	
Adjutant General				
Dispatch system information technology project and Camp Grafton expansion project (2019 SB 2016)			2,502,253	
Department of Commerce				
Enhanced use lease grant (2017 SB 2018)	1,888,105			
Grant for unmanned aerial systems (2017 SB 2018)	2,000,000			
Base retention grants (2017 SB 2018)	600,000			
Entrepreneurship grants and vouchers program (2019 HB 1018)			3,000,000	
Department of Agriculture				
Transfer to environmental law impact review fund (2017 HB 1009)	1,000,000			
NDSU Main Research Center				
Extraordinary repairs (2019 HB 1020)			940,465	
Parks and Recreation Department				
Various capital projects at parks and the International Peace Garden (2019 SB 2019)			3,755,000	
Transfer to the general fund (2017 HB 1015; 2019 SB 2015)	248,000,000		764,400,000	
Contingent transfer to the infrastructure revolving loan fund (2019 HB 1014)			25,137,707[6]	
Mineral revenue repayments from reserves (2017 SB 2134; 2019 HB 1192)[2]	0			
Administrative costs/other fees	1,698,401		3,142,896	
Total expenditures and transfers		280,737,543		877,470,651
Ending balance		$1,142,813,831		$762,020,096
Restricted fund income				
Reserve relating to potential title disputes (2017 SB 2134; 2019 HB 1192)[2,7]		229,325,049		229,325,049
Loan guarantees (2011 SB 2306; 2013 SB 2287; 2019 SB 2296)[8]		0		50,000,000
Ending balance - Unobligated		$913,488,782		$482,695,047

[1]The amounts shown reflect projections by the Department of Trust Lands for the 2017-19 and 2019-21 bienniums.

[2]Senate Bill No. 2134 (2017) changes the definition of the ordinary high water mark related to sovereign minerals, reducing the mineral revenue to the strategic investment and improvements fund and requiring repayments for previously received mineral revenues. The bill appropriates $100 million from the strategic investment and improvements fund and authorizes $87 million from a line of credit through the Bank of North Dakota for the mineral revenue repayments. Some production royalties may be deposited in the strategic investment and improvements fund prior to the implementation of the repayment process. The bill provides legislative intent that the $87 million line of credit is to be repaid from the strategic investment and improvements fund; however, the total amount of funding needed for mineral revenue repayments is unknown and any changes to the amount of funding or the line of credit repayments will be determined by future legislative assemblies.

House Bill No. 1202 (2019) clarifies the definition of navigable waters, which may affect the state's mineral interests and mineral revenue deposited in the strategic investment and improvements fund. However, the estimated impact is unknown.

[3]Estimated revenues - The estimated allocations for the 2019-21 biennium are based on actual allocations through August 2020 and OMB's September 2020 revised forecast for the remainder of the biennium.

[4]House Bill No. 1152 (2017) changes the allocation of the state's share of oil and gas tax revenue to increase the allocation to the general fund and provide allocations to the budget stabilization fund and the lignite research fund, resulting in a decrease in the allocations to the strategic investment and improvements fund. Senate Bill No. 2013 (2017) changes the allocations to hub cities, hub city school districts, the North Dakota outdoor heritage fund, the abandoned oil and gas well plugging and site reclamation fund, and the oil and gas impact grant fund resulting in an increase to the allocations under the state's share.

House Bill Nos. 1014 and 1066 (2019) and Senate Bill Nos. 2016, 2249, 2312, and 2362 (2019) change the oil and gas tax revenue allocation formulas. The combined effect of the bills results in a decrease in the allocations to the strategic investment and improvements fund.

[5]The Legislative Assembly created the political subdivision allocation fund in House Bill No. 1377 (2015), to provide additional allocations from oil and gas tax collections to political subdivisions. In Senate Bill No. 2013 (2017), the Legislative Assembly provided that instead of allocating the funds to political subdivisions, the funds be transferred to the newly created energy impact fund and to the strategic investment and improvements fund.

[6]House Bill No. 1014 (2019) provides a contingent transfer of up to $40 million from the strategic investment and improvements fund to the infrastructure revolving loan fund if the actual oil and gas tax revenues deposited in the strategic investment and improvements fund during the 2017-19 biennium exceed $755 million.

[7]These amounts represent mineral revenues received from areas of the Yellowstone and Missouri Rivers and Lake Sakakawea where mineral rights are in dispute. Pursuant to action of the Board of University and School Lands, this portion of the fund balance is designated to be held in reserve.

[8]Senate Bill No. 2287 (2013) increased the guarantee reserve fund balance from 25 to 100 percent, not to exceed a total of $25 million, through July 31, 2015. After July 31, 2015, the amount of reserves for all guaranteed loans must be determined by a formula that will provide an adequate amount of reserves as determined by the Bank of North Dakota. Money may be transferred from the strategic investment and improvements fund to reimburse lenders for guaranteed loans in default.

Senate Bill No. 2296 (2019) increases the limit for loan guarantees to $50 million.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $706,285,049. The estimated balance decreased by $223,590,002 primarily related to a decrease in estimated oil and gas tax revenue collections for the 2019-21 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.

Prior to July 1, 2015, if the unobligated balance of the strategic investment and improvements fund exceeded $300 million at the end of any month, 25 percent of any revenues received for deposit in the strategic investment and improvements fund were deposited instead into the legacy fund in the subsequent month. In House Bill Nos. 1176 and 1377 (2015), the Legislative Assembly amended Section 15-08.1-08 to remove the provision related to the additional deposits of revenue in the legacy fund from the strategic investment and improvements fund. The 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 2017-19 AND 2019-21 BIENNIUMS (REFLECTING BOTH THE 1979 AND 1996 BOND RESOLUTIONS)

	2017-19 Biennium[1] Actual		2019-21 Biennium[1] Estimated	
Beginning balance		$17,399,512		$1,188,901
Add estimated revenues				
Fund earnings (net)	$84,964[2]		$100[2]	
Total estimated revenues		84,964		100
Total available		$17,484,476		$1,189,001
Less estimated expenditures and transfers				
Funding for veterinary medical education program (2017 SB 2003)	$371,969[3]			
Funding for University System information technology services (2017 SB 2003)	539,437[4]			
Funding for tribal college assistance grants (2017 SB 2003)	500,000[5]			
Funding for tribal college workforce development grants (2017 SB 2144)	500,000[6]			
Return of unused 2015-17 tribal college workforce development grant funding	(199,942)[7]		(85,368)[7]	
Funding for dental loan repayment program (2017 SB 2004)	360,000[8]			
Funding for dual-credit courses pilot program (2017 SB 2244)	197,344[9]			
Funding for medical residency positions (2017 SB 2003)	13,806,856[10]			
Funding for the Governor's School program (2017 HB 1013)	219,911[11]			
Total estimated expenditures and transfers		16,295,575		(85,368)
Estimated ending balance		$1,188,901		$1,274,369
Restricted fund balance relating to outstanding bonds		1,000,000[1]		1,000,000[1]
Estimated ending balance - Unobligated		$188,901		$274,369

[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. There are no longer any bonds insured by the Ambac Assurance Corporation; however, there are outstanding bonds of $1 million as of March 31, 2020. The outstanding bonds will mature on June 1, 2029. Debt service to bondholders has priority over all other transfers.

[2]The projected income for the 2017-19 biennium and 2019-21 biennium is based on interest rates as of May 1, 2020, and is net of the Industrial Commission and trustee expenses.

[3]The 2017 Legislative Assembly provided $465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. The University System spent $371,969 of the appropriation and the $93,338 of unspent appropriation authority will remain in the student loan trust fund.

[4]The 2017 Legislative Assembly provided $539,437 of funding from the student loan trust fund for the University System information technology services pool for ConnectND positions within the University System.

[5]The Legislative Assembly approved Senate Bill No. 2003 (2017), which includes $500,000 of funding from the student loan trust fund for grants to tribal colleges to assist in costs associated with the enrollment of nonbeneficiary students.

[6]The Legislative Assembly approved Senate Bill No. 2144 (2017), which includes $500,000 of one-time funding from the student loan trust fund for tribal college workforce development grants.

[7]Of the $500,000 appropriated to the Department of Commerce for tribal college workforce development grants, $285,310 of unspent appropriation authority has been returned to the fund, including $93,665 in November 2017, $106,277 in July 2018, and $85,368 in April 2020.

[8]The Legislative Assembly approved Senate Bill No. 2004 (2017), which includes $360,000 of funding from the student loan trust fund for the dental loan repayment program.

[9]The Legislative Assembly approved Senate Bill No. 2244 (2017), which includes $200,000 of funding from the student loan trust fund for a dual-credit courses pilot program.

[10]The Legislative Assembly approved Senate Bill No. 2003 (2017), which includes $13,806,856 of funding from the student loan trust fund for residency positions at the UND School of Medicine and Health Sciences.

[11]The Legislative Assembly approved House Bill No. 1013 (2017), which includes $220,000 of funding from the student loan trust fund for science, technology, engineering, and mathematics programs in the Governor's School program.

FUND HISTORY

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

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

The student loan trust fund is comprised of funds held under two general bond resolutions. The first general bond resolution includes funds from bonds issued in 1979, 1988, 1989, 1992, and 2004. The second general bond resolution--referred to as the 1996 bond resolution--includes funds from bonds issued in 1996, 1997, 1998, and 2000. All 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 March 31, 2020, $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 (the 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.

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 TAX RELIEF FUND
FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$300,000,000		$182,300,000
Add revenues				
Allocation of oil and gas tax revenues	$200,000,000[1,2]		$200,000,000[1,2]	
Refund of prior biennium county expenses			199,146	
Total revenues		200,000,000		200,199,146
Total available		$500,000,000		$382,499,146
Less expenditures and transfers				
Transfer to general fund (Section 10 of 2017 HB 1015)	$183,000,000			
Transfer to social services finance fund (Section 20 of 2017 SB 2206)	134,700,000			
Transfer to general fund (Section 5 of 2019 SB 2015)			$8,600,000	
Transfer to human service finance fund (Section 6 of 2019 SB 2015)			173,700,000	
Total expenditures and transfers		317,700,000		182,300,000
Ending balance		$182,300,000		$200,199,146

[1]House Bill No. 1066 (2019) amends Section 57-51.1-07.5 to change the allocation of the state's share of oil and gas tax revenue but did not change the allocation of $200 million to the tax relief fund.

[2]Estimated revenues - The 2019-21 biennium are based on actual allocations through August 2020 and OMB's revised estimates for the remainder of the biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $200 million. The increase in the estimated balance of $199,146 is due to a refund of excess funds provided to one county for social services expenses in the 2017-19 biennium, but which was received in the 2019-21 biennium.

FUND HISTORY

Section 57-64-05, as created by Senate Bill No. 2199 (2009), created the 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 provided for an allocation of the state's share of oil and gas tax revenues of $341.79 million each biennium to the property tax relief sustainability fund.

Section 15.1-27-45, as created by Section 40 of House Bill No. 1013 (2013), changed the name of the property tax relief sustainability fund to the property tax relief fund, but only for the 2013-15 biennium. House Bill No. 1377 (2015) repealed Sections 15.1-27-45 and 57-64-05 and amended Section 57-51.1-07.5 to change the name of the property tax relief sustainability fund to the tax relief fund and decreased the amount of the state's share of oil and gas tax revenue deposited in the fund from $341.79 million per biennium to $300 million per biennium.

House Bill No. 1377 (2015) repealed Sections 15.1-27-45 and 57-64-05 relating to the property tax relief sustainability fund and amended Sections 57-51.1-07.3 and 57-51.1-07.5 to change the name of the property tax relief sustainability fund to the tax relief fund and continued the allocation of $300 million of the state's share of oil and gas tax revenue to the tax relief fund.

House Bill No. 1152 (2017) amended Section 57-51.1-07.5 to change the allocation of the state's share of oil and gas tax revenue to reduce the allocation to the tax relief fund to $200 million.

ANALYSIS OF THE TOBACCO PREVENTION AND CONTROL TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$58,216,128		$9,058,624
Add revenues				
Investment and miscellaneous revenue	$909,442[1]		$1,500,000[1]	
Total revenues		909,442		1,500,000[2]
Total available		$59,125,570		$10,558,624
Less expenditures and transfers				
Adjustment related to Tobacco Prevention and Control Executive Committee insurance	$10			
State Department of Health (2017 SB 2004, 2019 HB 1004)				
Local public health unit grants	2,000,000		$525,000	
Cancer programs	462,865		580,324	
Stroke and cardiac care programs	494,234			
Physician loan repayment program	400,333			
Behavioral health loan repayment program	214,600			
Tobacco prevention and control program, including cessation and grants to local public health units for tobacco prevention and control	8,453,525			
Domestic violence offender treatment grants	262,220		300,000	
Microbiology laboratory capital improvements			1,220,000	
DHS (2017 HB 1012; 2019 SB 2012)				
Medical services grants	22,175,000		6,000,000	
Medicaid Expansion - Commercial rates	13,300,000			
Youth access to tobacco prevention services	75,000			
Substance use disorder voucher program	1,779,159			
Basic care services	450,000			
Total expenditures and transfers		50,066,946		8,625,324
Ending balance		$9,058,624		$1,933,300

[1]In August 2015 the Tobacco Prevention and Control Executive Committee entered into an agreement with the State Investment Board to provide investment management services for the tobacco prevention and control trust fund. On September 30, 2015, the Tobacco Prevention and Control Executive Committee transferred $47.3 million to the State Investment Board for management. The investment policy statement adopted by the executive committee includes an asset mix of 75 percent global fixed income, 10 percent global equity, and 15 percent cash. Estimated investment income reflects earnings and realized gains, but does not include changes in the market value of the investments. The Legislative Assembly repealed Chapter 23-42 in Senate Bill No. 2024 (2017) to dissolve the Tobacco Prevention and Control Executive Committee and provided funds in the tobacco prevention and control trust fund are to be used as appropriated by the Legislative Assembly. In Section 15 of House Bill No. 1015 (2017) the Legislative Assembly directed OMB to administer the tobacco prevention and control trust fund in accordance with legislative authorizations or appropriations during the 2017-19 biennium.

[2]Revenues have been estimated based on actual revenues received through September 2020.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $93,449. The increase in the estimated balance of $1,539,851 is due to the beginning 2019-21 biennium balance being $589,851 more than anticipated, due primarily to lower than estimated expenditures from the fund during the 2017-19 biennium, and 2019-21 biennium investment revenues being $950,000 more than estimated.

FUND HISTORY

The tobacco prevention and control trust fund was created as a result of voter approval of Initiated Measure No. 3 in the November 2008 general election. The measure added seven new sections to the 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 provided 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 provided for additional strategic contribution payments that began on April 15, 2008, and continued each April 15 thereafter through 2017. Section 54-27-25, created by House Bill No. 1475 (1999), did not distinguish between payments received under the separate subsections of the Master Settlement Agreement and provided for the deposit of all tobacco settlement money received by the state into the tobacco settlement trust fund. Money in the fund, including interest, is transferred within 30 days of deposit in the fund to the community health trust fund, common schools trust fund, and water development trust fund. Senate Bill No. 2012 (2019) amended Section 54-27-25, effective July 1, 2019, to provide all money in the fund must be transferred within 30 days of receipt to the community health trust fund.

The measure provided 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 continues to be deposited in the tobacco settlement trust fund and will continue to be allocated pursuant to Section 54-27-25. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement was deposited into the tobacco prevention and control trust fund until the last payment was received in 2017. Interest earned on the balance in this fund is deposited in the fund. The fund was administered by the executive committee created by the measure for the purpose of creating and implementing the comprehensive plan. However, the Legislative Assembly approved Senate Bill No. 2024 (2017) to repeal Chapter 23-42 related to the tobacco prevention and control program and to amend Section 54-27-25 to provide funds in the tobacco prevention and control trust fund are to be used as appropriated by the Legislative Assembly. The Legislative Assembly did not provide funding for the Tobacco Prevention and Control Executive Committee for the 2017-19 biennium. In addition, Section 15 of House Bill No. 1015 (2017) requires OMB administer the tobacco prevention and control trust fund in accordance with legislative authorizations or appropriations during the 2017-19 biennium.

The measure also provided, 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 House Bill No. 1015 (2009), provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation. Senate Bill No. 2024 (2017) repealed the Tobacco Prevention and Control Executive Committee and authority to use funding from the water development trust fund for the comprehensive plan.

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. The last payment under subsection IX(c)(2) of the Master Settlement Agreement was received in April 2017. The state received total tobacco settlement collections of $119,487,461 under subsection IX(c)(2) of the Master Settlement Agreement, of which $105,689,732 was deposited into the tobacco prevention and control trust fund from April 2009 through April 2017.

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$0		$0
Add revenues				
Tobacco settlement revenues collected to date	$74,073,990[1]		$21,280,388[1]	
Projected tobacco settlement revenues	0		18,000,000	
Funding transferred by the Attorney General relating to unspent appropriations	158,922[1]		155,286[1]	
Total revenues		74,232,912[2]		39,435,674[2]
Total available		$74,232,912[3,4]		$39,435,674[3,4]
Less expenditures and transfers				
Attorney General - Tobacco settlement agreement costs (2017 HB 1003)	$200,000[5]		$0[5]	
Transfers to the community health trust fund	40,718,102[2]		39,435,674[2]	
Transfers to the common schools trust fund	0[2]		0[2]	
Transfers to the water development trust fund	33,314,810[2]		0[2]	
Total expenditures and transfers		74,232,912[4]		39,435,674[4]
Ending balance		$0		$0

[1]Through April 2020 the state has received tobacco settlement payments totaling $21,280,388 for the 2019-21 biennium, which has been deposited in the tobacco settlement trust fund. Because payments under subsection IX(c)(2) of the Master Settlement Agreement ended in 2017, no funds were deposited in the tobacco prevention and control trust fund. Included in the tobacco settlement payment received in April 2018 was approximately $37,300,000 released from an escrow account related to the settlement of an ongoing dispute between the state and major tobacco companies over enforcement of the 1998 Tobacco Master Settlement Agreement. In addition, the tobacco settlement trust fund received unspent funds related to appropriations to the Attorney General for the 2015-17 biennium and 2017-19 biennium. To date, the state has received total tobacco settlement collections of $622,901,533, including $503,414,072 under subsection IX(c)(1) of the Master Settlement Agreement and $119,487,461 under subsection IX(c)(2) of the Master Settlement Agreement. Of the $622,901,533, $517,211,801 has been deposited into the tobacco settlement trust fund and $105,689,732 has been deposited into the tobacco prevention and control trust fund.

[2]Revenues - House Bill No. 1475 (1999), Section 54-27-25, provided 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. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund. In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to provide all money in the fund must be transferred within 30 days of receipt to the community health trust fund. Because deposits in the tobacco settlement trust fund are transferred to the community health trust fund within 30 days, there is no provision for interest.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended 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, is deposited into the tobacco settlement trust fund and, beginning with the 2019-21 biennium, allocated 100 percent to the community health trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, which began in 2008 and continued through 2017, began to be deposited in 2009 into 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.

Tobacco settlement trust fund revenues have been estimated based on actual revenues received through April 2020 and legislative estimates for the remainder of the 2019-21 biennium.

[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 filed a lawsuit against the tobacco companies to collect the full payment and in 2018 reached a settlement with the tobacco companies. 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 OMB 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	64,618,711
2015-17	82,231,080	63,570,920
2017-19	58,591,490	74,073,990
2019-21	58,591,490	39,280,388
2021-23	58,591,490	52,503,832
2023-25	58,591,490	52,503,832
Total	$866,801,136	$745,909,198

[4]Initiated Measure No. 3 (2008) resulted in the following allocation of the revised estimated collections for tobacco settlement payments through 2025. In House Bill No. 1012 (2017), the Legislative Assembly amended Section 54-27-25 to suspend transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increase transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund. Transfers from the tobacco settlement trust fund to the water development trust fund remained at 45 percent. In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to provide all money in the fund must be transferred within 30 days of receipt to the community health trust fund. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on reallocations approved by the 2017 and 2019 Legislative Assemblies:

	Actual and Estimated Total Tobacco Settlement Proceeds, Including Attorney General Costs	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
Actual payments 2013-15 biennium	64.6 million	22.4 million	19.0 million	19.0 million	4.2 million
Actual payments 2015-17 biennium	63.5 million[1]	22.9 million	18.2 million	18.2 million	4.0 million
Actual payments 2017-19 biennium	74.1 million[1]	N/A	0	33.3 million	40.7 million
Estimated 2019-21 biennium	39.2 million	N/A	0	0	39.4 million[2]
Estimated 2021-23 biennium	52.5 million	N/A	0	0	52.5 million
Estimated 2023-25 biennium	52.5 million	N/A	0	0	52.5 million
Total	$549.0 million	$105.7 million	$101.2 million	$134.5 million	$207.5 million

[1]This amount includes $200,000 made available from the tobacco settlement trust fund to the Attorney General for enforcement of the Master Settlement Agreement and any disputes with the agreement, net of unspent funds returned by the Attorney General.

[2]This amount includes unspent funding returned to the tobacco settlement trust fund by the Attorney General.

[5]The Legislative Assembly, in Senate Bill No. 2003 (2015), amended Section 54-27-25 relating to the tobacco settlement trust fund to provide the principal and interest of the fund may be appropriated to the Attorney General for enforcement of the Master Settlement Agreement and any disputes with the agreement. In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to remove authorization for appropriation to the Attorney General for enforcement of the settlement agreement and in Senate Bill No. 2003 (2019), the Legislative Assembly did not provide funding from the tobacco settlement trust fund to the Attorney General.

FUND HISTORY

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

- 10 percent to the community health trust fund. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the common schools trust fund. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the water development trust fund.

Section 54-27-25, as amended in Senate Bill No. 2012 (2019), provides all money in the fund must be transferred within 30 days of receipt to the community health 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 pursuant to Section 54-27-25. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, relating to strategic contribution payments, which began in 2008 and continued through 2017, was deposited into the 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.

The Legislative Assembly, in Senate Bill No. 2003 (2015), amended Section 54-27-25 relating to the tobacco settlement trust fund to provide the principal and interest of the fund may be appropriated to the Attorney General for the enforcement of the Master Settlement Agreement and any disputes with the agreement. The Legislative Assembly, in Senate Bill No. 2012 (2019), removed this authorization.

ANALYSIS OF THE STATE TUITION FUND
FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$1,745,972[1]		$1,874,600[1]
Add revenues				
Fines for violation of state laws	$11,941,235[2]		$10,679,749[2]	
Transfer from the public instruction fund (2017 HB 1013)	4,282,905[3]		0	
Transfer from the Department of Career and Technical Education	0		31,792[4]	
Transfers from the common schools trust fund	288,264,000		366,756,000	
Total revenues		304,488,140		377,467,541
Total available		$306,234,112		$379,342,141
Less expenditures and transfers				
State aid to schools (2017 HB 1013; 2019 SB 2013)	$304,359,512[3]		$377,764,000	
Total expenditures and transfers		304,359,512		377,764,000
Ending balance		$1,874,600[1]		$1,578,141[1]

[1]Beginning/ending balance - 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 state 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 2019-21 biennium are based on actual fines deposited into the fund through August 2020 and estimated fine proceeds for the remainder of the 2019-21 biennium based on the 2019 legislative 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
2001	$4,241,256 (actual)	N/A
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	$7,655,890 (actual)	11.9%
2016	$6,945,206 (actual)	(9.3%)
2017	$5,511,247 (actual)	(20.6%)
2018	$6,055,397 (actual)	9.9%
2019	$5,885,838 (actual)	(2.8%)
2020	$5,093,885 (actual)	(13.5%)
2021	$5,585,864 (estimate)	9.7%

[3]Section 15.1-28-01 provides distributions received from the common schools trust fund must be paid into the state treasury and, with the net proceeds of fines for the violation of state laws, constitute the state tuition fund. In 2013 the Legislative Assembly appropriated $140,326,000 from the state tuition fund for state school aid payments during the 2013-15 biennium. In addition, Section 4 of House Bill No. 1013 (2013) provided 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. However, the 2013 Legislative Assembly suspended Section 15.1-27-22.1 relating to the payment of excess funds appropriated for state school aid and, in 2015, Section 15.1-27-22.1 was repealed. During the 2013-15 biennium, common schools trust fund distributions deposited into the department's operating fund of $130,326,000 and transfers from the state tuition fund to the department's operating fund of $14,282,905 totaled $144,608,905, $4,282,905 more than appropriated from the state tuition fund for state school aid during the 2013-15 biennium. The funding in excess of the $140,326,000 appropriated for state school aid of $4,282,905 remained in the department's operating account at the end of the 2013-15 biennium instead of the state tuition fund. House Bill No. 1013 (2017) provided for a transfer of $4,282,905 from the Department of Public Instruction operating account to the state tuition fund and included the funding in the total appropriated from the state tuition fund for state school aid during the 2017-19 biennium.

[4]In January 2020 the Department of Career and Technical Education returned funding remaining from $250,000 of carryover authority transferred to the department from funds remaining in the grants - state school aid line item after the Superintendent of Public Instruction complied with all statutory payment obligations imposed for the 2011-13 biennium. The carryover funding was made available to the department to provide autism spectrum disorder technology grants during the 2013-15 biennium and the 2015-17 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $1,894,729. The decrease in the estimated balance of $316,588 is due to the beginning 2019-21 biennium balance being $28,129 less than anticipated due to lower than estimated revenues from fines during the 2017-19 biennium and 2019-21 biennium to date estimated revenue from fines being $320,251 less than estimated which were partially offset by the $31,792 transfer the Department of Career and Technical Education.

FUND HISTORY

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

- Distributions from the common schools trust fund;
- All fines for violation of state laws; and
- 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 distributions from the common schools trust fund. Section 15.1-28-03 directs OMB, 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. Senate Bill No. 2200 (2007) 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 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$5,700,423[1]		$6,086,115[2]
Add revenues				
Investment income and increases in market value	$507,848[3,4]		$500,000[4,5,6]	
Commemorative memorial coin program donations (2017 SB 2183)	15,295		1,500	
Commemorative memorial coin program sales (2017 SB 2183)	8,460		4,510	
Short-term interest	659		1,500	
Impact Foundation donations	79,258[3,7]		30,000	
Other donations (2019 HB 1131)			29,750[8]	
Total revenues		611,520		567,260
Total available		$6,311,943		$6,653,375
Less expenditures and transfers				
Grants and related expenditures	$148,004		$297,944	
Veterans' transportation programs	7,650		3,883	
Commemorative memorial coin program expenditures (2017 SB 2183)	12,101		13,000	
Miscellaneous veterans' programs	2,951		680	
Impact Foundation expenditures	55,122[7]		46,217	
Remaining funds available for programs that benefit veterans	0[3]		109,358	
Total expenditures and transfers		225,828[3]		471,082[6]
Ending balance		$6,086,115		$6,182,293

[1]Revenue from the sale of vans during the 2015-17 biennium ($6,268), short-term interest ($323), donations for the commemorative memorial coin program approved by the Legislative Assembly in Senate Bill No. 2183 (2017) ($400), net proceeds from the Impact Foundation ($1,995 - see footnote 7 below), and unspent funding available from the 2015-17 biennium ($25,951) is available for programs during the 2017-19 biennium and is included in this beginning balance.

[2]Revenue from short-term interest ($659), remaining funds for the commemorative memorial coin program ($12,054), net proceeds from the Impact Foundation ($26,131 - see footnote 7 below), and unspent funding available from the 2017-19 biennium ($85,715) is available for programs during the 2019-21 biennium and is included in this beginning balance.

[3]Prior to July 2011, 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 House Bill No. 1468 (2011) amended Section 37-14-14 to provide that all income earned in a biennium is appropriated to the Administrative Committee on Veterans' Affairs for authorized programs on a continuing basis in the following biennium, and not in the biennium in which it is earned. Therefore, the investment income earned by the fund during the 2017-19 biennium will not be available for programs until the 2019-21 biennium and investment income earned by the fund during the 2019-21 biennium will not be available until the 2021-23 biennium. Funds available for benefits during the 2017-19 biennium totaled $348,392, of which $218,396 is from income earned on the fund during the 2015-17 biennium and $79,258 is from revenue received from the Impact Foundation (see footnote 7 below). Remaining funds available consisted of unspent funds available from prior bienniums, miscellaneous revenue, donations, and short-term interest.

[4]Of the investment income and increase in market value reported for the 2017-19 biennium, $13,390 is from patriotic license plate fees transferred to the veterans' postwar trust fund. Through March 2020, patriotic license plate fees of $8,325 have been deposited in the veterans' postwar trust fund for the 2019-21 biennium. Contributions to the veterans' postwar trust fund from individual income tax returns totaled $12,611 through March 2020.

[5]The State Treasurer has not provided investment income estimates for the 2019-21 biennium. Investment income for the 2019-21 biennium is estimated based on investment income earned in the 2017-19 biennium. See footnote 6 below regarding income available for benefits.

[6]Pursuant to provisions of House Bill No. 1468 (2011), investment income earned during the 2019-21 biennium is not available for program expenditures until the 2021-23 biennium. Funds available for benefits during the 2019-21 biennium total $471,083 through March 2020, of which $281,475 is from income earned on the fund during the 2017-19 biennium and $30,000 is from revenue received from the Impact Foundation (see footnote 7 below). Remaining funds available consisted of unspent funds available from prior bienniums, short-term interest income, and donations.

[7]The North Dakota Veterans Emergency Needs Charitable Fund (also known as the North Dakota Support Our Veterans Fund) was established in April 2010 by the Impact Foundation to support emergency needs of North Dakota veterans and their eligible dependents. As noted in the March 28, 2018, *Performance Audit Report of the Department of Veterans' Affairs* prepared by the State Auditor, the department has received and expended funds from the Impact Foundation by combining these funds with those of the veterans' postwar trust fund without legislative or Emergency Commission approval. The State Auditor's report has identified that these actions are in conflict with Section 18 of Article X of the Constitution of North Dakota and Section 37-18-12.

[8]House Bill No. 1131 (2019) allows the Department of Veterans' Affairs to apply for, accept, and expend private donations, gifts, grants, or bequests that are offered or tendered with a specifically identified purpose or a restrictive condition which is related to a benefit or service for resident North Dakota veterans and appropriates those funds to the department on a continuing basis in accordance with the donor's instructions. Of the $29,750 of donations received through March 2020, $5,600 is for hardship assistance grants, $14,700 is for a hyperbaric oxygen therapy program for veterans with posttraumatic stress disorder, $5,300 is for a commemorative book provided free to Vietnam War veterans, and $4,150 is for a program to partner with a private organization to build comfort homes for military and veteran families when a family member is hospitalized.

FUND HISTORY

Established

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

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

1988 Initiated Measure No. 4

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

- Established the veterans' postwar trust fund as a permanent fund.
- Required the State Treasurer to transfer $740,000 per year for 5 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 2nd 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 2nd 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.

House Bill No. 1468 (2011)

The Legislative Assembly in House Bill No. 1468 (2011) 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.

House Bill No. 1439 (2013)

The Legislative Assembly in House Bill No. 1439 (2013) provided $250,000 from the general fund to increase the principal balance of the veterans' postwar trust fund.

House Bill No. 1360 (2015)

The Legislative Assembly in House Bill No. 1360 (2015) created Section 39-04-10.15 to require an initial fee of $25 for patriot license plates, of which $20 is deposited in the highway tax distribution fund and $5 is deposited in the veterans' postwar trust fund. The revenue deposited in the veterans' postwar trust fund must be added to the principal of the fund.

House Bill No. 1248 (2019)

The Legislative Assembly in House Bill No. 1248 (2019) created Section 57-38-34.7 to allow an individual to make a contribution to the veterans' postwar trust fund on the individual's income tax return for taxable years beginning after December 31, 2018. The Tax Commissioner is required to transfer the contributions to the State Treasurer for deposit in the veterans' postwar trust fund.

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2017-19 AND 2019-21 BIENNIUMS

	2017-19 Biennium Actual		2019-21 Biennium Estimated	
Beginning balance		$29,099,770		$14,219,650
Add revenues				
Transfers to date from tobacco settlement trust fund	$33,314,810[1]			
Projected remaining transfers from tobacco settlement trust fund	0[1]		$0[1]	
Total revenues		33,314,810		0[2]
Total available		$62,414,580		$14,219,650
Less expenditures and transfers				
Bank of North Dakota loan repayment	$41,461,248[2,3]			
Water projects (2017 HB 1020; 2019 SB 2020)	6,733,682[2]		$14,219,650[3]	
Total expenditures and transfers		48,194,930		14,219,650
Ending balance		$14,219,650		$0

[1]Revenues - Interest earned on the water development trust fund is deposited in the general fund. In House Bill No. 1012 (2017), the Legislative Assembly amended Section 54-27-25 to suspend transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increase transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund. Transfers from the tobacco settlement trust fund to the water development trust fund remained at 45 percent for the 2017-19 biennium. **In Senate Bill No. 2012 (2019), the Legislative Assembly amended Section 54-27-25 to remove the transfer of funds to the water development trust fund and to provide all money in the tobacco settlement trust fund be transferred within 30 days of receipt to the community health trust fund.** Through June 30, 2019, the water development trust fund has received tobacco settlement payments totaling $223.1 million. Due to the discontinuation of tobacco settlement trust fund transfers to the water development trust fund, no transfers will occur after June 30, 2019.

[2]Sections 1 and 3 of House Bill No. 1020 (2017) appropriate $34,949,628, and 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 2017-19 biennium.

[3]Sections 1 and 4 of Senate Bill No. 2020 (2019) appropriate $58,236,657, and 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 2019-21 biennium. Of the funding provided from the water development trust fund, the Legislative Assembly identified $25,900,000 for the repayment of a Bank of North Dakota loan. This payment, in addition to scheduled principal and interest payments, totaled $41,500,000 to repay the Bank loan. Section 37 of Senate Bill No. 2015 (2019) declared Senate Bill No. 2020 an emergency, and as a result, the State Water Commission repaid the Bank loan during the 2017-19 biennium.

NOTE: The estimated June 30, 2021, balance made at the end of the 2019 regular legislative session was $1,339,845. The decrease in the estimated balance of $1,339,845 is due to the State Water Commission utilizing all the funds available from the water development trust fund as the transfers of tobacco settlement revenue to the fund were discontinued in Senate Bill No. 2012 (2019).

FUND HISTORY

Section 54-27-25, created by House Bill No. 1475 (1999), established a water development trust fund to be used for the long-term water development and management needs of the state. This section created 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. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the common schools trust fund. In House Bill No. 1012 (2017), the Legislative Assembly suspended transfers from the tobacco settlement trust fund to the common schools trust fund during the 2017-19 biennium and increased transfers from the tobacco settlement trust fund to the community health trust fund from 10 to 55 percent of the tobacco settlement revenues deposited in the tobacco settlement trust fund.
- 45 percent to the water development trust fund.

Section 54-27-25, as amended in Senate Bill No. 2012 (2019), provides all money in the fund must be transferred within 30 days of receipt to the community health 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 pursuant to Section 54-27-25. In 2009, tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, relating to strategic contribution payments, which began in 2008 and continued through 2017, was deposited into the tobacco prevention and control trust fund. The measure also provided 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 House Bill No. 1015 (2009) provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation. In Senate Bill No. 2024 (2017), the Legislative Assembly repealed the Tobacco Prevention and Control Executive Committee and authority to use funding from the water development trust fund for the comprehensive plan.

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

Section 61-02.1-04, created by Senate Bill No. 2188 (1999), provides 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.

The Legislative Assembly, in Senate Bill No. 2003 (2015), amended Section 54-27-25 relating to the tobacco settlement trust fund to provide the principal and interest of the fund may be appropriated to the Attorney General for the enforcement of the Master Settlement Agreement and any disputes with the agreement. Appropriations made to the Attorney General for enforcement of the Master Settlement Agreement reduce the amount available for transfer from the tobacco settlement trust fund to the water development trust fund. Senate Bill No. 2012 (2019), removed the authorization to appropriate money in the fund to the Attorney General. In Senate Bill No. 2012, the Legislative Assembly amended Section 54-27-25 to remove the transfer of funds to the water development trust fund and to provide all money in the tobacco settlement trust fund be transferred within 30 days of receipt to the community health trust fund.