

## ANALYSIS OF THE STATE BONDING FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$2,599,756
Add estimated revenues		
Investment income	\$450,000	
State bonding fund claims collections	45,000	
Other income	6,000	
Total estimated revenues		501,000
Total available		\$3,100,756
Less estimated expenditures and transfers		
Insurance Department administration (2005 HB 1010)	\$35,000	
State bonding claims losses	250,000	
Claims-related expenditures	18,000	
Total estimated expenditures and transfers		303,000
Estimated ending balance - June 30, 2007		\$2,797,756

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$2,870,541. The decrease in the estimated balance of \$72,785 is primarily due to the actual July 1, 2005, balance of \$2,599,756 being \$97,215 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$2,502,541 and the 2005-07 revised estimated revenues of \$501,000 being \$172,000 less than the previous estimate of \$673,000. The 2005-07 biennium estimated revenues are less than previously estimated primarily due to a decrease in investment income.

### FUND HISTORY

The state bonding fund was created in 1915 and is maintained for bond coverage of public employees. The state bonding fund is managed by the Insurance Commissioner and the amount of coverage provided to each state agency, department, industry, and institution is determined by the commissioner based upon the amount of money and property handled and the opportunity for default. North Dakota Century Code Section 26.1-21-09, as amended by the 2003 Legislative Assembly in Senate Bill No. 2015, provides that premiums for bond coverage are to be determined by the Insurance Commissioner but can be waived if the state bonding fund's balance is in excess of \$2 million. Senate Bill No. 2015 (2003) lowered the minimum fund balance from \$2.5 million to \$2 million. No premium has been charged possibly since 1953 because the bonding fund's balance has exceeded the minimum level established by the Legislative Assembly.

## ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance		\$0
Add estimated revenues		
Transfer from general fund	\$99,472,631	
Investment income	<u>0<sup>1</sup></u>	
Total estimated revenues		<u>99,472,631</u>
Total available		\$99,472,631
Less estimated expenditures		
None		
Total estimated expenditures		<u>0</u>
Estimated ending balance		<u><u>\$99,472,631</u></u>

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

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 Legislative Assembly was \$67,156,213. The increase of \$32,316,418 is due to the June 30, 2005, ending general fund balance exceeding the projection made by the 2005 Legislative Assembly resulting primarily from additional general fund revenues during the 2003-05 biennium.

### FUND HISTORY

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

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

## ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2005-07 BIENNIUM<sup>1</sup> AS OF MAY 2006

Beginning balance - July 1, 2005		\$566,503
Add estimated revenues		
Investment income	\$51,889	
Rentals, royalties, bonuses, and contracts	231,079	
Total estimated revenues		282,968
Total available		\$849,471
Less estimated expenditures		
Administrative expenses	\$36,004	
Income payments to counties	6,416 <sup>2</sup>	
Capitol Grounds Planning Commission operating expenses (2005 HB 1015)	25,000	
Capitol Grounds Planning Commission continuing appropriation	50,000	
Total estimated expenditures		117,420
Estimated ending balance - June 30, 2007		\$732,051

<sup>1</sup>The analysis does not include the land owned by the fund.

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

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$637,909. The increase in the estimated balance of \$94,142 is due to the net effect of the actual July 1, 2005, balance of \$566,503 being \$37,310 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$529,193, the 2005-07 revised estimated revenue of \$282,968 being \$63,696 more than the estimate made at the close of the 2005 legislative session of \$219,272, and the 2005-07 estimated expenditures of \$117,420 being \$6,864 higher than the estimate made at the close of the 2005 legislative session of \$110,556.

## ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2005-07 BIENNIUM<sup>1</sup> AS OF MAY 2006

Beginning balance - July 1, 2005		\$122,653
Add estimated revenues		
Investment income	\$1,886,855	
School construction loan income	1,595,576	
Oil, gas, and coal impact loan income	<u>200,539</u>	
Total estimated revenues		<u>3,682,970</u>
Total available		\$3,805,623
Less estimated expenditures and transfers		
Administrative expenses	\$31,351	
Transfer to the general fund	<u>3,722,653<sup>2</sup></u>	
Total estimated expenditures and transfers		<u>3,754,004</u>
Estimated ending balance - June 30, 2007 - Investment and interest income		<u>\$51,619</u>

<sup>1</sup>The beginning balance does not include the value of permanent assets of the coal development trust fund which must be maintained, pursuant to North Dakota Century Code (NDCC) Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of March 31, 2006, the total value of permanent fund assets was \$59.5 million, of which \$34.4 million was school construction loans receivable; \$1.9 million was coal, oil, and gas impact loans receivable; and \$23.2 million was either invested or was a receivable of investment or other earnings.

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

<sup>2</sup>Transfer to the general fund - The amount shown is \$622,653 more than the amount included in the 2005-07 legislative revenue forecast. This is due to more income being generated by higher short-term interest rates and additional income from school construction loans.

**NOTE:** The estimated ending balance of \$51,619 is \$15,130 more than estimated at the close of the 2005 legislative session. The increase is primarily a result of revised revenue estimates being more than original projections. The beginning balance was \$110,723 more than projected and revised 2005-07 revenue estimates exceed original projections by \$538,219 due to the net effect of investment income and school construction loan income exceeding projections and energy impact loan income being less than projected. Higher short-term interest rates for funds held as investments and an increase in school construction loans resulted in additional income for the coal development trust fund. As a result, the transfer to the general fund is expected to be \$622,653 more than projected by the 2005 Legislative Assembly.

### FUND HISTORY

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

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

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

## ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$4,502,525
Add estimated revenues		
Transfers to date from the tobacco settlement trust fund	\$2,141,407 <sup>1</sup>	
Projected remaining transfers from the tobacco settlement trust fund	2,297,207	
Total estimated revenues		4,438,614 <sup>2</sup>
Total available		\$8,941,139
Less estimated expenditures and transfers		
State Department of Health (2005 SB 2004)		
Tobacco prevention and control	\$4,700,000 <sup>3</sup>	
Dentists' loan program	420,000 <sup>4</sup>	
Community health grant program	250,000 <sup>5</sup>	
Tobacco "quit line"	884,000 <sup>6</sup>	
Tobacco cessation coordinator and operating expenses	111,000 <sup>7</sup>	
Department of Human Services (2005 HB 1012)		
Breast and cervical cancer assistance	254,356 <sup>8</sup>	
Total estimated expenditures and transfers		6,619,356
Estimated ending balance - June 30, 2007		\$2,321,783

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$2,064,452. The increase of \$257,331 is primarily due to tobacco cessation grants expenditures being less than originally estimated for both the 2003-05 and 2005-07 bienniums (see footnote 5).

<sup>1</sup>For the 2005-07 biennium, three transfers totaling \$2,141,407 have been made from the tobacco settlement trust fund as of April 30, 2006. Total transfers of \$17,426,124 have been made from the tobacco settlement trust fund to the community health trust fund.

<sup>2</sup>Revenues - Interest earned on the community health trust fund is deposited in the state general fund. The tobacco settlement revenues for the community health trust fund were estimated to be \$5,127,121 for the 2005-07 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$688,507 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million, of which \$270,000 would have been deposited in the community health trust fund. The tobacco companies are contending that the master settlement agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office plans to file a lawsuit against the tobacco companies to collect the full payment. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$4,438,614 do not include the \$270,000 withheld by tobacco companies. The revenues for the community health trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

<b>Biennium</b>	<b>1999 Original Estimated Collections</b>	<b>Office of Management and Budget Revised Estimated Collections</b>
1999-2001	\$5,759,377	\$5,290,078
2001-03	6,114,358	5,363,637
2003-05	5,127,121	4,631,001
2005-07	5,127,121	4,438,614
2007-09	8,223,108	7,368,727
2009-17 (\$8,223,108/\$7,368,727 per biennium)	32,892,432	29,474,908
2017-25 (\$5,859,149/\$5,250,383 per biennium)	23,436,596	21,001,532
<b>Total</b>	<b>\$86,680,113</b>	<b>\$77,568,497</b>

<sup>3</sup>House Bill No. 1475 (1999) (North Dakota Century Code (NDCC) Section 54-27-25) provides that money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage. The 2005 Legislative Assembly provided an appropriation of \$4.7 million, the same as the 2003-05 biennium appropriation, to the State Department of Health for tobacco prevention and control programs. A total of \$1.7 million has been expended as of the end of April 2006.

<sup>4</sup>The dentists' loan repayment program, which is maintained by the State Health Council, was established in 2001 Senate Bill No. 2276 (NDCC Chapter 43-28.1). Each year the State Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds, not to exceed a total of \$80,000 per applicant, for the repayment of their educational loans. The funds are payable over a four-year period (\$20,000 per year). Senate Bill No. 2276 (2001) provided for one dentist to be selected annually for the program from each of the following community-size categories--small (less than 2,500 residents), medium (less than 10,000 residents), and large (10,000 or more residents). The 2003 Legislative Assembly, as provided in Senate Bill No. 2378, changed the dental loan repayment program effective for the 2003-05 biennium, providing that the highest priority for acceptance into the program be given to dentists willing to serve the smallest and most underserved communities in North Dakota. Dentists accepted into the program per biennium include:

<b>Biennium (Number of Dentists Accepted Into Program)</b>	<b>Communities Served</b>
2001-03 biennium (3)	Minot (2) Larimore
2003-05 biennium (6)	Fargo Community Health Center New Rockford Grand Forks Fargo Bismarck West Fargo
2005-07 biennium (4 to date)	Fargo Community Health Center Wahpeton/LaMoure Bismarck (serving special populations) Mott

<sup>5</sup>The community health grant program was established in 2001 Senate Bill No. 2380 (NDCC Section 23-38-01) with the intent to prevent or reduce tobacco usage. The Community Health Grant Program Advisory Committee is to advise the State Department of Health regarding the community health grant program. The 2005 Legislative Assembly authorized \$495,000 for tobacco cessation grants (\$395,000) and the Community Health Grant Program Advisory Committee (\$100,000). The grants to cities and counties for cessation programs are to be matched with \$1 of local funds for every \$3 of state funds. The State Department of Health estimates, based on current spending for tobacco cessation grants, that \$150,000 will be spent during the 2005-07 biennium. It is anticipated that the entire \$100,000 appropriation will be expended for the Community Health Grant Program Advisory Committee.

<sup>6</sup>The 2003 Legislative Assembly appropriated \$680,000 for establishing a telephone tobacco "quit line." The 2005 Legislative Assembly appropriated \$884,000 to operate the "quit line" for the 2005-07 biennium.

<sup>7</sup>The Legislative Assembly authorized one full-time equivalent tobacco prevention coordinator position and related funding for salaries and wages (\$95,666) and operating expenses (\$15,334).

<sup>8</sup>The Legislative Assembly appropriated \$254,356, an increase of \$139,601 from the 2003-05 biennium appropriation of \$114,755, to the Department of Human Services for providing the state matching funds for medical assistance coverage for women screened and found to have breast and cervical cancer.

#### **FUND HISTORY**

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

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



## ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Balance - July 1, 2005		\$915,396
Add estimated revenues		<u>3,005,000<sup>1</sup></u>
Total available		\$3,920,396
Less estimated expenditures		
Agriculture Commissioner		
Noxious weed control (2005 HB 1009)	\$1,473,831	
Pesticide disposal project (Safe Send) (2005 HB 1009)	580,371	
Pesticide programs (2005 HB 1009)	425,875	
Agriculture in the classroom project (2005 HB 1009)	100,000	
Saltcedar control (2005 HB 1009)	250,000	
Pesticide Control Board		
Minor use pesticide registration (2005 HB 1009)	200,000 <sup>2</sup>	
Crop Protection Product Harmonization and Registration Board <sup>3</sup>		
Crop protection product registration and labeling and grants (2005 HB 1009)	25,000	
State Department of Health		
Ground water testing (2005 SB 2004)	202,808	
North Dakota Stockmen's Association environmental services program (2005 SB 2004)	50,000	
Agricultural Experiment Station		
Environmental research (2005 SB 2020)	<u>150,000</u>	
Total estimated expenditures		<u>3,457,885</u>
Estimated ending balance - June 30, 2007		<u><u>\$462,511</u></u>

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

<sup>2</sup>This amount is transferred to the minor use pesticide fund and appropriated to the Crop Protection Product Harmonization and Registration Board on a continuing basis. House Bill No. 1328 (2001) changed the control of the minor use pesticide fund from the Agriculture Commissioner to the Crop Protection Product Harmonization and Registration Board.

<sup>3</sup>North Dakota Century Code Section 4-35-30 as created by 2001 House Bill Nos. 1328 and 1009 created the Crop Protection Product Harmonization and Registration Board. The duties of the board consist of:

- Identify and prioritize crop protection product labeling needs.
- Explore the extent of authority given to North Dakota under the federal Insecticide, Fungicide, and Rodenticide Act.
- Identify the data necessary to enable registration of a use to occur in a timely manner.
- Determine what research, if any, is necessary to fulfill data requirements for responsibilities of the board.

- Request the Agriculture Commissioner to pursue specific research funding options from public and private sources.
- Request the North Dakota State University Agricultural Experiment Station to pursue specific research to coordinate registration efforts.
- Pursue any opportunities to make more crop protection product options available to agriculture producers in this state through any means the board determines advisable.
- The board may administer a grant program through which agriculture commodity groups may apply for funds to be used to address issues related to the registration of crop protection products.

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

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

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

#### **FUND HISTORY**

North Dakota Century Code Section 19-18-02.1 created by 1991 Senate Bill No. 2451 establishes the environment and rangeland protection fund. The fund contains collections from pesticide registration fees. The biennial fee is \$350 per pesticide product registered in the state for the 2005-07 biennium. Of this amount, \$300 is deposited in the environment and rangeland protection fund and \$50 in the general fund.

## ANALYSIS OF THE STATE FIRE AND TORNADO FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$22,820,012
Add estimated revenues		
Premium collections	\$9,600,000	
Investment income	4,000,000	
Boiler inspection fees	320,000	
Loss claims and insurance recoveries	500,000	
Anhydrous ammonia storage facility inspection fund (2005 HB 1010)	150,000	
Total estimated revenues		14,570,000
Total available		\$37,390,012
Less estimated expenditures and transfers		
Loss claims payments	\$4,500,000	
Insurance Department administration (2005 HB 1010) and anhydrous ammonia tank inspection costs	1,138,576	
State Fire Marshal program (2005 HB 1003)	310,000	
Firefighters Association grants	126,000	
Claims-related payments	3,500,000	
Total estimated expenditures and transfers		9,574,576
Estimated ending balance - June 30, 2007		\$27,815,436

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$25,524,644. The increase in the estimated balance of \$2,290,792 is primarily due to the actual July 1, 2005, balance of \$22,820,012 being \$1,145,792 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$21,674,220 and the 2005-07 revised estimated revenues of \$14,570,000 being \$1,145,000 more than the previous estimate of \$13,425,000. The 2005-07 biennium estimated revenues are more than previously estimated primarily due to an increase in investment income.

### FUND HISTORY

The state fire and tornado fund originated in 1919. The fund is maintained to insure the various political subdivisions and state industries against loss to public buildings and permanent fixtures. North Dakota Century Code Section 26.1-22-14 requires that if the fire and tornado fund balance is less than \$12 million, the Insurance Commissioner must increase assessments on policies.

## ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$16,098,385
Add estimated revenues		
Oil extraction tax allocations	\$8,626,218 <sup>1</sup>	
Total available		24,724,603
Less estimated expenditures and transfers		
Transfer to foundation aid program	\$0 <sup>2</sup>	
Estimated ending balance - June 30, 2007		\$24,724,603

<sup>1</sup>Estimated revenues - Based on actual oil extraction tax collections through May 2006 and estimated allocations for the remainder of the 2005-07 biennium per the March 2005 executive revenue forecast.

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

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$24,090,006. The increase in the estimated balance of \$633,742 is due to the increased oil activity resulting in the actual July 1, 2005, balance of \$16,098,385 being \$226,157 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$15,872,228 and the 2005-07 estimated revenues of \$8,625,363 being \$407,585 more than the previous estimate of \$8,217,778.

### FUND HISTORY

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

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

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

Article X, Section 24, of the Constitution of North Dakota provides that the interest income of the foundation aid stabilization fund must be transferred to the general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the period July 1, 2005, through March 31, 2006, \$245,931 of interest from the foundation aid stabilization fund has been allocated to the general fund.

## ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance		\$19,583,138
Add estimated revenues		
Investment earnings	\$1,410,662	
Loan repayments - Principal and interest	<u>1,061,185</u>	
Total estimated revenues		<u>2,471,847</u>
Total available		\$22,054,985
Less estimated expenditures		
State Department of Health		
Quick response unit pilot project	\$125,000	
Department of Human Services inflationary increases and developmental disabilities services	3,200,000	
Bank of North Dakota administrative fee on outstanding loans	98,000	
Transfer to the general fund	<u>16,900,000</u>	
Total estimated expenditures and transfers		<u>20,323,000</u>
Estimated ending balance - June 30, 2007		<u><u>\$1,731,985</u></u>

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 Legislative Assembly was \$1,321,937. The increase of \$410,048 is due primarily to an increase in 2005-07 estimated investment earnings.

### FUND HISTORY

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

## ANALYSIS OF THE LANDS AND MINERALS TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$6,820,579
Add estimated revenues		
Production royalties	\$6,244,509	
Mineral leases	235,597	
Oil and gas bonuses	2,879,716	
Investment earnings	863,384	
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020; 1985 SB 2249)	994,734	
Total estimated revenues		11,217,940
Total available		\$18,038,519
Less estimated expenditures		
Payments to common schools trust fund - Developmentally disabled loan fund Nos. 2 and 3 (2005 SB 2013)	\$1,664,437 <sup>1</sup>	
Industrial Commission - Oil and Gas Division contingency (2005 SB 2014)	225,000 <sup>2</sup>	
Transfer to the general fund (2005 HB 1015)	6,800,000	
Administrative costs/other fees	236,251	
Total estimated expenditures and transfers		8,925,688
Estimated ending balance - June 30, 2007		\$9,112,831

**NOTE:** The estimated ending balance is \$8,023,982 more than estimated at the close of the 2005 legislative session due primarily to 2005-07 revised revenue estimates being more than projected at the close of the 2005 legislative session resulting from an increase in oil prices and production.

<sup>1</sup>Payments to common schools trust fund - Senate Bill No. 2013 (2005) provides a continuing appropriation annually of the amount necessary from the lands and minerals trust fund for the purpose of making payments of principal and interest to the common schools trust fund for loans made to developmentally disabled loan fund Nos. 2 and 3. The Land Department estimates that for the 2005-07 biennium, \$1,664,437 will be required to make the loan payments to the common schools trust fund.

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

### FUND HISTORY

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

## ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$10,362,794
Add estimated revenues		
Separate two-cent coal severance tax	\$1,200,000	
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,375,000	
Twenty percent of coal severance taxes deposited in the coal development trust fund (committed to clean coal projects) (result of passage of constitutional amendment passed by voters in June 1994)	1,350,000	
Investment income on Dakota Gasification Company ammonia plant	1,350,000	
Interest income	180,000	
Total estimated receipts		7,455,000
Total available		\$17,817,794
Less estimated expenditures <sup>1,2</sup>		
Administration	\$400,000	
Lignite feasibility studies (nonmatching grants)	1,500,000	
Small research grants	2,801,000	
Demonstration projects	7,780,000	
Total estimated expenditures		12,481,000 <sup>3</sup>
Estimated ending balance - June 30, 2007		\$5,336,794 <sup>4</sup>

<sup>1</sup>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 project can receive more than 37.5 percent of available funds.

<sup>2</sup>The Industrial Commission has waived the fund allocation policy and has committed \$20,872,943 through the 2009-11 biennium with \$5,922,943 to be spent during the 2005-07 biennium and the remaining \$14,950,000 during 2007-09 and 2009-11 bienniums for the Lignite Vision 21 program. The object of the Lignite Vision 21 program is to construct new lignite-fired power plants in North Dakota.

<sup>3</sup>The 2005 Legislative Assembly appropriated \$15,200,000 for lignite research grants; however, the Industrial Commission anticipates spending \$12,481,000 for lignite research grants during the 2005-07 biennium.

<sup>4</sup>The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$449,128. The increase of \$4,887,666 is primarily due to an increase in revenue from income investment from the Dakota Gasification Company ammonia plant and a decrease in expenditures for grants.

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

## ANALYSIS OF THE PERMANENT OIL TAX TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$50,369,096
Add estimated revenues		
Oil and gas production tax and oil extraction tax collections	\$75,590,252 <sup>1</sup>	
Total estimated receipts		75,590,252
Total available		\$125,959,348
Less estimated expenditures <sup>2</sup>		
Transfer to the general fund (Section 32 of 2005 HB 1015)	\$55,300,000	
Parks and Recreation Department - International Music Camp grant for International Arts Center (2005 SB 2228)	350,000	
Office of Management and Budget - Repayment of loans for centers of excellence (Section 12 of 2005 SB 2018)	16,000,000	
Department of Human Services - Medicaid management information system project (Section 8 of 2005 HB 1012)	3,667,820	
Total estimated expenditures		75,317,820
Estimated ending balance - June 30, 2007		\$50,641,528

<sup>1</sup>Estimated collections reflect actual collections through April 2006 and **original legislative projections** for the remainder of the biennium.

<sup>2</sup>Pursuant to North Dakota Century Code Section 57-51.1-07.2, the principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly.

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$7,906,762. The increase in the estimated ending balance of \$42,734,766 is due to the beginning balance being \$5,160,868 higher and the estimated revenues being \$37,573,898 more than projected at the end of the 2005 legislative session due to increased oil production and oil prices.

### FUND HISTORY

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



## ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2005-07 BIENNIUM AS OF APRIL 2006

Beginning balance - July 1, 2005		\$36,743,173
Add estimated revenues		
Oil extraction tax collections	\$17,250,726	
Repayments and reimbursements	2,005,000	
Investment earnings/miscellaneous	953,991	
Total estimated revenues		20,209,717
Total available		\$56,952,890
Less estimated expenditures and transfers		
State Water Commission		
Grants and administration (2005 HB 1021)	\$54,013,116 <sup>1</sup>	
Total estimated expenditures and transfers		54,013,116
Estimated ending balance - June 30, 2007		\$2,939,774

<sup>1</sup>Section 4 of 2005 House Bill No. 1021 appropriates \$54,013,116, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission.

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$0. The increase of \$2,939,774 is primarily due to expenditures for water projects being less than originally estimated and oil extraction tax collections being greater than originally estimated.

### FUND HISTORY

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

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

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

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

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

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

## ANALYSIS OF THE SENIOR CITIZEN SERVICES AND PROGRAMS FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance		\$0
Add estimated revenues		
Allocation from sales, use, and motor vehicle excise tax collections		
Fiscal year 2006 (actual)	\$995,253	
Fiscal year 2007 (estimated)	1,016,747	
Total estimated revenues		2,012,000
Total available		\$2,012,000
Less estimated expenditures		
State Treasurer - County senior citizen matching grants		
Fiscal year 2006 (actual)	\$989,415	
Fiscal year 2007 (estimated)	1,022,585	
Total estimated expenditures and transfers		2,012,000
Estimated ending balance - June 30, 2007		\$0

**NOTE:** The estimated June 30, 2007, balance projected at the close of the 2005 Legislative Assembly was \$0, the same as the current estimate.

### FUND HISTORY

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

## ANALYSIS OF THE STATE AID DISTRIBUTION FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$0
Add estimated revenues		
Sales, use, and motor vehicle excise taxes (based on 4/10 of 1%)		80,109,470
		80,109,470
Total estimated revenues		\$80,109,470
Less estimated expenditures and transfers		
Payments to political subdivisions		
County share (53.7%)	\$43,018,785	
City share (46.3%)	37,090,685	
		80,109,470
Total estimated expenditures and transfers		80,109,470
Estimated ending balance - June 30, 2007		\$0

**NOTE:** Through May 2006 state aid distribution fund receipts have exceeded estimates made at the end of the 2005 Legislative Assembly by approximately \$1,773,000 due to higher than anticipated sales tax collections. The total estimated revenues and payments to political subdivisions shown above reflect the 2005-07 revenue forecast as approved by the 2005 Legislative Assembly of \$78,336,470 adjusted by the additional revenues received through May 2006.

North Dakota Century Code (NDCC) Section 57-39.2-26.1 provided, prior to January 1, 1999, for a portion of sales, use, and motor vehicle excise tax collections equal to 60 percent of an equivalent one-cent sales tax to be deposited by the State Treasurer in the state aid distribution fund. The Tax Commissioner certified to the State Treasurer the portion of sales, use, and motor vehicle excise tax net revenues that were deposited in the state aid distribution fund. The state aid distribution fund had historically been allocated, subject to legislative appropriation, with 50 percent of revenues for state revenue sharing and 50 percent for personal property tax replacement.

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

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

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

<b>Population Category</b>			
<b>Counties</b>	<b>Percentage</b>	<b>Cities (Based on Population)</b>	<b>Percentage</b>
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%
<b>Total</b>	<b>100.00%</b>	<b>Total</b>	<b>100.0%</b>

## ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2005-07 BIENNIUM<sup>1</sup> AS OF MAY 2006

Beginning balance - July 1, 2005		\$28,026,050
Add estimated revenues		
Fund earnings	\$2,800,000 <sup>2</sup>	
Total available		30,826,050
Less estimated expenditures and transfers		
Transfer to the general fund	\$9,000,000 <sup>3</sup>	
Funding for veterinary medicine program	262,500 <sup>4</sup>	
Total estimated expenditures and transfers		9,262,500
Estimated ending balance - June 30, 2007		\$21,563,550

<sup>1</sup>This analysis reflects the estimated revenues, expenditures, and ending balance for the **1979 bond resolution only**.

<sup>2</sup>The projected income is based on interest rates as of April 1, 2006, the trust's ability to continue to receive a return of 9.5 percent on a portion of the student loans held by the trust and the assumption that the \$9 million transfer to the general fund for the 2005-07 biennium is made in the last six months of the biennium. As of January 31, 2006, the trust is no longer able to recycle student loans and receive the return of 9.5 percent. The trust's portfolio of "9.5 percent earning loans" will continue to shrink as students consolidate or pay off their loans.

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

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

**NOTE:** The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$22,626,531. The decrease in the estimated balance of \$1,062,981 is the net effect of the actual July 1, 2005, balance of \$28,026,050 being \$237,019 more than the July 1, 2005, balance estimated at the close of the 2005 legislative session of \$27,789,031 and the 2005-07 revised estimated revenues of \$2.8 million being \$1.3 million less than the previous estimate of \$4.1 million. The 2005-07 biennium estimated revenues are less than previously estimated due to the loss of the trust's ability to recycle student loans and receive the return of 9.5 percent.

### FUND HISTORY

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

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

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

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

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

In addition, North Dakota Century Code Section 6-09-40 provides that the Bank of North Dakota shall request from the Industrial Commission a transfer from the student loan trust fund to reimburse the Bank for any losses incurred from investments in North Dakota alternative and venture capital investments and early-stage capital funds. Section 10-03.5-04(3) provides that the maximum amount of funds that may be borrowed from the Bank of North Dakota for the purpose of investing in North Dakota alternative and venture capital investments and early-stage capital funds is \$10 million. Senate Bill No. 2032 (2005) increased the maximum amount of funds that may be borrowed for alternative and venture capital investments and early-stage capital funds by \$5 million, from \$5 million to \$10 million. As of April 1, 2006, the Bank has not informed the trust if it will be seeking a transfer for any losses the Bank may have incurred from investments made in North Dakota alternative and venture capital investments and early-stage capital funds.

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

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

## ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$0
Add estimated revenues		
Tobacco settlement revenues collected to date	\$21,414,069 <sup>1</sup>	
Projected tobacco settlement revenues	22,972,067	
Total estimated revenues		44,386,136 <sup>2</sup>
Total available		\$44,386,136 <sup>3</sup>
Less estimated expenditures and transfers		
Transfers to the community health trust fund (10%)	\$4,438,614	
Transfers to the common schools trust fund (45%)	19,973,761	
Transfers to the water development trust fund (45%)	19,973,761	
Total estimated expenditures and transfers		44,386,136
Estimated ending balance - June 30, 2007		\$0

<sup>1</sup>For the 2005-07 biennium, the state has received three tobacco settlement payments totaling \$21,414,069 as of April 30, 2006. The state has received total tobacco settlement collections of \$174,261,226.

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

<sup>3</sup>The tobacco settlement proceeds for the 2005-07 biennium were estimated to be \$51,271,214 at the end of the 1999 legislative session. The decrease in the amount of tobacco settlement revenues collected for the biennium of \$6,885,078 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million. The tobacco companies are contending that the master settlement agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office plans to file a lawsuit against the tobacco companies to collect the full payment. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$44,386,136 do not include the \$2.7 million withheld by tobacco companies. The total original estimated tobacco settlement collections made during the 1999 legislative session and the total estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

<b>Biennium</b>	<b>1999 Original Estimated Collections</b>	<b>Office of Management and Budget Revised Estimated Collections</b>
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	44,386,136
2007-09	82,231,080	73,687,266
2009-17 (\$82,231,080/\$73,687,266 per biennium)	328,924,320	294,749,064
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
<b>Total</b>	<b>\$866,801,136</b>	<b>\$775,684,951</b>

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

#### **FUND HISTORY**

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

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



## ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$4,524,911
Add estimated revenues		
Investment income	\$375,000	
Sale of vans	7,000	
Total estimated revenues		382,000
Total available		\$4,906,911
Less estimated expenditures		
Department of Veterans Affairs - Anticipated expenditures pursuant to continuing appropriation authority contained in Article X of the North Dakota Constitution as approved by the voters in November 1996		
Grants	\$175,000	
Operating expenses	2,500	
Administrative committee travel	22,350	
Veterans' Home activities	10,000	
Vehicles - Vans	24,500	
Veterans' transportation program	4,000	
Other veterans' programs	15,000	
Appeals Committee	500	
Total estimated expenditures and transfers		253,850
Estimated ending balance - June 30, 2007		\$4,653,061

**NOTE:** The **principal balance of the fund is \$4,101,849**, leaving an estimated available investment income balance of \$551,212 as of June 30, 2007. The Administrative Committee on Veterans Affairs has a policy of reserving a portion of the investment income balance to generate additional investment income. The reserve balance was \$250,000 as of July 1, 2005.

The estimated June 30, 2007, balance made at the end of the 2005 legislative session was \$4,582,146. The increase of \$70,915 is primarily due to investment income being greater than originally estimated.

### FUND HISTORY Established

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

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

#### **1988 Initiated Measure No. 4**

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

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

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

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

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

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

#### **1996 Initiated Constitutional Measure No. 4**

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

## ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2005-07 BIENNIUM AS OF MAY 2006

Beginning balance - July 1, 2005		\$13,200,239
Add estimated revenues		
Transfers to date from tobacco settlement trust fund	\$9,636,331 <sup>1</sup>	
Projected remaining transfers from tobacco settlement trust fund	10,337,430	
Total estimated revenues		19,973,761 <sup>2</sup>
Total available		\$33,174,000
Less estimated expenditures and transfers		
State Water Commission (2005 HB 1021)		
Water projects	\$11,011,028 <sup>3</sup>	
Bond payments	9,836,520 <sup>3</sup>	
Administrative expenses	9,116,325 <sup>3</sup>	
North Dakota Legislative Assembly		
Legislators' Forum dues (2005 HB 1015)	20,000 <sup>4</sup>	
Total estimated expenditures and transfers		29,983,873
Estimated ending balance - June 30, 2007		\$3,190,127

**NOTE:** The estimated July 1, 2007, balance made at the end of the 2005 legislative session was \$0. The increase of \$3,190,127 is primarily due to payments for water projects during the 2003-05 biennium being less than estimated resulting in a greater than anticipated July 1, 2005, balance.

<sup>1</sup>For the 2005-07 biennium, three transfers totaling \$9,636,331 have been made from the tobacco settlement trust fund as of April 30, 2006. Total transfers of \$78,417,551 have been made from the tobacco settlement trust fund to the water development trust fund.

<sup>2</sup>Revenues - Interest earned on the water development trust fund is deposited in the state general fund. The tobacco settlement revenues for the water development trust fund were estimated to be \$23,072,046 for the 2005-07 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$3,098,285 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million, of which \$1,215,000 would have been deposited in the water development trust fund. The tobacco companies are contending that the master settlement agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office plans to file a lawsuit against the tobacco companies to collect full payment. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$19,973,761 do not include the \$1,215,000 withheld by tobacco companies. The revenues for the water development trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$25,917,197	\$23,805,353
2001-03	27,514,610	24,136,363
2003-05	23,072,046	20,839,504
2005-07	23,072,046	19,973,761
2007-09	37,003,986	33,159,270
2009-17 (\$37,003,986/\$33,159,270 per biennium)	148,015,944	132,637,080
2017-25 (\$26,366,170/\$23,626,724 per biennium)	105,464,680	94,506,896
Total	\$390,060,509	\$349,058,227

<sup>3</sup>Section 5 of House Bill No. 1021 provides \$29,963,873, or any additional amount that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission. Approximately \$11 million is anticipated to be available for water projects after bond payments and administrative expenses.

The total bond payments for the 2005-07 biennium, including anticipated principal and interest payments on the \$60 million bond issuance (2005) and the \$27.5 million bond issuance (2000), is estimated to be \$9,836,520. The Legislative Assembly also authorized, in House Bill No. 1021, the State Water Commission to issue up to \$7 million in bonds during the 2005-07 biennium. However, because the bonds are not anticipated to be issued until the second year of the biennium, principal and interest related to the issuance will not be payable until the 2007-09 biennium.

The Legislative Assembly appropriated \$9,116,325 from the water development trust fund for administrative expenses of the State Water Commission.

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

#### FUND HISTORY

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

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

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