

ANALYSIS OF STATE TRUST FUNDS FOR THE 2015-17 AND 2017-19 BIENNIUMS



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June 2018

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ANALYSIS OF THE ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|---------------------|-------------------------------|---------------------|
| | Beginning balance | | \$11,538,380 | |
| Add revenues | | | | |
| Fees, forfeitures, transfers, and recoveries penalties | \$1,038,731 ¹ | | \$2,157,000 ¹ | |
| Oil and gas tax collections | 10,304,327 ² | | 8,399,588 ^{2,3} | |
| Total revenues | | 11,343,058 | | 10,556,588 |
| Total available | | \$22,881,438 | | \$27,939,063 |
| Less expenditures and transfers | | | | |
| Reclamation of well sites placed into service after July 31, 1983 | \$2,087,202 | | \$3,500,000 | |
| Reclamation of well sites placed into service on or before July 31, 1983 (2015 HB 1358; 2017 HB 1347) | 1,202,336 | | 3,250,000 | |
| Transfer to the oil and gas research fund for an oil and produced water pipeline study (2015 HB 1358) | 1,500,000 | | | |
| Transfer to the oil and gas research fund for a contaminated site remediation pilot project (2015 HB 1358) | 500,000 | | | |
| Transfer to the environmental quality restoration fund (2015 SB 2190) | 0 ⁴ | | 400,000 | |
| Brine pond and soil remediation studies (2017 HB 1347) | | | 1,750,000 | |
| Pipeline restoration and reclamation oversight program - Agriculture Commissioner (2015 SB 2271; 2017 HB 1009) | 193,268 ⁵ | | 200,000 ⁵ | |
| Miscellaneous ⁶ | 16,157 | | 25,000 | |
| Total expenditures and transfers | | 5,498,963 | | 9,125,000 |
| Ending balance | | <u>\$17,382,475</u> | | <u>\$18,814,063</u> |

¹Revenues 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.

²In House Bill No. 1032, the 2015 Legislative Assembly increased the oil and gas tax allocations 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. These changes were contingent upon the "large" trigger not being in effect at any time during the first 6 months of the 2015-17 biennium. The contingency was met, which allows the allocation limit and the fund balance limit to increase. In Senate Bill No. 2013, the 2017 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.

³Estimated 2017-19 biennium revenues - The estimated allocations for the 2017-19 biennium reflect actual allocations through March 2018 and estimated allocations for the remainder of the biennium based on the 2017 legislative revenue forecast.

⁴During the 2015-17 biennium, the State Department of Health did not request any transfers to the environmental quality restoration fund. For the 2017-19 biennium through March 31, 2018, 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.

⁵The 2015 Legislative Assembly appropriated \$400,000 in Senate Bill No. 2271 and the 2017 Legislative Assembly appropriated \$200,000 in House Bill No. 1009. As of March 31, 2018, the Department of Agriculture requested and received \$17,815 of the \$200,000 appropriation for the 2017-19 biennium.

⁶Miscellaneous expenditures include credit card merchant fees and audit fees.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$15,718,380. The increase in the estimated balance of \$3,095,683 is primarily related to a decrease in expenditures for well site reclamation in the 2015-17 biennium and an increase in the estimated fee and forfeiture collections in the 2017-19 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 2015 Legislative Assembly, in House Bill No. 1032, 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, the 2017 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.

ANALYSIS OF THE ATTORNEY GENERAL REFUND FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|--|------------------|--------------------|------------------|--------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$8,486,557 | | \$8,432,537 |
| Add revenues | | | | |
| Refunds of consumer protection and antitrust expenditures, attorney's fees, and civil penalties ¹ | \$4,797,922 | | \$1,922,683 | |
| Cash deposit bonds | 5,000 | | 5,000 | |
| Tribal gaming, licensing, and investigation fees | 344,828 | | 374,974 | |
| Background checks | 53,990 | | 35,563 | |
| Total revenues | | 5,201,740 | | 2,338,220 |
| Total available | | \$13,688,297 | | \$10,770,757 |
| Less expenditures and transfers authorized in North Dakota Century Code Section 54-12-18 | \$0 | | \$0 | |
| Refunds to specifically named consumers (54-12-18(1)) ² | 0 | | 0 | |
| Claims against cash deposit bonds (54-12-18(2)) | 0 | | 6,000 | |
| Refund of cash deposit bond balance (54-12-18(3)) | 0 | | 0 | |
| Consumer Protection and Antitrust Division expenditures (54-12-18(4)) | 924,820 | | 1,421,798 | |
| Tribal gaming background investigations (54-12-18(5)) | 61,106 | | 50,000 | |
| Tribal gaming licensing expenditures (54-12-18(5)) | 354,983 | | 357,034 | |
| Tribal gaming enforcement expenditures (54-12-18(5)) | 322,322 | | 394,817 | |
| Less other expenditures and transfers ³ | | | | |
| Bureau of Criminal Investigation salaries | 407,053 | | 616,078 | |
| State Crime Laboratory operating expenditures | 374,561 | | 290,894 | |
| Information technology contractual program maintenance | 775,354 | | 800,000 | |
| Information technology operating expenditures | 930,717 | | 1,184,497 | |
| Technology project carryover ⁴ | 1,104,844 | | 721,035 | |
| Total expenditures and transfers | | 5,255,760 | | 5,842,153 |
| Ending balance ⁵ | | <u>\$8,432,537</u> | | <u>\$4,928,604</u> |

¹The 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.

²The Attorney General has indicated that a court rarely awards refunds to specific consumers, instead awarding refunds to organizations such as the Housing Finance Agency.

³The other expenditures are not specifically authorized in Section 37-12-18, but are appropriated as part of the Attorney General's biennial appropriation.

⁴Technology project carryover expenditures relate primarily to the criminal history repository replacement project, which was started during the 2011-13 biennium to rewrite the current criminal history repository system. 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 anticipates spending an additional \$721,035 on the project during the 2017-19 biennium, resulting in a total estimated project cost of \$3,812,694.

⁵Section 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 16 of 2017 House Bill No. 1003, the Legislative Assembly authorized the Attorney General to retain the June 30, 2017, 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 2015-17 biennium. The Attorney General anticipates requesting another exemption from the 2019 Legislative Assembly to allow prior biennium funding in the Attorney General refund fund to be spent 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 1989 House Bill No. 1141, 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 the Office of Management and Budget 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 |

¹Section 8 of 2001 House Bill No. 1003 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 2015-17 AND 2017-19 BIENNIUMS**

| | 2015-17 Biennium Actual ¹ | | 2017-19 Biennium Estimated ¹ | |
|--|---|--------------|--|--------------|
| | Beginning cash balance | | \$3,578,992 | |
| Add revenues | | | | |
| Transfers of Bank of North Dakota profits (2015 HB 1014; 2017 SB 2014) | \$7,000,000 | | \$6,000,000 | |
| Transfers from partnership in assisting community expansion (PACE) funds ² | 0 | | 500,000 | |
| Recoveries from loans previously written-off | 65,226 | | 0 | |
| Investment interest | 4,410 | | 4,000 | |
| Total revenues | | 7,069,636 | | 6,504,000 |
| Total available | | \$10,648,628 | | \$12,584,228 |
| Less expenditures and transfers | | | | |
| Interest rate buydowns | \$4,449,369 | | \$6,500,000 | |
| Transfers to PACE funds ² | 107,884 | | 0 | |
| Transfers to the value-added agriculture equity loan program ³ | 0 | | 0 | |
| Public Service Commission rail rate complaint case ⁴ (2015 SB 2008; 2017 HB 1008) | 0 | | 0 | |
| Administrative expenses including audit fees | 11,147 | | 12,000 | |
| Total expenditures and transfers | | 4,568,400 | | 6,512,000 |
| Ending cash balance | | \$6,080,228 | | \$6,072,228 |

¹The beginning and ending cash balances do not include the value of the outstanding loans as the loans are reflected on the Bank of North Dakota's balance sheet. As of December 31, 2017, the Bank had 328 loans outstanding totaling \$84.8 million related to beginning farmer real estate loans.

²North Dakota Century Code 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. In November 2017 the Bank transferred \$500,000 from other PACE funds to the beginning farmer revolving loan fund.

³Section 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 were made in the 2015-17 biennium, and no transfers are anticipated in the 2017-19 biennium.

⁴The 2015 and 2017 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 were made in the 2015-17 biennium, and no transfers are anticipated in the 2017-19 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$4,394,914. The increase in the estimated balance of \$1,677,314 is primarily related to fewer transfers from the fund to other PACE funds during the 2015-17 biennium and an increase in transfers to the fund from other PACE funds during the 2017-19 biennium.

FUND HISTORY

The beginning farmer revolving loan fund was established in 1983 (Senate Bill No. 2220) 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 BONDING FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---------------------------------------|------------------|-------------|------------------|-------------|
| | Actual | | Estimated | |
| Beginning balance | | \$3,419,583 | | \$3,640,412 |
| Add revenues | | | | |
| Investment income | \$201,664 | | \$105,000 | |
| State bonding fund claims collections | 68,904 | | 70,000 | |
| Game and fish bonds | 3,410 | | 3,000 | |
| Total revenues | | 273,978 | | 178,000 |
| Total available | | \$3,693,561 | | \$3,818,412 |
| Less expenditures and transfers | | | | |
| Claim liabilities/payments/write-offs | (\$20,287) | | \$150,000 | |
| Claims-related expenses | 6,845 | | 7,000 | |
| Investment expense | 7,231 | | 7,000 | |
| Administration | 59,360 | | 52,000 | |
| Total expenditures and transfers | | 53,149 | | 216,000 |
| Ending balance | | \$3,640,412 | | \$3,602,412 |

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$3,489,583. The increase in the estimated balance of \$112,829 is due primarily to lower actual claim liabilities/payments/write-offs during the 2015-17 biennium than estimated.

FUND HISTORY

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

ANALYSIS OF THE BUDGET STABILIZATION FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|----------------------------------|----------------------------|---------------|-------------------------------|---------------|
| | Beginning balance | | \$572,485,454 | |
| Add revenues | | | | |
| Investment income | \$6,105,913 ¹ | | \$650,000 ¹ | |
| Transfer from general fund | 32,202,755 ² | | 0 | |
| Oil and gas tax collections | 0 | | 75,000,000 ⁴ | |
| Total revenues | | 38,308,668 | | 75,650,000 |
| Total available | | \$610,794,122 | | \$113,958,668 |
| Less expenditures and transfers | | | | |
| Transfer to general fund | \$572,485,454 ³ | | \$0 | |
| Total expenditures and transfers | | 572,485,454 | | 0 |
| Ending balance | | \$38,308,668 | | \$113,958,668 |

¹Interest earnings are retained in the fund unless the balance of the fund is at the maximum amount allowed under North Dakota Century Code Section 54-27.2-01.

²Chapter 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 balance of the general fund at the end of the 2015-17 biennium was \$97,202,755; therefore, \$32,202,755 was transferred to the budget stabilization fund from the general fund.

³Section 3 of 2015 Senate Bill No. 2379, as approved by the Legislative Assembly during the August 2016 special legislative session, authorized the Director of the Office of Management and Budget to transfer up to \$572,485,452 from the budget stabilization fund to the general fund to provide for a positive balance in the general fund on June 30, 2017. The entire amount was transferred.

⁴House Bill No. 1152 (2017) 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 anticipated to be deposited into the fund during the 2017-19 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$75 million. The increase in the estimated balance of \$38,308,668 is due to 2015-17 biennium fund investment income and an unanticipated transfer from the general fund at the end of the 2015-17 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 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. The 2011 Legislative Assembly approved House Bill No. 1451, which 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. The 2017 Legislative Assembly approved House Bill No. 1155, which 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 the Office of Management and Budget 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 the Office of Management and Budget. 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 fund 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 2015-17 AND 2017-19 BIENNIUMS¹

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------------|-------------|----------------------|-------------|
| | Actual | | Estimated | |
| Beginning balance | | \$5,903,878 | | \$5,089,876 |
| Add revenues | | | | |
| Investment income | \$148,792 | | \$210,000 | |
| Governor's residence fundraising | 500,000 | | 400,000 | |
| Rentals, royalties, and bonuses | 2,350,567 | | 3,120,500 | |
| Total revenues | | 2,999,359 | | 3,730,500 |
| Total available | | \$8,903,237 | | \$8,820,376 |
| Less expenditures and transfers | | | | |
| Administrative expenses | \$59,127 | | \$60,000 | |
| Income payments to counties | 6,734 ² | | 7,000 ² | |
| Capitol Grounds Planning Commission continuing appropriation (North Dakota Century Code Section 48-10-02) | 175,000 ³ | | 175,000 ³ | |
| Capitol Grounds Planning Commission operating expenses (2017 HB 1015) | 12,500 | | 25,000 | |
| Office of Management and Budget Capitol projects (2015 SB 2015; 2017 HB 1015) | 617,544 ⁴ | | 392,456 ⁴ | |
| Governor's residence (2015 SB 2304) | 2,942,456 ⁵ | | 1,957,544 | |
| Total expenditures and transfers | | 3,813,361 | | 2,617,000 |
| Ending balance | | \$5,089,876 | | \$6,203,376 |

¹The analysis reflects the legislative appropriations for the 2015-17 and 2017-19 bienniums and does not include the land owned by the fund.

²Section 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.

³Section 48-10-02 provides a continuing appropriation to the Capitol Grounds Planning Commission to spend up to \$175,000 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.

⁴Funding of \$1.71 million was appropriated from the Capitol building fund by the 2015 Legislative Assembly in Senate Bill No. 2015, of which \$1.4 million is for Capitol building entrance and signage projects, and \$310,000 is for electrical and ceiling repairs in the legislative wing. The 2017 Legislative Assembly, in House Bill No. 1015, 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.

⁵Funding of \$4 million was appropriated from the Capitol building fund by the 2015 Legislative Assembly in Senate Bill No. 2304, 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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$4,230,583. The increase in the estimated balance of \$1,872,793 is primarily due to an increase in the estimated revenue from mineral royalties, rents, and bonuses, during the 2017-19 biennium.

ANALYSIS OF THE CENTERS OF EXCELLENCE FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------|------------------|------------------|------------------|
| | Actual | | Estimated | |
| Beginning balance ¹ | | \$8,226,692 | | \$624,611 |
| Add revenues | | | | |
| Investment income | \$3,598 | | \$500 | |
| Refunds from previously awarded grants ² | 51,607 | | 287,342 | |
| Total revenues | | 55,205 | | 287,842 |
| Total available | | \$8,281,897 | | \$912,453 |
| Less expenditures and transfers | | | | |
| Administrative expenses ³ | \$7,286 | | \$7,000 | |
| Centers of excellence grants funding distributions | | | 559,915 | |
| Transfer to Research North Dakota fund ⁴ | 7,650,000 | | | |
| Total expenditures and transfers | | 7,657,286 | | 566,915 |
| Ending balance ⁵ | | <u>\$624,611</u> | | <u>\$345,538</u> |

¹The 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.

²During the 2015-17 biennium, the Department of Commerce received refunds totaling \$51,607 from North Dakota State University (NDSU). In February 2018 the department received refunds totaling \$287,342 from 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 the total \$338,949 refund, \$208,983 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 \$129,966 was received from five centers due to the allowable time for grant expenditures expiring.

³North Dakota Century Code Section 15-69-05(6), as amended by the Legislative Assembly in 2011 Senate Bill No. 2057, authorized the Department of Commerce to use funds available within the centers of excellence fund for the department's administrative expenses.

⁴House Bill No. 1018 (2015) directed the Office of Management and Budget to transfer unobligated funds from the centers of excellence fund to the Research North Dakota fund. Unobligated funds of \$7.65 million in the centers of excellence fund were transferred to the Research North Dakota fund in January 2017.

⁵The 2015-17 biennium ending balance includes \$559,915 that is obligated for centers of excellence proposals approved in previous bienniums. The 2017-19 biennium ending balance includes no obligations for centers of excellence proposals approved in previous bienniums and \$64,696 that is obligated for future administrative expenses.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$6,909. The increase in the estimated balance of \$338,629 is due to refunds of previously distributed centers of excellence funding. See footnote 2 for additional information.

FUND HISTORY

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

ANALYSIS OF THE CENTERS OF RESEARCH EXCELLENCE FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------|--------------------|------------------|------------------|
| | Actual | | Estimated | |
| Beginning balance ¹ | | \$3,708,133 | | \$2,264,625 |
| Add revenues | | | | |
| Investment income | \$3,330 | | \$2,000 | |
| Refunds from previously awarded grants ² | 40,000 | | 4,672 | |
| Total revenues | | 43,330 | | 6,672 |
| Total available | | \$3,751,463 | | \$2,271,297 |
| Less expenditures and transfers | | | | |
| Limited deployment-cooperative airspace project grant | | | | |
| University of North Dakota (UND) ³ | | | | |
| North Dakota State University (NDSU) ³ | | | | |
| Centers of research excellence grants | | | | |
| UND ^{4,5} | \$192,500 | | | |
| NDSU ⁴ | 295,383 | | \$1,596,402 | |
| Base realignment grants | | | | |
| UND ⁵ | 998,955 | | 213,190 | |
| Total expenditures and transfers | | 1,486,838 | | 1,809,592 |
| Ending balance ⁶ | | <u>\$2,264,625</u> | | <u>\$461,705</u> |

¹The 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.

²In June 2017 the Department of Commerce received a refund of \$40,000 from NDSU. In February 2018 the department 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 refunds.

³The 2011 Legislative Assembly designated \$4 million of the \$12 million for grants to the North Dakota University System's research institutions for the purpose of leveraging private and federal funding to advance opportunities for a limited deployment-cooperative airspace project in the state during the 2011-13 biennium.

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

- Removed the requirement for Budget Section or Emergency Commission approval and authorized the Centers of Excellence Commission to award grants.
- Removed tourism from the definition of an "industry cluster."
- Removed the requirement that research universities limit applications to two per round of funding and removed the requirement that the awarding process give consideration to a center's ability to become financially self-sustaining.

- Replaced the prior requirement of annual audits with the requirement for an audit of all funds distributed to the centers after the 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 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 \$1.35 million. However, the center has been closed by NDSU, resulting in \$1.1 million of grants becoming uncommitted, leaving a total of \$3,713,750 of centers of research excellence grants committed, as shown in the schedule below. As a result, the Centers of Excellence Commission opened a special base realignment grant round under North Dakota Century Code 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.

| | |
|--|-------------|
| NDSU | |
| Center for Life Sciences Research and Applications | \$250,000 |
| Center for Technologically Innovative Processes and Products | 320,000 |
| Center for Technologically Innovative Processes and Products 2 | 1,011,250 |
| Center for Biobased Materials Science and Technology | 1,132,500 |
| UND | |
| Center for Avian Therapeutics for Infectious Diseases | 700,000 |
| Center for Gas Utilization | 300,000 |
| Total | \$3,713,750 |

⁵Of the \$4 million available to UND through the centers of research excellence program from funds appropriated for the 2011-13 biennium, \$3 million 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 |

⁶The 2015-17 biennium ending balance includes \$1,809,592 of anticipated committed funds for centers of research excellence proposals approved in the 2011-13 biennium. There are no anticipated committed funds for centers of research excellence proposals approved in the 2011-13 biennium in the 2017-19 biennium estimated ending balance.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$260,703. The increase in the estimated balance of \$201,002 is due to refunds of previously distributed centers of research excellence funding (see footnote 2 above) and fewer centers of research excellence grants distributed during the 2015-17 biennium than anticipated.

FUND HISTORY

Section 12 of 2011 Senate Bill No. 2057 established the centers of research excellence fund. Money in the fund is appropriated to the Department of Commerce on a continuing basis for implementing and administering the centers of research excellence program. Interest earned on money in the fund is retained in the fund. The Legislative Assembly has not appropriated new funding to the centers of research excellence fund since the 2011 legislative session. Estimated expenditures relate to centers of research excellence grants awarded in prior bienniums.

ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual ¹ | | 2017-19 Biennium Estimated ¹ | |
|--|---|-----------------|--|-----------------|
| Beginning balance | | \$69,797 | | \$41,579 |
| Add revenues | | | | |
| Investment income ² | \$239,977 | | \$509,349 | |
| School construction loan income ² | 1,594,869 | | 1,422,500 | |
| Total revenues | | 1,834,846 | | 1,931,849 |
| Total available | | \$1,904,643 | | \$1,973,428 |
| Less expenditures and transfers | | | | |
| Investment expense | \$23,113 | | \$14,860 | |
| Administrative expenses | 13,090 | | 10,000 | |
| Transfer to the general fund ² | 1,826,861 | | 1,871,579 | |
| Total expenditures and transfers | | 1,863,064 | | 1,896,439 |
| Ending balance | | <u>\$41,579</u> | | <u>\$76,989</u> |

¹The beginning and ending balances do not include the value of permanent assets of the coal development trust fund, which must be maintained pursuant to North Dakota Century Code Section 57-62-02 and Section 21 of Article X of the Constitution of North Dakota. As of December 31, 2017, the total value of permanent fund assets was \$70.3 million, of which \$47.4 million was school construction loans receivable, \$12.3 million was coal impact loans receivable, and \$10.6 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.

²Section 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 2015 Senate Bill No. 2039, 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 2017 Senate Bill Nos. 2101 and 2272.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$15,083. The increase in the estimated balance of \$61,906 is primarily related to an increase in the estimated investment income for the 2017-19 biennium resulting from an increase in interest rates associated with bonds and other short-term investments.

FUND HISTORY

The coal development trust fund originated in 1979 with passage of House Bill No. 1257, now codified as various sections of Chapter 57-62. In 1980 the voters of North Dakota approved Constitutional Measure No. 5, 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 2015-17 AND 2017-19 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 2017-19 bienniums:

| Biennium | Fiscal Year | Beginning Assets (Excluding Land and Minerals Values) | Distributions | Total Average Investment Return (Interest Income and Capital Gains) |
|-----------|-------------|---|---------------|--|
| 1997-99 | 1998 | \$400,689,879 | \$23,200,000 | 13.57% |
| | 1999 | \$444,823,559 | \$23,200,000 | 7.50% |
| 1999-2001 | 2000 | \$467,059,293 | \$23,775,000 | 11.05% |
| | 2001 | \$521,509,978 | \$23,775,000 | 2.03% |
| 2001-03 | 2002 | \$533,360,593 | \$28,896,500 | (1.34%) |
| | 2003 | \$522,905,814 | \$28,896,500 | 4.57% |
| 2003-05 | 2004 | \$547,047,877 | \$30,000,000 | 12.60% |
| | 2005 | \$614,738,548 | \$30,000,000 | 8.58% |
| 2005-07 | 2006 | \$686,273,875 | \$31,100,000 | 7.51% |
| | 2007 | \$761,901,287 | \$31,100,000 | 12.82% |
| 2007-09 | 2008 | \$887,092,909 | \$33,400,000 | (4.22%) |
| | 2009 | \$908,928,685 | \$33,400,000 | (13.75%) |
| 2009-11 | 2010 | \$846,314,086 | \$38,589,000 | 14.48% |
| | 2011 | \$1,221,501,801 | \$38,589,000 | 17.99% |
| 2011-13 | 2012 | \$1,622,412,984 | \$46,257,000 | 2.42% |
| | 2013 | \$1,917,135,220 | \$46,257,000 | 10.65% |
| 2013-15 | 2014 | \$2,417,363,782 | \$65,163,000 | 13.85% |
| | 2015 | \$3,128,315,233 | \$65,163,000 | .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 | 1 |
| | 2019 | 1 | \$144,132,000 | 1 |

¹Section 2 of Article IX of the Constitution of North Dakota was amended in November 2006 through voter approval of Measure No. 1 (2005 House Concurrent Resolution No. 3037). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. The amendment became effective July 1, 2009, and distributions are no longer based on interest and income earned by the fund. Distributions from the common schools trust fund are now based on a percentage of the 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 \$4,215,227,543 as of December 31, 2017.**

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

Article IX, Section 5

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

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

Article X, Section 24

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

This section was enacted in 1994 through voter approval of Measure No. 1 (1993 Senate Concurrent Resolution No. 4011). In November 2016 voters approved 2015 Senate Concurrent Resolution No. 4003, 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.

Select North Dakota Century Code Provisions

Section 47-30.1-23

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

Section 54-27-25

This section, which was enacted by the 1999 Legislative Assembly, creates a tobacco settlement trust fund to be used to deposit tobacco settlement money received by the state. Forty-five percent of the tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement and deposited in the tobacco settlement trust fund must be transferred to the common schools trust fund and become a part of the principal of the fund. In 2017 House Bill No. 1012, 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.

The Legislative Assembly, in 2015 Senate Bill No. 2003, 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.

To date, \$189,745,840 of tobacco settlement money received by the state has been transferred to the common schools trust fund. The following is a summary of transfers to the common schools trust fund from the tobacco settlement trust fund, estimated based on actual revenues received through April 2018 and legislative estimates, net of funds appropriated from the tobacco settlement trust fund to the Attorney General's office for the enforcement of the Master Settlement Agreement and pursuant to the temporary change in transfers from the tobacco settlement trust fund approved in 2017 House Bill No. 1012.

| | |
|-----------|-------------------------|
| 1999-2001 | \$23,805,353 (actual) |
| 2001-03 | \$23,998,745 (actual) |
| 2003-05 | \$20,977,123 (actual) |
| 2005-07 | \$19,722,653 (actual) |
| 2007-09 | \$27,672,929 (actual) |
| 2009-11 | \$18,248,834 (actual) |
| 2011-13 | \$18,108,052 (actual) |
| 2013-15 | \$19,003,716 (actual) |
| 2015-17 | \$18,208,436 (actual) |
| 2017-19 | \$0 (estimate) |
| 2019-25 | \$70,880,172 (estimate) |

DISTRIBUTIONS FROM THE COMMON SCHOOLS TRUST FUND

Select Constitutional Provisions

Article IX, Section 1

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

Article IX, Section 2

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

- Biennial distributions from each educational trust fund must be 10 percent of the 5-year average value of the trust assets, excluding the value of land and minerals. This section was amended in November 2006 through voter approval of Measure No. 1 (2005 House Concurrent Resolution No. 3037). The measure changed the way distributions from the common schools trust fund and other permanent educational trust funds are determined. Previously, distributions were based on the amount of interest and income earned by each trust during a fiscal year. The amendment became effective July 1, 2009, and distributions from the common schools trust fund for the 2009-11 biennium and all subsequent bienniums are based on the distribution formula.
- All fines for violation of state laws. (This money is not added to the trust fund, but is added to the distributions from the common schools trust fund and distributed to schools.)
- All other amounts provided by law.

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

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

Select North Dakota Century Code Provisions

Section 15-01-02

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

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

INVESTMENT OF THE COMMON SCHOOLS TRUST FUND

Section 15-03-04 provides 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|------------------------|-------------------------------|-------------------------|
| Beginning balance | | \$429,184 | | \$609,221 |
| Add revenues | | | | |
| Transfers to date from the tobacco settlement trust fund | \$4,046,319 | | \$29,093,106 ¹ | |
| Projected remaining transfers from the tobacco settlement trust fund | | | 11,055,000 ² | |
| Total revenues | | 4,046,319 ² | | 40,148,106 ² |
| Total available | | \$4,475,503 | | \$40,757,327 |
| Less expenditures and adjustments | | | | |
| Adjustment of prior biennium expenditures | (\$6,964) ³ | | | |
| State Department of Health (2015 HB 1004; 2017 SB 2004) | | | | |
| Tobacco prevention and control, including the Tobacco Quitline and the tobacco cessation coordinator and operating expenses | 3,413,271 ⁴ | | \$3,200,000 ⁴ | |
| Women's Way program | 336,024 | | 329,500 | |
| Behavioral Risk Factor State Survey | 123,951 | | 470,500 | |
| Department of Human Services (2017 HB 1012) - Medical Services Division | | | 18,000,000 | |
| Total expenditures and adjustments | | 3,866,282 | | 22,000,000 |
| Ending balance | | \$609,221 | | \$18,757,327 |

¹As of April 2018, the state has received a tobacco settlement payment of \$53,096,556 for the 2017-19 biennium, of which \$29,093,106 has been transferred from the tobacco settlement trust fund to the community health trust fund for the 2017-19 biennium. The tobacco settlement payment received in April 2018 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. Total transfers of \$71,258,848 have been made from the tobacco settlement trust fund to the community health trust fund.

²Revenues - Interest earned on the community health trust fund is deposited in the general fund. Community health trust fund revenues have been estimated based on actual revenues received through April 2018 and legislative estimates for the remainder of the 2017-19 biennium, net of funds appropriated from the tobacco settlement trust fund to the Attorney General's office for the enforcement of the Master Settlement Agreement and related disputes. **In 2017 House Bill No. 1012, 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.**

Initiated Measure No. 3 (2008) resulted in the following allocation of the revised estimated collections for tobacco settlement payments through 2025. In 2017 House Bill No. 1012, the Legislative Assembly amended North Dakota Century Code 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 remain at 45 percent. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on the temporary reallocation approved by the 2017 Legislative Assembly:

| | Actual and Estimated Total Tobacco Settlement Proceeds, Net of 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 |
| Estimated 2017-19 biennium | 73.1 million ¹ | N/A | 0 | 32.8 million | 40.1 million |
| Estimated 2019-21 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2021-23 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2023-25 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Total | \$561.3 million | \$105.7 million | \$172.0 million | \$204.8 million | \$78.4 million |

¹This 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.

³Adjustment to reconcile to PeopleSoft for a prior biennium expense adjustment.

⁴Section 54-27-25 provides money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with an emphasis on preventing or reducing tobacco usage. The 2003 Legislative Assembly authorized the establishment of a telephone "Tobacco Quitline." The 2007 Legislative Assembly increased the funding for the Tobacco Quitline to provide nicotine replacement therapy and cessation counseling. The 2007 Legislative Assembly authorized 1 full-time equivalent tobacco prevention coordinator position and related funding for salaries and wages and operating expenses for the position. The 2017 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 for the 2017-19 biennium. The department anticipates spending \$3.2 million from the fund for tobacco prevention and control during the 2017-19 biennium.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure also provided that 80 percent of the funds allocated to the community health trust fund from the tobacco settlement trust fund be used for tobacco prevention and control. Based on estimated tobacco settlement trust fund transfers during the 2017-19 biennium, tobacco prevention and control expenditures from the community health trust fund would be required to total approximately \$3.2 million. However, in 2017 Senate Bill No. 2004, the Legislative Assembly amended Section 54-27-25 to remove the 80 percent restriction on transfers to the community health trust fund.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$318,639. The increase in the estimated balance of \$18,438,688 is due to a larger beginning balance in the fund than anticipated which was due to actual expenditures being less than budgeted during the 2015-17 biennium (\$290,582) and an increase in estimated tobacco settlement transfers from the tobacco settlement trust fund during the 2017-19 biennium (\$18,148,106).

FUND HISTORY

Section 54-27-25, created by 1999 House Bill No. 1475, 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 2017 House Bill No. 1012, 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 2017 House Bill No. 1012, 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.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in this new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund after the 2017-19 biennium. 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, began to be deposited in 2009 into the newly created 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 2017 Senate Bill No. 2004, the Legislative Assembly amended Section 54-27-25 to remove the 80 percent restriction on transfers to the community health 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 2015 Senate Bill No. 2003, 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.

**ANALYSIS OF THE STATE DISASTER RELIEF FUND FOR THE
2011-13, 2013-15, 2015-17, AND 2017-19 BIENNIUMS**

| | 2011-13 Biennium Actual | | 2013-15 Biennium Actual | | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|-----------------------------|---------------|----------------------------|---------------|----------------------------|--------------|-------------------------------|--------------|
| | Beginning balance | | \$34,675,167 | | \$77,651,986 | | \$75,867,942 | |
| Add revenues | | | | | | | | |
| Transfer from the general fund | \$48,700,000 ¹ | | | | | | | |
| Interest income | 70,784 | | \$81,030 | | \$50,723 | | \$50,000 | |
| Federal funds - Volunteer hours adjustment and local share federal-to-federal mission assignments | 1,604,101 | | | | | | | |
| Miscellaneous reimbursements | 705,950 | | 1,007,480 | | 2,716,118 | | 500,000 | |
| Oil and gas tax collections | 22,000,000 ² | | 22,000,000 ² | | 3,482,364 ¹¹ | | 0 ¹² | |
| Total revenues | | 73,080,835 | | 23,088,510 | | 6,249,205 | | 550,000 |
| Total available | | \$107,756,002 | | \$100,740,496 | | \$82,117,147 | | \$37,237,549 |
| Less estimated expenditures | | | | | | | | |
| Disasters occurring prior to 2009 | 826,535 ³ | | 1,306,121 ¹⁰ | | | | | |
| 2009 flooding | 2,656,019 ³ | | 2,530,274 ^{10,14} | | 247,214 ¹⁹ | | 57,462 ²¹ | |
| January 2010 snowstorm | 69,717 ¹ | | 310,392 ^{10,14} | | | | | |
| 2010 flooding | 164,272 ¹ | | 320,896 ^{10,14} | | 269,007 ¹⁹ | | 1,200,491 ²¹ | |
| April 2010 ice storm | 544,138 ¹ | | 565,976 ^{10,14} | | 102,560 ¹⁹ | | | |
| 2011 flooding | 12,261,836 ^{1,4,5} | | 7,430,968 ^{10,14} | | 6,366,153 ¹⁹ | | 6,520,039 ²¹ | |
| 2011 ice storm | | | 616,217 ¹⁴ | | 925 ¹⁹ | | | |
| Costs relating to flooding in incorporated cities | 1,715,887 ⁵ | | 1,461,014 ¹⁰ | | | | | |
| Disaster response coordination contract | 400,000 ⁶ | | 400,000 ⁶ | | 200,000 ⁶ | | | |
| State disasters and flood mitigation efforts (road grade raising projects) | 7,240 ⁵ | | 91,986 ¹⁰ | | 2,562 ¹⁹ | | 100,000 ²¹ | |
| Housing rehab and retention | 5,458,372 ¹ | | 2,461,071 ¹¹ | | | | | |
| Flood-impacted housing assistance grant program | | | 1,500,000 ⁸ | | 1,088,468 ¹⁹ | | | |
| Road grade raising projects - Department of Transportation | 6,000,000 ¹ | | | | | | | |
| Disaster recovery planning and technical services | | | 1,031,218 ⁹ | | 34,810 ⁹ | | | |
| Fargo interior flood protection | | | | | 30,000,000 ¹³ | | | |

| | | | | | |
|--|-------------------------|-------------------------|-------------------------|-------------------------|--------------------------|
| Chronic flooding relief | | | 2,000,000 ¹⁴ | | |
| 2013 Red River Valley flood | | 1,591,135 ¹⁵ | 589,741 ¹⁹ | 1,001,750 ²¹ | |
| 2013 winter storm | | 36,116 ¹⁵ | 59,539 ¹⁹ | 588,823 ²¹ | |
| 2014 rain storms | | 219,170 ¹⁵ | 84,122 ¹⁹ | 179,334 ²¹ | |
| Valley City flood protection | | 3,000,000 ¹⁶ | | | |
| Double Ditch Historic Site repairs | | | 384,497 ¹⁷ | 1,615,503 ¹⁷ | |
| Bismarck area flood protection | | | 4,000,000 ¹⁸ | | |
| Total estimated expenditures and transfers | 30,104,016 ⁷ | | 24,872,554 | 45,429,598 | 11,263,402 ²⁰ |
| Estimated ending balance | <u>\$77,651,986</u> | | <u>\$75,867,942</u> | <u>\$36,687,549</u> | <u>\$25,974,147</u> |

¹Section 17 of 2011 Senate Bill No. 2371 provided the Office of Management and Budget transfer \$48.7 million from the general fund to the state disaster relief fund during the 2011-13 biennium for the following purposes:

| Relief Assistance | Transfer Amount | Appropriation Authority |
|---|-----------------|--|
| Disaster-related expenses | \$32,700,000 | Section 15 of 2011 Senate Bill No. 2371 provided appropriation authority of \$29.5 million from the state disaster relief fund to the Adjutant General for providing the required state share of funding for expenses associated with presidentially declared state disasters. Section 16 of 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 for grants to counties for road grade raising projects on federal aid-eligible roads. |
| Total | \$48,700,000 | |

²House Bill No. 1451 (2011) created North Dakota Century Code 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 \$2 million is deposited in the general fund;
- The next \$341.79 million is deposited in the property tax relief fund;
- The next \$100 million is deposited in the general fund;
- The next \$100 million is deposited in the strategic investment and improvements fund;
- The next \$22 million is deposited in the state disaster relief fund; and
- Any additional revenues are deposited in the strategic investment and improvements fund.

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

⁴Section 5 of 2011 Senate Bill No. 2016 appropriated \$3.5 million from the state disaster relief fund to the Adjutant General for the purpose of providing the required state share of funding for defraying the expenses associated with presidentially declared disasters pursuant to Section 37-17.1-27.

⁵Section 4 of 2011 Senate Bill No. 2369 appropriated \$22 million from the state disaster relief fund for flood-related costs for the remainder of the 2009-11 biennium and for the 2011-13 biennium. Subject to Emergency Commission and Budget Section approval, the Adjutant General may use the funding for city flood mitigation projects (up to \$3.2 million) and for disaster relief relating to 2011 spring flooding, road grade raising projects, 50 percent of the local match for disasters occurring from January 2011 through June 2011, and state expenses associated with presidentially declared disasters in the state. In September 2011 the Adjutant General received Emergency Commission and Budget Section approval for 2011-13 expenses of \$17.5 million for flood disasters, \$1.2 million for funding specific city flood mitigation projects, and \$4.8 million for road grade raising and matching grants to political subdivisions.

⁶In 2011 Senate Bill No. 2016, the Legislative Assembly provided authority to the Department of Emergency Services to utilize \$400,000 from the state disaster relief fund to contract for services to coordinate disaster response organizations with state and political subdivision disaster response efforts, including all aspects of disaster recovery from preparedness training through cleanup for declared or undeclared disasters. House Bill No. 1016 (2013) continued the same level of funding for the 2013-15 biennium. Senate Bill No. 2016 (2015) provides a \$200,000 appropriation from the state disaster relief fund for disaster response coordination for the 2015-17 biennium.

⁷Total 2011-13 state disaster relief fund appropriation authority provided to the Adjutant General consists of:

| | |
|-------------------|----------------|
| \$22,000,000 | see Footnote 5 |
| 3,500,000 | see Footnote 4 |
| 7,842,304 | see Footnote 3 |
| 400,000 | see Footnote 6 |
| <u>42,700,000</u> | see Footnote 1 |
| \$76,442,304 | |

⁸Section 4 of 2013 House Bill No. 1016 appropriated \$1.5 million from the state disaster relief fund to the Housing Finance Agency to provide grants to counties, cities, local housing authorities, and other nonprofit entities providing flood-impacted housing assistance. The section required an entity requesting grant funding to certify to the Housing Finance Agency that housing occupants were eligible to receive housing assistance under federal Department of Housing and Urban Development guidelines, that a land use agreement was in place for temporary housing units, and that a plan had been developed for the disposal of temporary housing units. The Housing Finance Agency was to develop guidelines for the distribution of funds, including the frequency of the distribution of grant funds.

⁹The 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) provides funding of \$1 million for continuing the disaster recovery planning and technical assistance contracted services for the 2015-17 biennium.

¹⁰Section 1 of 2013 House Bill No. 1016 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.

¹¹This 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 \$200 million is deposited in the general fund;
- The next \$300 million is deposited in the tax relief fund;
- The next \$100 million is deposited in the general fund;
- The next \$100 million is deposited in the strategic investment and improvements fund;

- The next \$22 million is deposited in the state disaster relief fund, 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.

¹²This amount reflects estimated oil tax revenue allocations for the 2017-19 biennium based on the March 2017 legislative revenue forecast. 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 \$200 million is deposited in the general fund;
- The next \$200 million is deposited in the tax relief fund;
- The next \$75 million is deposited in the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in Section 54-27.2-01;
- The next \$200 million is deposited in the general fund for the 2017-19 biennium, and for all subsequent bienniums \$100 million to the general fund;
- The next \$15 million is deposited 80 percent in the strategic investment and improvements fund and 20 percent in the lignite research fund;
- The next \$85 million is deposited in the strategic investment and improvements 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.

¹³Section 11 of 2015 Senate Bill No. 2020 appropriates \$30 million from the state disaster relief fund to the State Water Commission for flood protection projects within the city limits of Fargo.

¹⁴Section 3 of 2015 Senate Bill No. 2016 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.

¹⁵Subdivision 9 of Section 1 of 2015 Senate Bill No. 2023 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).

¹⁶Subdivision 6 of Section 1 of 2015 Senate Bill No. 2023 provides a deficiency appropriation of \$3 million from the state disaster relief fund to Valley City State University for flood protection.

¹⁷Section 5 of 2015 Senate Bill No. 2018 appropriates \$2 million from the state disaster relief fund for Double Ditch Historic Site repairs. Section 6 of 2017 House Bill No. 1018 appropriates \$500,000 from the state disaster relief fund for Double Ditch Historic Site repairs. The State Historical Society reported in May 2018 it does not intend to use any of the \$500,000 appropriated in 2017 House Bill No. 1018 for Double Ditch Historic Site repairs.

¹⁸Section 15 of 2015 Senate Bill No. 2020 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).

¹⁹Section 1 of 2015 Senate Bill No. 2016 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.

²⁰This amount is an estimate based on actual expenditures through March 31, 2018, and agency estimated expenditures through June 30, 2019.

²¹Section 1 of 2017 House Bill No. 1016 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 2017 House Bill No. 1016 includes carryover authority for amounts related to disaster costs for road grade raising projects. The amount of carryover is estimated to be approximately \$100,000.

NOTE: The estimated June 30, 2019, balance made at the end of the 2019 legislative session was \$25,070,000. The increase in the estimated balance of \$904,147 is primarily due to \$500,000 of funding appropriated for Double Ditch Historic Site repairs not being used and a reduction in estimated fund expenditures for the 2017-19 biennium.

FUND HISTORY

Section 37-17.1-27 (Section 4 of 2009 Senate Bill No. 2012) establishes a state disaster relief fund. In 2011 Senate Bill No. 2369, the Legislative Assembly amended Section 37-17.1-27 to limit use of money in the fund for only the required state share of funding for expenses associated with presidentially declared disasters in the state and to require Emergency Commission and Budget Section approval of the use of money in the fund. Senate Bill No. 2292 (2013) further amended the section to allow money in the fund to be used for wide area search and rescue activities. Any interest or other fund earnings must be deposited in the fund.

Section 3 of 2015 House Bill No. 1377 amended Section 57-51.1-07.5 relating to the allocation of oil and gas taxes to the state disaster relief fund. The section provides that no oil and gas taxes may be deposited in the state disaster relief fund if the unobligated balance in the fund exceeds \$25 million. Section 2 of 2017 House Bill No. 1152 amends Section 57-51.1-07.5 relating to the allocation of oil and gas taxes to the state disaster relief fund. The section provides that no oil and gas taxes may be deposited in the state disaster relief fund if the unobligated balance in the fund exceeds \$20 million.

ANALYSIS OF THE ELECTRONIC HEALTH INFORMATION EXCHANGE FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|--|------------------|--------------------|------------------|--------------------|
| | Actual | | Estimated | |
| Beginning balance ¹ | | \$4,632,499 | | \$2,533,511 |
| Add revenues | | | | |
| Funds from health information network participants | \$6,640 | | \$1,368,876 | |
| Funds from the Department of Human Services ² | 125,100 | | 12,006,002 | |
| eHealth Summit | 5,127 | | 12,976 | |
| Total revenues | | 136,867 | | 13,387,854 |
| Total available | | \$4,769,366 | | \$15,921,365 |
| Less expenditures and transfers | | | | |
| Implementing a statewide health information technology and exchange network ² | \$2,193,908 | | \$14,032,016 | |
| Department of Human Services Health Information Technology Grant Match | 41,947 | | 60,000 | |
| Total expenditures and transfers | | 2,235,855 | | 14,092,016 |
| Ending balance | | <u>\$2,533,511</u> | | <u>\$1,829,349</u> |

¹Section 8 of 2009 Senate Bill No. 2332 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 2011 House Bill No. 1021 amended Section 8 of 2009 Senate Bill No. 2332 to provide the Industrial Commission transfer, during the 2009-11 or 2011-13 biennium, up to \$8 million from the Bank'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.

²Section 2 of 2017 Senate Bill No. 2021 provides a special funds appropriation of \$43,555,133 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 is included in 2017 House Bill No. 1012. 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 the Department of Human Services 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 anticipates receiving \$12 million in the 2017-19 biennium from the Department of Human Services for the North Dakota health information network. Expenditures for the North Dakota health information network totaled \$2.2 million during the 2015-17 biennium. The Information Technology Department anticipates total expenditures for the North Dakota health information network of \$14 million during the 2017-19 biennium and \$26 million during the 2019-21 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$1,596,153. The increase in the estimated balance of \$233,196 is due to a decrease in projected expenditures for the 2017-19 biennium, which are primarily related to the anticipated timing of approvals from the Centers for Medicare and Medicaid Services.

FUND HISTORY

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

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

ANALYSIS OF THE ENERGY IMPACT FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|-----|-------------------------------|--------------|
| | Beginning balance | | \$0 | |
| Add revenues | | | | |
| Oil and gas tax allocations | \$0 | | \$4,000,000 | |
| Transfer from political subdivision allocation fund (2017 SB 2013) | 0 | | 8,000,000 ¹ | |
| Transfer from strategic investment and improvements fund (2017 SB 2013) | 0 | | 3,000,000 | |
| Total revenues | | 0 | | 15,000,000 |
| Total available | | \$0 | | \$15,000,000 |
| Less expenditures and transfers | | | | |
| Grant to Williston airport (2017 SB 2013) | \$0 | | \$15,000,000 ² | |
| Total expenditures and transfers | | 0 | | 15,000,000 |
| Ending balance | | \$0 | | \$0 |

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

²The 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. Through March 31, 2018, \$12,856,826 has been awarded to the Williston airport.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$0, the same as the current estimate.

FUND HISTORY

The energy impact fund was established by the 2017 Legislative Assembly (Senate Bill No. 2013), and the funds may be spent pursuant to legislative appropriations. The fund receives oil and gas gross production tax allocations pursuant to North Dakota Century Code 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.

ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------|--------------------|------------------|--------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$3,535,678 | | \$4,527,455 |
| Add revenues | | | | |
| Pesticide registration fees (North Dakota Century Code Section 4.1-34-03) ¹ | \$4,651,795 | | \$4,650,000 | |
| Weed seed-free forage (Section 4.1-14-04) ² | 69,559 | | 78,922 | |
| Fertilizer registration, inspection, and tonnage fees (Sections 4.1-40-02, 4.1-40-03, and 4.1-40-07) ^{3,4} | 1,339,894 | | 1,350,000 | |
| Commercial feed registration, inspection, and tonnage fees (Section 4.1-41-19) ⁵ | 727,500 | | 727,500 | |
| Total revenues | | 6,788,748 | | 6,806,422 |
| Total available | | \$10,324,426 | | \$11,333,877 |
| Less expenditures and transfers | | | | |
| Agriculture Commissioner (2015 SB 2009; 2017 HB 1009) | | | | |
| Plant Industries Division ⁶ | \$1,493,564 | | \$1,863,504 | |
| Pesticide and Fertilizer Division | 2,513,022 | | 3,049,578 | |
| Marketing and Information Division | 262,404 | | 370,653 | |
| Livestock Development Division ⁷ | 295,288 | | 491,496 | |
| Animal Health Division ⁸ | 107,464 | | 110,872 | |
| Wildlife Services program ⁸ | 384,400 | | 384,400 | |
| Administrative Services Division | 92,036 | | 101,000 | |
| Crop Protection Product Harmonization and Registration Board (2015 SB 2009; 2017 HB 1009) ⁹ | | | | |
| Crop protection product registration, labeling, and grants | 73,793 | | 75,000 | |
| Minor use pesticide registration | 325,000 | | 325,000 | |
| State Department of Health (2015 HB 1004; 2017 SB 2004) | | | | |
| Ground water testing, including a \$50,000 grant for the North Dakota Stockmen's Association environmental services program | 250,000 | | 250,000 | |
| Total expenditures and transfers | | 5,796,971 | | 7,021,503 |
| Ending balance | | <u>\$4,527,455</u> | | <u>\$4,312,374</u> |

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

²Chapter 4.1-14 allows the Agriculture Commissioner to certify forage acreage as being free of certain weeds and weed seed. The appropriation provided to the department for the program is the amount that is anticipated to be received from fees charged for certifications.

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

⁴Senate 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 2017 Senate Bill No. 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.

⁵Section 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.

⁶House Bill No. 1009 (2017) includes a one-time appropriation of \$120,000 from the environment and rangeland protection fund to the Agriculture Commissioner for the national genomics center.

⁷House Bill No. 1009 (2013) provides for the Agriculture Commissioner to assume livestock development duties from the Dairy Coalition.

⁸Senate Bill No. 2009 (2015) provides for a portion of funding for the Wildlife Services program (\$384,400) and the State Board of Animal Health (\$107,464) to be paid from the environment and rangeland protection fund. 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 (\$110,872) to be paid from the environment and rangeland protection fund rather than the game and fish fund.

⁹Section 4-35-30, as created by 2001 House Bill Nos. 1009 and 1328, created the Crop Protection Product Harmonization and Registration Board. This section was repealed by the 2017 Legislative Assembly and rewritten as Section 4.1-39-01 in Senate Bill No. 2027. The duties of the board consist of:

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

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

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

- A representative of the crop protection product manufacturing industry appointed by the Chairman of the Legislative Management (nonvoting).
- The Director of the Agricultural Experiment Station (nonvoting).

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$1,780,005. The increase in the estimated balance of \$2,532,369 is due to additional pesticide and fertilizer registration fees collected during the 2015-17 biennium than anticipated and an increase in expected registration fees during the 2017-19 biennium than initially estimated. The Department of Agriculture also experienced multiple vacancies during the 2015-17 biennium, resulting in less funding needed from the environment and rangeland protection fund for salaries in the plant industries, pesticide and fertilizer, marketing and information, and livestock development divisions.

FUND HISTORY

Section 19-18-02.1, created by 1991 Senate Bill No. 2451, establishes the environment and rangeland protection fund. The fund contains collections from pesticide registration fees. During the 2007-09 biennium, the biennial fee was \$350 per pesticide product registered in the state. Of this amount, \$300 was deposited in the environment and rangeland protection fund and \$50 in the general fund. Pursuant to Section 19-18-04, as amended by 2009 House Bill No. 1009, beginning with the 2009-11 biennium, the entire pesticide registration fee is deposited in the environment and rangeland protection fund rather than a portion in the general fund.

During the 2017 legislative session, Chapter 19-18 was repealed in Senate Bill No. 2027 and rewritten as Chapter 4.1-39. Section 4.1-39-07 now provides for the establishment of the environment and rangeland protection fund. Section 19-18-04 was rewritten as Section 4.1-34-03.

ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|---------------------|-------------------------------|---------------------|
| | Beginning balance | | \$23,475,028 | |
| Add estimated revenues | | | | |
| Premium collections | \$9,563,312 | | \$10,270,000 | |
| Investment income (loss) | 2,808,867 | | 2,640,000 | |
| Boiler inspection fees | 899,201 | | 700,000 | |
| Loss claims and insurance recoveries | 1,142,438 | | 430,000 | |
| Total estimated revenues | | 14,413,818 | | 14,040,000 |
| Total available | | \$37,888,846 | | \$34,844,390 |
| Less estimated expenditures and transfers | | | | |
| Loss claims payments | \$8,289,348 | | \$2,990,000 | |
| Claims-related payments, including reinsurance costs | 6,859,238 | | 6,650,000 | |
| Insurance Department administration | 1,723,698 | | 1,690,000 | |
| Investment expense | 86,899 | | 80,000 | |
| State Fire Marshal program (2015 SB 2003; 2017 HB 1003) | 125,273 | | 130,000 | |
| Total estimated expenditures and transfers | | 17,084,456 | | 11,540,000 |
| Estimated ending balance | | <u>\$20,804,390</u> | | <u>\$23,304,390</u> |

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$15,425,028. The increase in the estimated balance of \$7,879,362 is due primarily to a decrease in estimated loss claims payments and claims-related payments, including reinsurance costs.

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. 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|----------------------------|--------------------------|----------------------------|--------------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$617,625,443 | | \$621,854,625 |
| Add revenues | | | | |
| Oil extraction tax allocations | \$120,282,475 | | \$136,831,277 ¹ | |
| Total revenues | | 120,282,475 | | 136,831,277 |
| Total available | | \$737,907,918 | | \$758,685,902 |
| Less expenditures and transfers | | | | |
| Transfer to state school aid program due to allotment | | | | |
| Department of Public Instruction - State school aid (2017 HB 1013) | \$116,053,293 ² | | \$110,000,000 ² | |
| Department of Public Instruction - One-time funding for state school aid (2017 HB 1013) | | | 185,000,000 ² | |
| Department of Public Instruction - One-time funding for regional education association merger grants (2017 HB 1013) | | | 100,000 ² | |
| Department of Public Instruction - One-time funding for rapid enrollment grants (2017 SB 2272) | | | 6,000,000 ³ | |
| Department of Public Instruction - One-time funding for English language learner grants (2017 SB 2272) | | | 500,000 ³ | |
| 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) | | | 2,477,000 ³ | |
| Transfer to the school construction assistance revolving loan fund (2017 SB 2272) | | | 75,000,000 ³ | |
| Transfer to the school construction assistance loan fund (2015 SB 2039; 2017 SB 2272) | | 0 ³ | | |
| Transfer to the scholarship endowment fund (2015 SB 2039; 2017 SB 2272) | | 0 ³ | | |
| Total expenditures and transfers | | 116,053,293 | | 379,077,000 |
| Ending balance | | \$621,854,625 | | \$379,608,902 |
| Less required reserve of 15 percent of the general fund appropriation for state school aid and, beginning with the 2017-19 biennium, career and technical education grants to school districts and area centers during the prior biennium | | | | |
| | | 252,266,100 ⁴ | | 269,168,800 ⁵ |
| Ending balance available | | <u>\$369,588,525</u> | | <u>\$110,440,102</u> |

¹Estimated revenues - Based on actual oil extraction tax collections deposited in the fund through March 2018 and estimated allocations for the remainder of the 2017-19 biennium based on the 2017 legislative revenue forecast.

²Expenditures - 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. In February 2016 the Governor issued a 4.05 percent budget allotment, and in March 2016, \$71,758,143 was transferred from the foundation aid stabilization fund to the Department of Public Instruction to offset state school aid, transportation, and special education reductions as a result of the general fund budget allotment. In August 2016 the Governor issued another 2.5 percent budget allotment and an additional transfer of \$44,295,150 was made from the foundation aid stabilization fund to the department later that month.

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. House Bill No. 1013 (2017) provides \$295 million from

the foundation aid stabilization fund for state school aid during the 2017-19 biennium, of which \$185 million is considered one-time funding. In addition, House Bill No. 1013 provides one-time funding of \$100,000 from the foundation aid stabilization fund for regional education association merger grants.

³The Legislative Assembly approved 2015 Senate Bill No. 2039, which established, contingent on the approval of 2015 Senate Concurrent Resolution No. 4003 by voters, a scholarship endowment fund and a school construction assistance loan fund. The bill 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). In 2017, the Legislative Assembly approved Senate Bill No. 2272, which repeals 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. In addition Senate Bill No. 2272 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 2017 Senate Bill No. 2019, 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.

⁴Amendments to the Constitution approved by the voters, as provided in 2015 Senate Concurrent Resolution No. 4003, 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 the Office of Management and Budget. Any excess balance in the fund is available for education-related purposes. Integrated formula payments, transportation aid, and special education grants totaled \$1,822,100,000 during the 2013-15 biennium, of which \$140,326,000 is provided from the state tuition fund and \$1,681,774,000 is provided from the general fund. Based on this level of funding from the general fund during the 2013-15 biennium, the required balance in the foundation aid stabilization fund during the 2015-17 biennium is \$252,266,100.

⁵The Legislative Assembly, in 2017 Senate Bill No. 2272 and 2017 House Bill No. 1155, amended North Dakota Century Code 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 totals \$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, the Office of Management and Budget 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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$377,795,150. The increase in the estimated balance of \$1,813,752 is due to decreased oil activity resulting in the 2015-17 biennium ending balance being \$1,467,525 lower than estimated, offset by 2017-19 biennium actual and estimated revenues of \$136,831,277 being \$3,281,277 more than originally projected revenues of \$133,550,000.

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 2015 Senate Concurrent Resolution No. 4003, 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 2015 Senate Bill No. 2039, 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 provide 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. In 2017 the Legislative Assembly approved Senate Bill No. 2272, 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. In 2017 the Legislative Assembly approved Senate Bill No. 2272 and House Bill No. 1155, 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 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.

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 2015-17 biennium, \$591,394 of interest from the foundation aid stabilization fund was allocated to the general fund. For the period July 1, 2017, through March 31, 2018, \$262,675 of interest from the foundation aid stabilization fund has been allocated to the general fund.

ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------------|------------------|------------------------|-----------------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$604,808 | | \$832,296 |
| Add revenues | | | | |
| Investment earnings | \$712 | | \$1,595 | |
| Loan repayments - Principal and interest | 985,052 | | 1,014,012 | |
| Total revenues | | 985,764 | | 1,015,607 |
| Total available | | \$1,590,572 | | \$1,847,903 |
| Less expenditures and transfers | | | | |
| Department of Human Services increased payments to basic care and long-term care facilities (2015 SB 2012, 2017 HB 1012) | \$546,786 ¹ | | \$546,786 ¹ | |
| Department of Human Services increased nursing home per-bed property cost limitation for single- and double-occupancy construction (2015 SB 2012; 2015 HB 1234; 2017 HB 1012) | 139,405 ² | | 139,405 ² | |
| Department of Human Services nursing facility operating margin increases (2017 HB 1012) | | | 1,000,000 | |
| State Department of Health operation and maintenance of the nurse aide registry (2015 HB 1004; 2017 SB 2004) | 72,085 | | 93,768 | |
| Total expenditures and transfers | | 758,276 | | 1,779,959 |
| Ending balance | | <u>\$832,296</u> | | <u>\$67,944³</u> |

¹Senate Bill No. 2012 (2015) provided an appropriation of \$546,786 to the Department of Human Services 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. House Bill No. 1012 (2017) again appropriates \$546,786 to the Department of Human Services 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.

²Senate Bill No. 2012 appropriated funding from the health care trust fund for nursing home rate increases as a result of changes in 2015 House Bill No. 1234 to the property cost limitations of a single- or double-occupancy room. House Bill No. 1012 again appropriates the same amount of funding from the health care trust fund for the 2015-17 biennium nursing home rate increases for property cost limitations of a single- or double-occupancy room.

³Section 19 of House Bill No. 1012 requires the Department of Human Services 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. The Department of Human Services reported that no funds have been deposited into the fund as of May 2018 relating to requisite agreements with tribal health care organizations.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$69,672. The decrease of \$1,728 in the estimated balance of \$67,944 is due to a decrease of \$323 of investment earnings, which was projected to be \$1,035 for the 2015-17 biennium; a decrease of \$14,447 from loan repayments, which was projected to be \$999,499 for the 2015-17 biennium; and an increase of \$13,042 from expenditures being less than budgeted for the operation and maintenance of the nurse aide registry, which was budgeted at \$85,127 for the 2015-17 biennium.

FUND HISTORY

The health care trust fund was established by the Legislative Assembly in 1999 Senate Bill No. 2168 for providing nursing alternative loans or grants. The Legislative Assembly in 2011 House Bill No. 1196 provided that money in the fund may be transferred to the long-term care facility loan fund for nursing facility renovation projects and used for other programs as authorized by the Legislative Assembly. Money was generated for the health care trust fund as a result of the Department of Human Services making government nursing facility funding pool payments to two government nursing facilities--McVille and Dunseith. Payments were made based on the average amount Medicare rates exceeded Medicaid rates for all nursing care facilities in the state multiplied by the total of all Medicaid resident days of all nursing homes. Federal Medicaid funds were available for these payments and required a state match. Payments were made to the two government nursing facilities and were subsequently returned to the state, less a \$50,000 transaction fee retained by each of the two government nursing facilities. Once returned to the state, the state's matching share was returned to its source, and the federal funds were deposited in the health care trust fund. Money in the fund is invested by the State Investment Board, and any investment earnings are retained in the fund. The federal government has eliminated this intergovernmental transfer program. As a result, North Dakota's final intergovernmental transfer payment was received in July 2004. The 2009 Legislative Assembly, in House Bill No. 1012, amended North Dakota Century Code 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------|--------------------|------------------|------------------|
| | Actual | | Estimated | |
| Beginning balance ¹ | | \$1,365,971 | | \$2,724,224 |
| Add revenues | | | | |
| Loan repayments - Principal | \$2,726,457 | | \$3,079,509 | |
| Loan repayments - Interest and miscellaneous income | 164,224 | | 129,869 | |
| Total revenues | | 2,890,681 | | 3,209,378 |
| Total available | | \$4,256,652 | | \$5,933,602 |
| Less expenditures and transfers | | | | |
| Loans to health care entities ² | \$1,453,223 | | \$5,000,000 | |
| Bank of North Dakota fees | 79,205 | | 61,334 | |
| Total expenditures and transfers | | 1,532,428 | | 5,061,334 |
| Ending balance | | <u>\$2,724,224</u> | | <u>\$872,268</u> |

¹Section 9 of 2009 Senate Bill No. 2332 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 2011 House Bill No. 1021 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.

²The Health Information Technology Advisory Committee has approved \$14,416,324 of loans since the program's inception in the 2009-11 biennium through April 30, 2018:

| | | | |
|--|-------------|---------------------------------------|---------------------|
| 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 | \$761,449 | 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 | 215,000 |
| 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 | 702,000 |
| Midgarden Family Clinic (Park River) | \$101,590 | Elm Crest Manor | 74,500 |
| 7-Day Clinic Walk-In Express Care (Fargo) | \$50,000 | Northwood Deaconess | 370,125 |
| 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 | Northland Health Partnership | 410,000 |
| | | Total | <u>\$14,416,324</u> |

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$0. The increase in the estimated balance of \$872,268 is due to the timing of loans available to providers during the 2015-17 biennium, the Bank of North Dakota loan application process, and the completion of readiness assessments.

FUND HISTORY

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

Section 4 of 2011 House Bill No. 1021 provided the Industrial Commission transfer up to \$5 million from the current earnings and accumulated undivided profits of the Bank of North Dakota to the health information technology planning loan fund or the health information technology loan fund in the 2011-13 biennium. The Director of the Health Information Technology Office 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 Director of the Health Information Technology Office. The Health Information Technology Office is to forward approved applications to the Bank of North Dakota. Upon approval of the application by the Bank, the Bank is to make the loan from the revolving loan fund.

ANALYSIS OF THE HIGHWAY TAX DISTRIBUTION FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|---------------|-------------------------------|---------------|
| | | \$0 | | \$0 |
| Beginning balance | | \$0 | | \$0 |
| Add revenues ¹ | | | | |
| Motor vehicle fuel tax | \$200,703,678 | | \$195,000,000 | |
| Special fuels taxes | 177,618,889 | | 187,670,000 | |
| Motor vehicle registration fees | 179,898,090 ¹ | | 176,700,000 | |
| Total revenues | | 558,220,657 | | 559,370,000 |
| Total available | | \$558,220,657 | | \$559,370,000 |
| Less deductions before distributions | | | | |
| Highway Patrol | \$6,687,330 | | \$6,880,052 | |
| Motorboat safety account | 285,668 | | 200,000 | |
| State snowmobile fund | 179,648 | | 200,000 | |
| Rail safety fund | 550,000 | | 570,000 | |
| Administrative assistance to transferees | 5,500,000 | | 5,500,000 | |
| Ethanol production incentive | 4,717,171 | | 4,700,000 | |
| | | 17,919,817 | | 18,050,052 |
| Total available for distributions and transfers | | \$540,300,840 | | \$541,319,948 |
| Less distributions and transfers | | | | |
| State highway fund | \$331,204,414 | | \$331,889,948 | |
| Counties | 119,038,981 | | 119,060,000 | |
| Cities | 67,364,809 | | 67,680,000 | |
| Townships | 14,588,123 | | 14,590,000 | |
| Transit | 8,104,513 | | 8,100,000 | |
| Total distributions and transfers | | 540,300,840 | | 541,319,948 |
| Ending balance | | \$0 | | \$0 |

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

HIGHWAY TAX DISTRIBUTION 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. North Dakota Century Code 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 formula in this subsection on the basis of the per capita population of all of the incorporated cities situated within each county 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, a statewide per capita average must be used, 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. Each city must be paid an amount equal to the product of the statewide per capita and that city's population.
 - 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 subdivision a 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 1983 House Bill No. 1539 impose 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 1985 Legislative Assembly, in Section 1 of Senate Bill No. 2296, 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 |
| January 1, 1987 through December 31, 1992 | \$0.09 |
| January 1, 1993 | \$0.13 |

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

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

The 1991 Legislative Assembly, in Section 2 of House Bill No. 1575, 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 1997 Legislative Assembly, in Section 1 of House Bill No. 1163, increased the motor vehicle fuel tax from 17 cents per gallon to 20 cents per gallon for all motor vehicle fuel sold.

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

The 2005 Legislative Assembly, in Section 12 of Senate Bill No. 2012, 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, 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 1983 House Bill No. 1072 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 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 1985 Legislative Assembly, in Section 1 of House Bill No. 1248, amended the definition of special fuel to include compressed natural gas.

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

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

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

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

The 2001 Legislative Assembly, in Section 3 of Senate Bill No. 2454, 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 2005 Legislative Assembly, in Section 14 of Senate Bill No. 2012, 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|------------------------|-------------------------------|------------------------|
| | Beginning balance | | \$3,289,089,229 | |
| Add revenues | | | | |
| Oil and gas gross production and extraction tax collections (30 percent of collections) | \$815,796,247 | | \$932,100,000 ¹ | |
| Investment earnings (losses) | 525,369,488 ² | | 200,000,000 ^{2,3} | |
| Total revenues | | 1,341,165,735 | | 1,132,100,000 |
| Total available resources | | \$4,630,254,964 | | \$5,762,354,964 |
| Less expenditures and transfers | | | | |
| Transfer of realized earnings accruing after June 30, 2017, to the general fund | \$0 | | \$200,000,000 ^{3,4} | |
| Expenditure of principal | 0 | | 0 ⁴ | |
| Total expenditures and transfers | | 0 | | 200,000,000 |
| Ending balance | | <u>\$4,630,254,964</u> | | <u>\$5,562,354,964</u> |

¹Estimated revenues - The estimated allocations for 2017-19 biennium reflect actual allocations through March 2018 and estimated allocations for the remainder of the biennium based on the 2017 legislative revenue forecast.

²Based 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. North Dakota Century Code 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 fund was established on July 1, 2011.

| | 2011-13 Biennium Actual | 2013-15 Biennium Actual | 2015-17 Biennium Actual | 2017-19 Biennium Estimated | Total |
|------------------------------------|----------------------------|----------------------------|----------------------------|-------------------------------|---------------|
| Realized earnings (losses) | \$18,520,564 | \$145,255,008 | \$273,064,100 | \$200,000,000 | \$636,839,672 |
| Unrealized earnings (losses) | (12,004,313) | 67,871,752 | 252,305,388 | 0 | 308,172,827 |
| Total investment earnings (losses) | \$6,516,251 | \$213,126,760 | \$525,369,488 | \$200,000,000 | \$945,012,499 |

The investment earnings (losses) for the legacy fund for the 2017-19 biennium through March 31, 2018, were approximately \$313.8 million, including realized earnings (losses) of \$171.6 million and unrealized earnings (losses) of \$142.2 million. If the legacy fund continues to generate realized earnings for the remainder of the biennium at the same rate as January through March 2018 (an average of \$15.4 million per month), the realized earnings of the legacy fund will total \$404.1 million for the 2017-19 biennium.

³House Bill No. 1015 (2017) identifies the estimated investment earnings for the 2017-19 biennium.

⁴The 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, 2019, balance made at the end of the 2017 regular legislative session was \$5,131,779,229. The increase in the estimated balance of \$630,575,735 is primarily related to 2015-17 biennium investment earnings exceeding the forecast and actual oil and gas tax revenue allocations for the 2017-19 biennium to date exceeding the forecast.

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 2015 House Bill Nos. 1176 and 1377, 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|--------------------------------|---------------------|-------------------------------|---------------------|
| | Beginning balance ¹ | | \$18,605,993 | |
| Add revenues | | | | |
| Separate two-cent coal severance tax | \$1,114,885 | | \$1,200,000 | |
| 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 | 3,135,676 | | 1,687,500 | |
| 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 | 1,254,183 | | 675,000 | |
| 15 percent of coal severance taxes (2017 SB 2014) ² | 0 | | 3,375,000 | |
| Investment income on Dakota Gasification Company ammonia plant and Spiritwood Plant | 90,000 | | 250,000 | |
| 5 percent of the general fund share of coal conversion tax (2007 HB 1093) | 2,446,273 | | 2,500,000 | |
| Oil and gas tax allocation (2017 HB 1152) ² | | | 3,000,000 | |
| Revenue bonds/short-term loan ³ | 0 | | 0 | |
| Grant funding from the general fund (2015 HB 1014) ⁴ | 4,672,500 | | 0 | |
| Transfer from the strategic investment and improvements fund (2017 SB 2014) | 0 | | 3,000,000 | |
| Interest income and return of funds and litigation contributions | 260,881 | | 150,000 | |
| Total revenues | | 12,974,398 | | 15,837,500 |
| Total available | | \$31,580,391 | | \$39,852,317 |
| Less expenditures and transfers ^{5,6} | | | | |
| Administration | \$682,930 | | 850,000 | |
| Lignite feasibility studies (nonmatching grants) | 1,140,000 | | 2,192,250 | |
| Small research grants | 809,000 | | 7,674,844 | |
| Lignite marketing | 1,446,000 | | 2,034,000 | |
| Lignite litigation ⁷ | 259,159 | | 1,500,000 | |
| Demonstration projects | 914,663 | | 1,367,678 | |
| Allam Cycle grants (2015 HB 1014) ⁴ | 2,313,822 | | 2,358,678 | |
| Advanced energy technology development | 0 | | 20,844,145 | |
| Total expenditures and transfers⁸ | | 7,565,574 | | 38,821,595 |
| Ending balance | | \$24,014,817 | | \$1,030,722 |

¹The beginning balance shown for the 2015-17 biennium is \$623,423 more than the \$17,982,570 reported in June 2016 due to an adjustment to 2013-15 biennium expenditures.

²Senate 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.

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

⁴The 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.

⁵The 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.

⁶The 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 expended and then subsequently returned when projects did not proceed.)

⁷Lignite litigation - 2007 House Bill No. 1093 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. 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.

⁸The 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, 2019, balance made at the end of the 2017 regular legislative session was \$9,287,693. The decrease in the estimated balance of \$8,256,971 is primarily related to an increase in anticipated expenditures and transfers in the 2017-19 biennium.

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 NORTH DAKOTA OUTDOOR HERITAGE TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|--|---------------------------|--------------------------------|---------------------------|--------------|
| | Actual | | Estimated | |
| Beginning balance | | (\$5,217,411) ¹ | | \$7,996,508 |
| Add revenues | | | | |
| Oil and gas gross production tax collections | \$19,958,440 ² | | \$10,799,177 ³ | |
| Interest income | 20,511 | | 30,000 | |
| Total revenues | | 19,978,951 | | 10,829,177 |
| Total available | | \$14,761,540 | | \$18,825,685 |
| Less expenditures and transfers | | | | |
| Grant award commitments | \$7,569,592 ⁴ | | \$19,326,694 ⁵ | |
| Grant awards withdrawn | (893,104) ⁶ | | (651,009) ⁶ | |
| Administrative expenses | 88,544 | | 150,000 | |
| Total expenditures and transfers | | 6,765,032 | | 18,825,685 |
| Ending balance | | <u>\$7,996,508⁷</u> | | <u>\$0</u> |

¹The 2015-17 biennium beginning balance of (\$5,217,411) is based on grants awarded to date, not amounts spent. Because some grant awards are paid over multiple years, the Industrial Commission spent only \$2,386,248 of the \$23.8 million of grants awarded during the 2013-15 biennium, leaving an estimated cash balance of \$16,173,872 as of July 1, 2015.

²House Bill No. 1176 (2015) amended North Dakota Century Code Section 57-51-15 to increase the amount deposited in the North Dakota outdoor heritage fund from 4 percent of the 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. Oil and gas gross production tax collections of \$19.96 million were deposited in the fund during the 2015-17 biennium.

³Senate 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 oil and gas gross production tax collections allocation of \$10.8 million is estimated to be deposited in the fund during the 2017-19 biennium. The estimated allocation for the 2017-19 biennium includes actual allocations through March 2018 and estimated allocations for the remainder of the 2017-19 biennium based on the 2017 legislative revenue forecast.

⁴The Industrial Commission established four rounds of grant awards and approved contract awards of \$7,569,592 during the 2015-17 biennium. The commission awarded grants of \$3,593,093 on December 16, 2015, \$1,126,750 on May 3, 2016, \$1,031,822 on January 17, 2017, and \$1,817,927 on June 30, 2017. Many of the grants are for multiyear projects; therefore, not all of the grant funds awarded will be expended during the 2015-17 biennium. The commission expended \$9,276,643 from the fund during the 2015-17 biennium for grants.

⁵The amount shown reflects estimated funds that will be available for grants in the 2017-19 biennium based on the 2017 legislative revenue forecast for oil and gas gross production tax collections. 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 anticipates approximately \$8 million will be expended from the fund during the 2017-19 biennium for grants.

⁶Grants awarded and later withdrawn totaled \$211,683 during the 2013-15 biennium and \$681,421 during the 2015-17 biennium. Grants awarded and later withdrawn total \$651,009 for the 2017-19 biennium through March 2018.

⁷The 2015-17 biennium estimated ending balance of \$7,996,508 is based on grants anticipated to be awarded by June 30, 2017, not amounts anticipated to be spent. Because some grant awards are paid over multiple years, the Industrial Commission anticipates spending approximately \$9,276,643 relating to the grants awarded to date and for administrative costs during the 2015-17 biennium, leaving an estimated cash balance of \$26,787,636.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$0. However, due primarily to a larger beginning balance than originally estimated, 2017-19 biennium grant awards are anticipated to be more than originally estimated.

FUND HISTORY

The North Dakota outdoor heritage fund was established in 2013 House Bill No. 1278 (Chapter 54-17.8) to provide, pursuant to a continuing appropriation, grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations, 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. For the 2015-17 biennium, 8 percent of the first 1 percent of oil and gas gross production tax collections is deposited in the North Dakota outdoor heritage fund. 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.

ANALYSIS OF THE RESEARCH NORTH DAKOTA FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|--|------------------|---------------------|------------------|------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$8,949,234 | | \$13,647,891 |
| Add revenues | | | | |
| Transfer from the general fund ¹ | \$4,353,542 | | | |
| Transfer from the centers of excellence fund ² | 7,650,000 | | | |
| Investment income | 14,802 | | \$5,000 | |
| Total revenues | | 12,018,344 | | 5,000 |
| Total available | | \$20,967,578 | | \$13,652,891 |
| Less expenditures and transfers | | | | |
| Technical review expenses | \$132,500 | | \$50,000 | |
| Administrative expenses | 2,833 | | 2,900 | |
| Research North Dakota grants ³ | 3,473,004 | | 2,654,409 | |
| Research North Dakota grants designated for biotechnology ⁴ | 1,289,268 | | 1,373,210 | |
| Research North Dakota venture grants ⁵ | 2,422,082 | | 1,551,019 | |
| Department of Commerce tourism operating ⁶ | | | 500,000 | |
| Department of Commerce grants - Energy and Environmental Research Center (EERC) ⁶ | | | 500,000 | |
| Department of Commerce discretionary grants ⁶ | | | 1,000,000 | |
| Department of Commerce entrepreneurship grants and vouchers ⁶ | | | 1,500,000 | |
| Transfer to the general fund ⁶ | | | 4,000,000 | |
| Total expenditures and transfers | | 7,319,687 | | 13,131,538 |
| Ending balance ⁷ | | <u>\$13,647,891</u> | | <u>\$521,353</u> |

¹In 2013 Senate Bill No. 2018, the Legislative Assembly established the Research North Dakota fund and provided a transfer of \$12 million from the general fund to provide funding for the Research North Dakota grant program and the Research North Dakota venture grant program. House Bill No. 1018 (2015) included a transfer of \$4.5 million 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.

²House Bill No. 1018 (2015) directed the Office of Management and Budget to transfer unobligated funds from the centers of excellence fund to the Research North Dakota fund. Unobligated funds of \$7.65 million in the centers of excellence fund were transferred to the Research North Dakota fund in January 2017.

³Of 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.

⁴The 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.

⁵The 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 \$4 million of unallocated Research North Dakota funding for venture grants. Of this amount, \$2.4 million was distributed during the 2015-17 biennium and the department anticipates distributing the remaining \$1.6 million during the 2017-19 biennium. The 2017 Legislative Assembly did not designate any funding for venture grants and the department does not anticipate any additional funding will be reallocated for venture grants during the 2017-19 biennium.

⁶The 2017 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 to be transferred by the Office of Management and Budget 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 million is for discretionary funds, \$1.5 million is for entrepreneurship grants and vouchers, and \$500,000 is appropriated to the department for the purpose of providing a grant to EERC at the University of North Dakota. 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.

⁷Of the \$12 million appropriated for the Research North Dakota fund for the 2013-15 biennium, the department awarded \$6,562,112 during the 2013-15 biennium. The 2013-15 biennium ending balance included \$3,586,662 of the funds awarded but not distributed, as well as \$5,362,572 of available funds not yet awarded. Of the \$12 million of revenue available during the 2015-17 biennium, the department awarded \$9,386,682, with actual expenditures of \$7,319,687. As a result, the 2015-17 biennium estimated ending balance included \$5,308,699 of funds awarded but not distributed, and \$8,339,192 of available funds not yet awarded, totaling \$13,647,891 on June 30, 2017. After the transfer of \$4 million to the general fund and \$3.5 million appropriated to the department for various programs (see footnote 6 above), the department anticipates awarding the remaining \$839,192 of available funding during the 2017-19 biennium, including the 2017-19 biennium estimated ending balance of \$521,353. The 2017-19 biennium estimated ending balance of \$521,353 includes funding the department anticipates awarding during the 2017-19 biennium but not distributing until the 2019-21 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$404,647. The increase in the estimated balance of \$116,706 is due to extensions for Research North Dakota projects.

FUND HISTORY

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

ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|----------------------------|---------------|----------------------------|---------------|
| | Actual | | Estimated | |
| Beginning balance | | \$576,346,704 | | \$306,411,028 |
| Add revenues | | | | |
| Oil extraction tax collections | \$240,564,950 ¹ | | \$273,662,546 ¹ | |
| Repayments and reimbursements | 14,930,912 | | 12,400,000 | |
| Investment earnings/miscellaneous income | 3,051,071 | | 2,700,000 | |
| Transfer from the infrastructure revolving loan fund | | | 8,440,473 ² | |
| Total revenues | | 258,546,933 | | 297,203,019 |
| Total available | | \$834,893,637 | | \$603,614,047 |
| Less funds designated for the infrastructure revolving loan fund (North Dakota Century Code Section 61-02-78) | \$23,032,609 ² | | \$0 ² | |
| Less expenditures and transfers | | | | |
| State Water Commission - Grants, projects, and project administration | 501,250,000 ³ | | 542,515,358 ^{3,4} | |
| Project funding carryover authorized in Section 6 of 2015 Senate Bill No. 2020 | | | 51,600,000 | |
| Industrial Commission - Western Area Water Supply Authority asset study | | | 150,000 | |
| Total State Water Commission designated funds and expenditures | | 524,282,609 | | 594,265,358 |
| 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) | 1,200,000 ⁵ | | 200,000 ⁵ | |
| Total transfers | | \$4,200,000 | | \$3,200,000 |
| Ending balance, excluding funds designated for infrastructure revolving loan fund | | \$306,411,028 | | \$6,148,689 |

¹Estimated revenues - These amounts reflect for the 2015-17 biennium, actual oil and gas tax revenue collections deposited in the fund; and for the 2017-19 biennium, actual collections through March 2018 and estimated allocations for the remainder of the 2017-19 biennium based on the 2017 legislative revenue forecast. Actual 2015-17 biennium collections were \$2,945,050 less than anticipated in the 2017 legislative revenue forecast. Actual 2017-19 biennium collections through March 2018 are \$6,559,203 more than anticipated in the 2017 legislative revenue forecast.

²This amount represents 10 percent of actual revenue collections for the 2015-17 biennium, designated for the infrastructure revolving loan fund. House Bill No. 1020 (2017) amended Section 61-02-78 to provide no more than \$26 million of total resources trust fund revenue may be allocated to the infrastructure revolving loan fund; therefore, excess transfers of \$8,440,473 were returned to the resources trust fund.

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

¹Loans outstanding as of April 30, 2018, totaled \$20,753,223.

³Sections 1 and 5 of 2015 Senate Bill No. 2020 appropriated \$755,817,897, or any additional funding that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2015-17 biennium. The Legislative Assembly, in 2015 Senate Bill No. 2020, 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 State Water Commission anticipates the Bank loan payments will be made from the water development trust fund during the 2017-19 biennium.

⁴Sections 1 and 3 of 2017 House Bill No. 1020 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.

⁵The Legislative Assembly in 2013 Senate Bill No. 2014 authorized quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up 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. House Bill No. 1020 (2017) reduces the resources trust fund 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 and restores the maximum allocation to the energy conservation grant fund to \$1.2 million after July 31, 2019.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$2,785,986. The increase in the estimated balance of \$3,362,703 is due primarily to oil extraction tax collections for the 2017-19 biennium through March 2018 exceeding legislative estimates.

INFRASTRUCTURE REVOLVING LOAN FUND HISTORY

The infrastructure revolving loan fund was created by the 2013 Legislative Assembly in Senate Bill No. 2233, 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 2011 Senate Bill No. 2129, provides that oil extraction tax revenues be distributed as follows:

- 20 percent to the resources trust fund;
- 20 percent allocated as provided in Section 24 of Article X of the Constitution of North Dakota;
- 30 percent to the legacy fund; and
- 30 percent to be allocated under the state's share of oil and gas tax collections.

The 2013 Legislative Assembly in Senate Bill No. 2014 authorized quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up to \$3 million per biennium and of .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 2013 Senate Bill No. 2233, established an infrastructure revolving loan fund within the resources trust fund. The bill provides 10 percent of oil extraction tax revenue deposited in the resources trust fund is to be made available on a continuing basis to provide loans for water supply, flood protection, or other water development and water management projects. Loans are approved by the State Water Commission and administered by the Bank of North Dakota. 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.

ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|----------------------------|-------------|-------------------------------|-------------|
| | Beginning balance | | \$7,208,708 | |
| Add revenues | | | | |
| Premiums | \$1,707,445 ¹ | | \$1,730,444 ² | |
| Interest and other revenue | 669,428 ³ | | 240,000 ³ | |
| Total revenues | | 2,376,873 | | 1,970,444 |
| Total available | | \$9,585,581 | | \$7,746,242 |
| Less expenditures and transfers | | | | |
| Administration | \$1,157,352 | | \$1,692,133 | |
| Claims-related expenses | 0 ⁴ | | 0 ⁴ | |
| Claims, litigation, and excess insurance | 2,652,431 | | 3,000,000 | |
| Total expenditures and transfers | | 3,809,783 | | 4,692,133 |
| Ending balance | | \$5,775,798 | | \$3,054,109 |

¹In response to an actuarial review completed in 2014 by Aon plc, the Office of Management and Budget's Risk Management Division assessed a total of \$1,853,932 in risk management premiums to state agencies, boards, and commissions and the North Dakota University System for the 2015-17 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 2016 discounts of \$71,848 and fiscal year 2017 discounts of \$74,639.

²In response to an actuarial review completed in 2016 by Aon plc, the Office of Management and Budget's Risk Management Division is assessing a total of \$1,874,944 in risk management premiums to state agencies, boards, and commissions and the University System for the 2017-19 biennium. Contributions reflect \$72,250 in discounts for fiscal year 2018 and estimated \$72,250 in discounts for fiscal year 2019.

³Investment 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.

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

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$2,100,883. The increase of \$953,226 in the estimated balance of \$3,054,109, is due to an increase of \$429,428 from anticipated interest and other revenue, which was projected to be \$240,000 for the 2015-17 biennium; a decrease of \$471,173 from administration expenditures and transfers, which was projected to be \$1,628,525 for the 2015-17 biennium; and a decrease of \$52,625 from claims, litigation, and excess insurance expenditures and transfers, which was projected to be \$2,705,056 for the 2015-17 biennium.

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 (1995 Senate Bill No. 2080), which created a risk management fund and assigned the responsibility of administering a risk management program to the Office of Management and Budget.

North Dakota Century Code Section 32-12.2-19 allows the Office of Management and Budget 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|----------------------------|-------------|-------------------------------|-------------|
| | Beginning balance | | \$0 | |
| Add revenues | | | | |
| Allocation from sales, use, and motor vehicle excise tax collections | \$6,797,666 ^{1,2} | | \$8,000,000 ^{1,2} | |
| Total revenues | | 6,797,666 | | 8,000,000 |
| Total available | | \$6,797,666 | | \$8,000,000 |
| Less expenditures and transfers | | | | |
| State Treasurer - County senior citizen matching grants | \$6,648,528 ³ | | \$7,973,925 ³ | |
| Transfer to the general fund | 149,138 ⁴ | | 26,075 | |
| Total expenditures and transfers | | 6,797,666 | | 8,000,000 |
| Ending balance | | \$0 | | \$0 |

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

| Fiscal Year | Allocation From Sales, Use, and Motor Vehicle Excise Tax Collections | Percentage Increase (Decrease) From Previous Year |
|----------------|---|--|
| 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 | \$4,113,050 (estimate) | 5.8% |

²Senate 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.

³The 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 | \$3,986,962 (estimate) | 13.8% |
| 2019 | \$3,986,963 (estimate) | 0% |

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

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 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 2017-19 biennium made at the end of the 2017 regular legislative session was \$8,035,000. The decrease in the total estimated revenues of \$35,000 is due to lower than anticipated mill levy values for the 2017-19 biennium.

FUND HISTORY

The Legislative Assembly in 2005 approved Senate Bill No. 2267, which created the senior citizen services and programs fund. Statutory provisions are contained in North Dakota Century Code Sections 57-15-56(5) and 57-39.2-26.2. Current statutory provisions provide that each year during July through December, the State Treasurer is to transfer to the fund the portion of sales, use, and motor vehicle excise tax collections that are equivalent to the amount generated from 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. The Legislative Assembly in 2011 Senate Bill No. 2242 amended statutory provisions to increase the amount of collections to be allocated to the fund and the amount of grants provided to counties from two-thirds of the amount levied for senior citizen programs to three-fourths of the amount levied for senior citizen programs, limited to one mill. In 2013 Senate Bill No. 2162, the Legislative Assembly increased these amounts to 85 percent of the amounts levied for senior citizen programs, limited to one mill. In 2015 Senate Bill No. 2143, the Legislative Assembly 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 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|---------------|-------------------------------|---------------|
| | Beginning balance | | \$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) | \$184,829,955 | | \$183,128,594 ¹ | |
| Total revenues | | 184,829,955 | | 183,128,594 |
| Total available | | \$184,829,955 | | \$183,128,594 |
| Less expenditures and transfers | | | | |
| Payments to political subdivisions | | | | |
| County share (53.7 percent) | \$99,253,686 | | \$98,340,055 | |
| City share (46.3 percent) | 85,576,269 | | 84,788,539 | |
| Total expenditures and transfers | | 184,829,955 | | 183,128,594 |
| Ending balance | | \$0 | | \$0 |

¹The estimated revenues for the 2017-19 biennium are based on actual revenue collections through March 2018 and the 2017 legislative revenue forecast for the remainder of the biennium.

NOTE: The estimated revenue projection for the 2017-19 biennium made at the end of the 2017 legislative session for deposits in the fund was \$183,168,991. The estimated fund revenues are \$40,397 less than the 2017 legislative estimated revenue projection.

FUND HISTORY

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

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

| 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 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 2015-17 AND 2017-19 BIENNIUMS**

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|----------------------------|---------------|-------------------------------|---------------|
| | | | | |
| Beginning balance | | \$557,226,995 | | \$374,001,957 |
| Add revenues | | | | |
| Production royalties (2017 SB 2134) ^{1,2} | \$131,456,702 | | \$166,423,574 | |
| Mineral leases ¹ | 1,267,720 | | 430,697 | |
| Oil and gas bonuses ¹ | 11,709,227 | | 5,958,637 | |
| Investment earnings ¹ | 8,368,723 | | 10,988,420 | |
| Oil and gas tax collections (2017 HB 1152; 2017 SB 2013) ^{3,4} | 136,541,741 | | 332,010,000 | |
| Transfer from political subdivision allocation fund (2017 SB 2013) ⁵ | | | 7,660,518 | |
| Total revenues | | 289,344,113 | | 523,471,846 |
| Total available | | \$846,571,108 | | \$897,473,803 |
| Less expenditures and transfers | | | | |
| State Treasurer | | | | |
| Deficiency - Property tax relief credit payments (2017 HB 1024) | \$8,100,000 | | | |
| Transfer to energy impact fund (2017 SB 2013) | | | \$3,000,000 | |
| 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) | | | 150,000 | |
| Commission on Legal Counsel for Indigents | | | | |
| Contract service fees (2015 HB 1022) | 200,000 | | | |
| Deficiency - Marsy's Law costs (2017 HB 1024) ⁶ | 0 | | | |
| North Dakota State University | | | | |
| Deficiency - Minard Hall reimbursement (2017 HB 1015) | 1,634,854 | | | |
| State Department of Health | | | | |
| Deficiency - Federal litigation costs (2017 HB 1024) | 250,000 | | | |
| Federal litigation costs (2017 SB 2004) | | | 500,000 | |
| Department of Human Services | | | | |
| Deficiency - Medicaid program costs (2017 HB 1024) | 9,000,000 | | | |
| Industrial Commission | | | | |
| Core library expansion project (2015 HB 1014) ⁷ | 13,296,032 | | | |
| 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 | |
| Public Service Commission | | | | |
| Litigation costs (2017 HB 1008) | | | 100,000 | |
| Bank of North Dakota | | | | |
| Transfer to infrastructure revolving loan fund (2015 HB 1443) | 50,000,000 | | | |
| Transfer to medical facility infrastructure loan fund (2015 SB 2012) | 49,891,582 | | | |
| Transfer to school construction assistance loan fund (2015 SB 2039; 2017 SB 2272) | 150,000,000 | | | |

| | | | |
|---|-------------|---------------|---------------|
| Highway Patrol | | | |
| Equipment (2017 SB 2011) | | | 358,000 |
| 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 |
| Adjutant General | | | |
| Deficiency - Loan repayment (2017 HB 1024) | 79,500 | | |
| Department of Commerce | | | |
| Enhanced use lease grant (2015 HB 1018; 2017 SB 2018) | 7,500,000 | 2,000,000 | |
| Grants for domestic violence shelters (2015 HB 1285) | 650,000 | | |
| Grant for unmanned aerial systems (2017 SB 2018) | | 2,000,000 | |
| Base retention grants (2017 SB 2018) | | 600,000 | |
| Department of Agriculture | | | |
| Transfer to environmental law impact review fund (2017 HB 1009) | | | 1,000,000 |
| Main Research Center | | | |
| Veterinary diagnostics laboratory (2015 HB 1020) | 18,000,000 | | |
| State Historical Society | | | |
| Deficiency - Litigation expenses (2017 HB 1024) ⁸ | 27,896 | | |
| Department of Transportation | | | |
| Short line railroad revolving loan fund (2015 HB 1012) | 7,000,000 | | |
| Contingent transfer to highway fund (2015 SB 2015) ⁹ | 0 | | |
| Transfer to the general fund (2017 HB 1015; 2017 HB 1024) | 155,000,000 | 248,000,000 | |
| Mineral revenue repayments from reserves (2017 SB 2134)² | | 100,000,000 | |
| Administrative costs/other fees | 1,939,287 | | 1,815,969 |
| Total expenditures and transfers | | 472,569,151 | 381,431,876 |
| Ending balance | | \$374,001,957 | \$516,041,927 |
| Restricted fund income | | | |
| Reserve relating to potential title disputes (2017 SB 2134) ^{2,10} | | 142,325,049 | 42,325,049 |
| Loan guarantees (2011 SB 2306; 2013 SB 2287) ¹¹ | | 17,321,567 | 17,321,567 |
| Ending balance - Unobligated | | \$214,355,341 | \$456,395,311 |

¹The amounts shown reflect projections by the Department of Trust Lands for the 2015-17 and 2017-19 bienniums based on actual revenues through March 2018.

²Senate Bill No. 2134 (2017) changes the definition of 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. The amount shown for the production royalties for the 2017-19 biennium includes an estimated \$30 million related to mineral revenue disputes, which may be deposited in the strategic investment and improvements fund prior to the implementation of the repayment process. The \$30 million is included in the \$187 million authorized for mineral revenue repayments. The bill provides legislative intent that the \$87 million line of credit 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.

³Estimated revenues - These amounts reflect actual oil and gas tax revenue collections through March 2018. The estimated allocations for the remainder of the 2017-19 biennium are based on the 2017 legislative revenue forecast.

⁴House Bill No. 1176 (2015) increased the allocation of oil and gas gross production tax collections to counties decreasing the state's share, including the allocation to the strategic investment and improvements fund. House Bill No. 1377 (2015) amended North Dakota Century Code Section 57-51.1-07.5 to change the allocation of the state's share of oil and gas tax revenue so that during the 2015-17 biennium, the oil and gas tax revenue remaining after allocations to other state funds, are deposited 70 percent in the strategic investment and improvements fund and 30 percent in the political subdivision allocation 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, 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.

⁵The Legislative Assembly created the political subdivision allocation fund (2015 House Bill No. 1377) to provide additional allocations from oil and gas tax collections to political subdivisions. In 2017 Senate Bill No. 2013, 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.

⁶The deficiency appropriation to the Commission on Legal Counsel for Indigents related to Marsy's Law was \$189,000; however, the funding was not needed and remained in the fund.

⁷The amount shown reflects the actual expenditures for the project. The appropriation was \$13,625,322, resulting in \$329,290 of unspent 2015-17 biennium appropriation authority, which remained in the fund.

⁸The deficiency appropriation to the State Historical Society related to litigation expenses was \$50,000; however, \$22,104 was not needed and remained in the fund.

⁹Senate Bill No. 2015 (2015) provided a contingent transfer of \$25.85 million from the strategic investment and improvements fund to the highway fund and a contingent appropriation of \$25.85 million from the highway fund to the Department of Transportation for state highway investments. The \$25.85 million was available only if actual general fund revenues for the period beginning July 1, 2015, and ending December 31, 2015, exceeded the legislative estimates for the same period by at least \$126 million, or if actual general fund revenues for the period beginning July 1, 2015, and ending June 30, 2016, exceeded the legislative estimates for the same period by at least \$126 million. General fund revenues did not exceed the legislative estimates.

¹⁰These 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.

¹¹Senate 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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$372,560,249. The increase in the estimated balance of \$83,835,062 is primarily related to an increase in the estimated oil and gas tax revenue collections in the 2017-19 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 2015 House Bill Nos. 1176 and 1377, 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 2015-17 AND 2017-19 BIENNIUMS
(REFLECTING BOTH THE 1979 AND 1996 BOND RESOLUTIONS)**

| | 2015-17 Biennium Actual ¹ | | 2017-19 Biennium Estimated ¹ | |
|---|---|------------------------|--|------------------------|
| Beginning balance | | \$34,671,256 | | \$17,399,512 |
| Add estimated revenues | | | | |
| Fund earnings (net) | \$293,000 ² | | \$200,000 ² | |
| Total revenues | | 293,000 | | 200,000 |
| Total available | | \$34,964,256 | | \$17,599,512 |
| Less estimated expenditures and transfers | | | | |
| Funding for veterinary medical education program (2015 HB 1003; 2017 SB 2003) | \$465,307 ³ | | \$465,307 ³ | |
| Funding for North Dakota University System information technology services (2015 HB 1003; 2017 SB 2003) | 539,437 ⁴ | | 539,437 ⁴ | |
| Transfer to the North Dakota Student Loan Guarantee Agency | 10,000,000 ⁵ | | | |
| Funding for addiction counseling internship loans (2015 HB 1049) | 200,000 ⁶ | | | |
| Funding for Dickinson State University transition (2015 HB 1003) | 2,000,000 ⁷ | | | |
| Funding for tribal college assistance grants (2015 HB 1003; 2017 SB 2003) | 500,000 ⁸ | | 500,000 ⁸ | |
| Funding for tribal college workforce development grants (2015 HB 1018; 2017 SB 2144) | 1,000,000 ⁹ | | 500,000 ⁹ | |
| Return of unused 2015-17 tribal college workforce development grant funding | | | (93,665) ¹⁰ | |
| Funding for higher education challenge grants (2015 HB 1151; 2017 SB 2036) | 2,500,000 ¹¹ | | | |
| Funding for dental loan repayment program (2015 HB 1004 and SB 2015; 2017 SB 2004) | 360,000 ¹² | | 360,000 ¹² | |
| Funding for dual-credit courses pilot program (2017 SB 2244) | | | 200,000 ¹³ | |
| Funding for medical residency positions (2017 SB 2003) | | | 13,806,856 ¹⁴ | |
| Funding for the Governor's school program (2017 HB 1013) | | | 220,000 ¹⁵ | |
| Total estimated expenditures and transfers | | 17,564,744 | | 16,497,935 |
| Estimated ending balance | | \$17,399,512 | | \$1,101,577 |
| Restricted fund balance relating to outstanding bonds | | 1,000,000 ¹ | | 1,000,000 ¹ |
| Estimated ending balance - Unobligated | | \$16,399,512 | | \$101,577 |

¹This 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 May 23, 2018. Debt service to bondholders has priority over all other transfers.

²The projected income for the 2017-19 biennium is based on interest rates as of May 23, 2018, and is net of the Industrial Commission and trustee expenses.

³The 2015 Legislative Assembly provided \$465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program. The 2017 Legislative Assembly approved Senate Bill No. 2003, which includes \$465,307 of funding from the student loan trust fund for the Kansas State University veterinary medical education program.

⁴The 2015 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. The 2017 Legislative Assembly approved Senate Bill No. 2003, which includes \$539,437 of funding from the student loan trust fund for the University System information technology services pool for ConnectND positions within the University System.

⁵Pursuant to the provisions of the 1996 bond resolution, the Industrial Commission authorized the transfer of \$10 million to the North Dakota Student Loan Guarantee Agency in September 2016 to maintain the reserve requirements and eliminate loan fees for alternative student loan guarantees relating primarily to DEAL One loans.

⁶The 2015 Legislative Assembly approved House Bill No. 1049, which includes \$200,000 of funding from the student loan trust fund for addiction counselor internship loans.

⁷The 2015 Legislative Assembly approved House Bill No. 1003, which includes \$2 million of one-time funding from the student loan trust fund for campus leadership transition needs at Dickinson State University.

⁸The 2015 Legislative Assembly approved House Bill No. 1003, 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. The 2017 Legislative Assembly approved Senate Bill No. 2003, 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.

⁹The 2015 Legislative Assembly approved House Bill No. 1018, which includes \$1 million of one-time funding from the student loan trust fund for tribal college workforce development grants. The 2017 Legislative Assembly approved Senate Bill No. 2144, which includes \$500,000 of one-time funding from the student loan trust fund for tribal college workforce development grants.

¹⁰In November 2017 one of the tribal colleges returned \$93,665 to the Department of Commerce that it did not use during the 2015-17 biennium for tribal college workforce development.

¹¹The 2015 Legislative Assembly approved House Bill No. 1151, which includes \$2.5 million of funding from the student loan trust fund for higher education challenge matching grants.

¹²The 2015 Legislative Assembly approved House Bill No. 1004 and Senate Bill No. 2015, which include \$360,000 of funding from the student loan trust fund for the dental loan repayment program. The 2017 Legislative Assembly approved Senate Bill No. 2004, which includes \$360,000 of funding from the student loan trust fund for the dental loan repayment program.

¹³The 2017 Legislative Assembly approved Senate Bill No. 2244, which includes \$200,000 of funding from the student loan trust fund for a dual-credit courses pilot program.

¹⁴The 2017 Legislative Assembly approved Senate Bill No. 2003, which includes \$13,806,856 of funding from the student loan trust fund for residency positions at the University of North Dakota School of Medicine and Health Sciences.

¹⁵The 2017 Legislative Assembly approved House Bill No. 1013, 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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$114,912. The decrease in estimated balance of \$13,335 is due primarily to a decrease in estimated fund earnings.

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 May 23, 2018, \$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.

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

ANALYSIS OF THE TAX RELIEF FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|---|------------------------------|----------------------|-------------------------------|----------------------|
| Beginning balance | | \$657,000,000 | | \$300,000,000 |
| Add revenues | | | | |
| Allocation of oil and gas tax revenues | \$300,000,000 ^{1,2} | | \$200,000,000 ^{1,3} | |
| Total revenues | | 300,000,000 | | 200,000,000 |
| Total available | | \$957,000,000 | | \$500,000,000 |
| Less expenditures and transfers | | | | |
| Transfer to general fund (Section 3 of 2015 SB 2015 and Section 10 of 2017 HB 1015) | \$657,000,000 | | \$183,000,000 | |
| Transfer to social services finance fund (Section 20 of 2017 SB 2206) | | | 134,700,000 | |
| Total expenditures and transfers | | 657,000,000 | | 317,700,000 |
| Ending balance | | <u>\$300,000,000</u> | | <u>\$182,300,000</u> |

¹Estimated revenues - The amount shown reflects actual oil and gas tax revenue allocations through March 2018 and forecasted amounts for the remainder of the 2017-19 biennium based on the 2017 legislative revenue forecast.

²House Bill No. 1377 (2015) repealed North Dakota Century Code Sections 15.1-27-45 and 57-64-05 relating to the property tax relief sustainability fund 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 changed the allocation of the state's share of oil and gas tax revenue to provide the following:

- The first \$200 million to the general fund;
- The next \$300 million to the tax relief fund;
- The next \$100 million to the general fund;
- The next \$100 million to the strategic investment and improvements fund;
- The next \$22 million to the state disaster relief fund if the amounts do not bring the unobligated balance of the fund to more than \$25 million;
- For the 2015-17 biennium, any remaining revenues are deposited:
 - 70 percent into the strategic investment and improvements fund; and
 - 30 percent into the political subdivision allocation fund; and
- After the 2015-17 biennium, any remaining revenues are deposited into the strategic investment and improvements fund.

³House Bill No. 1152 (2017) amends Section 57-51.1-07.5 to change the allocation of the state's share of oil and gas tax revenue to provide the following:

- The first \$200 million to the general fund;
- The next \$200 million to the tax relief fund;
- The next \$75 million to the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in Section 54-27.2-01;
- The next \$200 million to the general fund for the 2017-19 biennium, and for all subsequent bienniums \$100 million to the general fund;

- The next \$100 million, 80 percent to the strategic investment and improvements fund and 20 percent up to \$3 million deposited to the lignite research fund, and 100 percent to the strategic investment and improvements fund after the \$3 million cap for the lignite research fund has been met;
- The next \$20 million to the state disaster relief fund if the amounts do not bring the unobligated balance of the fund to more than \$20 million; and
- Any additional revenues into the strategic investment and improvements fund.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 legislative session was \$182,300,000, the same as the current estimate.

FUND HISTORY

Section 57-64-05, as created by 2009 Senate Bill No. 2199, 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 2013 House Bill No. 1013, changed the name of the property tax relief sustainability fund to the property tax relief fund, but only for the 2013-15 biennium. 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. 1152 (2017) amended Section 57-51.1-07.5 to decrease the amount of the state's share of oil and gas tax revenue deposited in the fund from \$300 million per biennium to \$200 million per biennium.

ANALYSIS OF THE TOBACCO PREVENTION AND CONTROL TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|--|---------------------------|-------------------------|----------------------|----------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$49,341,421 | | \$58,216,128 |
| Add revenues | | | | |
| Tobacco settlement revenues collected to date | \$22,907,729 | | \$0 ¹ | |
| Projected tobacco settlement revenues | | | 0 ² | |
| Investment and miscellaneous revenue | 1,728,203 ³ | | 365,000 ³ | |
| Total revenues | | 24,635,932 ⁴ | | 365,000 ⁴ |
| Total available | | \$73,977,353 | | \$58,581,128 |
| Less expenditures and transfers | | | | |
| Tobacco Prevention and Control Executive Committee: | | | | |
| Expenditures pursuant to 2015 HB 1024 | \$15,761,225 ⁵ | | \$0 ⁵ | |
| State Department of Health (2017 SB 2004): | | | | |
| Local public health unit grants | | | 2,000,000 | |
| Cancer programs | | | 644,804 | |
| Stroke and cardiac care programs | | | 756,418 | |
| Physician loan repayment program | | | 480,000 | |
| Behavioral health loan repayment program | | | 243,640 | |
| Tobacco prevention and control program, including cessation and grants to local public health units for tobacco prevention and control | | | 8,453,333 | |
| Domestic violence offender treatment grants | | | 300,000 | |
| Department of Human Services (2017 HB 1012): | | | | |
| Medical services grants | | | 22,175,000 | |
| 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 | | 15,761,225 | | 50,657,354 |
| Ending balance | | \$58,216,128 | | \$7,923,774 |

¹As of April 2018 the state has received tobacco settlement payments totaling \$53,096,556 for the 2017-19 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. To date, the state has received total tobacco settlement collections of \$580,643,711, including \$461,156,250 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 \$580,643,711, \$474,953,979 has been deposited into the tobacco settlement trust fund and \$105,689,732 has been deposited into the tobacco prevention and control trust fund.

²The 2017-19 biennium revenues do not include a deposit in the tobacco prevention and control trust fund because it is anticipated the payment under subsection IX(c)(2) of the Master Settlement Agreement received in April 2017 will be the final payment.

³In 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 North Dakota Century Code Chapter 23-42 in 2017 Senate Bill No. 2024 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 2017 House Bill No. 1015 the Legislative Assembly directed the Office of Management and Budget to administer the tobacco prevention and control trust fund in accordance with legislative authorizations or appropriations during the 2017-19 biennium.

⁴Initiated Measure No. 3, approved in the November 2008 general election, 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 Tobacco Prevention and Control Executive Committee to adequately provide for the comprehensive plan. The Legislative Assembly in Section 39 of 2009 House Bill No. 1015 provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriations. In 2017 Senate Bill No. 2024 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.

Initiated Measure No. 3 (2008) resulted in the following allocation of the revised estimated collections for tobacco settlement payments through 2025. In 2017 House Bill No. 1012, 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. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on the temporary reallocation approved by the 2017 Legislative Assembly:

| | Actual and Estimated Total Tobacco Settlement Proceeds, Net of 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 |
| Estimated 2017-19 biennium | 73.1 million ¹ | N/A | 0 | 32.8 million | 40.1 million |
| Estimated 2019-21 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2021-23 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2023-25 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Total | \$561.3 million | \$105.7 million | \$172.0 million | \$204.8 million | \$78.4 million |

¹This 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.

⁵The 2015 Legislative Assembly appropriated \$16,548,039 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee for the purpose of providing a level of funding that will meet the annual level recommended by the federal Centers for Disease Control and Prevention for North Dakota as published in its *Best Practices for Comprehensive Tobacco Control Programs* for the 2015-17 biennium. The 2017 Legislative Assembly approved Senate Bill No. 2024 to repeal Chapter 23-42 related to the tobacco prevention and control program; therefore, did not provide funding for the Tobacco Prevention and Control Executive Committee for the 2017-19 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$7,125,490. The increase in the estimated balance of \$798,284 is due to a larger beginning balance in the fund than anticipated which was due to actual investment income of the fund being more than estimated (\$998,203) and actual expenditures being more than estimated (\$199,919) during the 2015-17 biennium.

FUND HISTORY

The tobacco prevention and control trust fund was created as a result of voter approval of Initiated Measure No. 3 in the November 2008 general election. The measure added seven new sections to 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 continue each April 15 thereafter through 2017. Section 54-27-25, created by 1999 House Bill No. 1475, did not distinguish between payments received under the separate subsections of the Master Settlement Agreement and provided for the deposit of all tobacco settlement money received by the state into the tobacco settlement trust fund. Money in the fund, including interest, is transferred within 30 days of deposit in the fund as follows:

- 10 percent to the community health trust fund. In 2017 House Bill No. 1012, 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, 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.

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 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 after the 2017-19 biennium. 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 is administered by the executive committee created by the measure for the purpose of creating and implementing the comprehensive plan. However, the 2017 Legislative Assembly approved Senate Bill No. 2024 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 2017 House Bill No. 1015 requires the Office of Management and Budget 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 2009 House Bill No. 1015, provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation. Senate Bill No. 2024 (2017) repeals 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.

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|----------------------------|-----------------------------|-------------------------------|-----------------------------|
| Beginning balance | | \$0 | | \$0 |
| Add revenues | | | | |
| Tobacco settlement revenues collected to date | \$40,663,191 | | \$53,096,556 ¹ | |
| Projected tobacco settlement revenues | | | 20,100,000 | |
| Total revenues | | 40,663,191 ² | | 73,196,556 ² |
| Total available | | \$40,663,191 ^{3,4} | | \$73,196,556 ^{3,4} |
| Less expenditures and transfers | | | | |
| Attorney General - Tobacco settlement agreement costs (2015 SB 2003; 2017 HB 1003) | \$200,000 ⁵ | | \$200,000 ⁵ | |
| Transfers to the community health trust fund | 4,046,319 | | 40,148,106 | |
| Transfers to the common schools trust fund | 18,208,436 | | 0 | |
| Transfers to the water development trust fund | 18,208,436 | | 32,848,450 | |
| Total expenditures and transfers | | 40,663,191 ⁴ | | 73,196,556 ⁴ |
| Ending balance | | \$0 | | \$0 |

¹As of April 2018 the state has received a tobacco settlement payment of \$53,096,556 for the 2017-19 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 \$37.3 million 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. To date, the state has received total tobacco settlement collections of \$580,643,711, including \$461,156,250 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 \$580,643,711, \$474,953,979 has been deposited into the tobacco settlement trust fund and \$105,689,732 has been deposited into the tobacco prevention and control trust fund.

²Revenues - House Bill No. 1475 (1999), North Dakota Century Code Section 54-27-25, provides 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 2017 House Bill No. 1012, 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.** The interest earned on the money in the tobacco settlement trust fund will increase the amount available for transfers to the other funds. However, because of uncertainty regarding the timing of the receipt of the tobacco settlement proceeds, interest earned on the balance of the tobacco settlement trust fund has not been included in this analysis. Tobacco settlement revenues collected to date have been transferred immediately to the proper trust funds; therefore, no interest has been earned by the tobacco settlement trust fund to date.

In the November 2008 general election, voters approved Initiated Measure No. 3 that 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, will continue to be deposited into the tobacco settlement trust fund and, except for the 2017-19 biennium, allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, which began in 2008 and 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 2018 and legislative estimates for the remainder of the 2017-19 biennium and do not include anticipated strategic contribution payments, which expired in 2017.

³In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending that the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office 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 the Office of Management and Budget are:

| Biennium | 1999 Original Estimated Collections | Actual and Office of Management and Budget Revised Estimated Collections |
|-----------|-------------------------------------|--|
| 1999-2001 | \$57,593,770 | \$52,900,784 |
| 2001-03 | 61,143,578 | 53,636,363 |
| 2003-05 | 51,271,214 | 46,310,010 |
| 2005-07 | 51,271,214 | 43,828,118 |
| 2007-09 | 82,231,080 | 75,633,409 |
| 2009-11 | 82,231,080 | 64,013,596 |
| 2011-13 | 82,231,080 | 63,035,245 |
| 2013-15 | 82,231,080 | 64,618,711 |
| 2015-17 | 82,231,080 | 63,570,920 |
| 2017-19 | 58,591,490 | 73,196,556 |
| 2019-21 | 58,591,490 | 52,503,832 |
| 2021-23 | 58,591,490 | 52,503,832 |
| 2023-25 | 58,591,490 | 52,503,832 |
| Total | \$866,801,136 | \$758,255,208 |

⁴Initiated Measure No. 3 (2008) resulted in the following allocation of the revised estimated collections for tobacco settlement payments through 2025. In 2017 House Bill No. 1012, 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 remain at 45 percent. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on the temporary reallocation approved by the 2017 Legislative Assembly:

| | Actual and Estimated Total Tobacco Settlement Proceeds, Net of 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 |
| Estimated 2017-19 biennium | 73.1 million ¹ | N/A | 0 | 32.8 million | 40.1 million |
| Estimated 2019-21 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2021-23 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2023-25 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Total | \$561.3 million | \$105.7 million | \$172.0 million | \$204.8 million | \$78.4 million |

¹This 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.

⁵The 2015 Legislative Assembly, in Senate Bill No. 2003, 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.

FUND HISTORY

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

- 10 percent to the community health trust fund. In 2017 House Bill No. 1012, 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 2017 House Bill No. 1012, 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.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in a new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund after the 2017-19 biennium. 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 2015 Senate Bill No. 2003, 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.

ANALYSIS OF THE STATE TUITION FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|----------------------------|--------------------------|-------------------------------|------------------------|
| | Beginning balance | | \$2,070,163 ¹ | |
| Add revenues | | | | |
| Fines for violation of state laws | \$12,456,453 ² | | \$11,379,993 ² | |
| Transfer from the public instruction fund (2017 HB 1013) | | | 4,282,905 ³ | |
| Transfers from the common schools trust fund | 206,134,000 | | 288,264,000 | |
| Total revenues | | 218,590,453 | | 303,926,898 |
| Total available | | \$220,660,616 | | \$305,672,870 |
| Less expenditures and transfers | | | | |
| State aid to schools (2015 SB 2013; 2017 HB 1013) | \$218,914,644 | | \$305,546,905 ³ | |
| Total expenditures and transfers | | 218,914,644 | | 305,546,905 |
| Ending balance | | \$1,745,972 ¹ | | \$125,965 ¹ |

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

²Fines for violation of state laws - Fine proceeds estimated to be deposited in the state tuition fund during the 2017-19 biennium are based on actual fines deposited into the fund through March 2018 and estimated fine proceeds for the remainder of the 2017-19 biennium based on the 2017 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 |
|-------------|------------------------|--|
| 1998 | \$3,384,890 (actual) | N/A |
| 1999 | \$3,818,890 (actual) | 12.8% |
| 2000 | \$4,866,644 (actual) | 27.4% |
| 2001 | \$4,241,256 (actual) | (12.9%) |
| 2002 | \$4,778,756 (actual) | 12.7% |
| 2003 | \$4,607,423 (actual) | (3.6%) |
| 2004 | \$4,721,407 (actual) | 2.5% |
| 2005 | \$4,507,137 (actual) | (4.5%) |
| 2006 | \$4,506,316 (actual) | (0.01%) |
| 2007 | \$4,590,395 (actual) | 1.9% |
| 2008 | \$4,692,048 (actual) | 2.2% |
| 2009 | \$4,452,118 (actual) | (5.1%) |
| 2010 | \$4,593,325 (actual) | 3.2% |
| 2011 | \$4,963,691 (actual) | 8.1% |
| 2012 | \$5,769,861 (actual) | 16.2% |
| 2013 | \$6,158,750 (actual) | 6.7% |
| 2014 | \$6,844,632 (actual) | 11.1% |
| 2015 | \$7,655,890 (actual) | 11.9% |
| 2016 | \$6,945,206 (actual) | (9.3%) |
| 2017 | \$5,511,247 (actual) | (20.6%) |
| 2018 | \$5,129,993 (estimate) | (6.9%) |
| 2019 | \$6,250,000 (estimate) | 21.8% |

³Section 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 2013 House Bill No. 1013 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) provides for a transfer of \$4,282,905 from the Department of Public Instruction operating account to the state tuition fund and includes the funding in the total appropriated from the state tuition fund for state school aid during the 2017-19 biennium.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$350,197. The decrease in the estimated balance of \$224,232 is due to the beginning 2017-19 biennium balance being \$395,775 more than anticipated due to higher than estimated revenues from fines and lower than estimated transfers from the fund during the 2015-17 biennium. The increase in the beginning balance is offset by 2017-19 biennium revenue from fines being \$620,007 less than estimated.

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

ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium | | 2017-19 Biennium | |
|---|------------------------|--------------------------|--------------------------|--------------------------|
| | Actual | | Estimated | |
| Beginning balance | | \$5,557,773 ¹ | | \$5,700,423 ² |
| Add revenues | | | | |
| Investment income and increases in market value | \$435,373 ³ | | \$525,000 ^{4,5} | |
| Sale of transport vans | 6,268 | | | |
| Commemorative memorial coin program donations (2017 SB 2183) | 400 | | 24,600 | |
| Short-term interest | 323 | | 0 | |
| Impact Foundation donations | 76,179 ⁶ | | 0 | |
| Total revenues | | 518,543 | | 549,600 |
| Total available | | \$6,076,316 | | \$6,250,023 |
| Less expenditures and transfers | | | | |
| Grants and related expenditures | \$291,068 | | \$33,982 | |
| Veterans' transportation programs | 5,684 | | 1,843 | |
| Commemorative memorial coin program expenditures (2017 SB 2183) | 0 | | 25,000 | |
| Other veterans' programs | 4,957 | | 1,719 | |
| Impact Foundation expenditures | 74,184 ⁶ | | | |
| Remaining funds available for programs that benefit veterans | 0 ³ | | 206,776 ⁵ | |
| Total expenditures and transfers | | 375,893 ³ | | 269,320 ⁵ |
| Ending balance | | \$5,700,423 | | \$5,980,703 |

¹Revenue from the sale of vans during the 2013-15 biennium (\$14,000), miscellaneous revenue and short-term interest (\$657) and unspent funding available from the 2009-11 and 2013-15 bienniums (\$29,841) is available for programs during the 2015-17 biennium and is included in this beginning balance.

²Revenue 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 2017 Legislative Assembly in Senate Bill No. 2183 (\$400), net proceeds from the Impact Foundation (\$1,995 - see footnote 6 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.

³Prior to July 2011, North Dakota Century Code Section 37-14-14 appropriated on a continuing basis all income of the veterans' postwar trust fund to the Administrative Committee on Veterans' Affairs for programs that benefit veterans or their dependents. The Legislative Assembly in 2011 House Bill No. 1468 amended Section 37-14-14 to provide that all income earned in a biennium is appropriated to the Administrative Committee on Veterans' Affairs 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 2015-17 biennium will not be available for programs until the 2017-19 biennium. Funds available for benefits during the 2015-17 biennium totaled \$402,244, of which \$274,576 is from income earned on the fund during the 2013-15 biennium and \$76,179 is from revenue received from the Impact Foundation (see footnote 6 below). Remaining funds available consisted of unspent funds available from prior bienniums, proceeds from van sales, miscellaneous revenue, donations, and short-term interest.

⁴The State Treasurer has not provided investment income estimates for the 2017-19 biennium. Investment income for the 2017-19 biennium is estimated based on the average income and change in the fund value, biennium to date through March 2018. See footnote 5 below regarding income available for benefits.

⁵Pursuant to provisions of 2011 House Bill No. 1468, investment income earned during the 2017-19 biennium is not available for program expenditures until the 2019-21 biennium. Funds available for benefits during the 2017-19 biennium total \$269,320, of which \$218,369 is from income earned on the fund during the 2015-17 biennium. Remaining funds available consisted of unspent funds available from prior bienniums, short-term interest income, and donations.

⁶The 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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$5,863,407. The increase in the estimated balance of \$117,296 is due to higher than anticipated investment income during the 2015-17 biennium and increases in the estimated investment income and market value during the 2017-19 biennium than initially anticipated.

FUND HISTORY

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 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.

2011 House Bill No. 1468

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

2013 House Bill No. 1439

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

ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2015-17 AND 2017-19 BIENNIUMS

| | 2015-17 Biennium Actual | | 2017-19 Biennium Estimated | |
|--|----------------------------|-------------------------|-------------------------------|-------------------------|
| | Beginning balance | | \$26,929,728 | |
| Add revenues | | | | |
| Transfers to date from tobacco settlement trust fund | \$18,208,436 | | \$23,803,450 ¹ | |
| Projected remaining transfers from tobacco settlement trust fund | | | 9,045,000 ² | |
| Total revenues | | 18,208,436 ² | | 32,848,450 ² |
| Total available | | \$45,138,164 | | \$61,948,220 |
| Less expenditures and transfers | | | | |
| Bank of North Dakota loan repayment | \$7,404,974 | | \$7,500,000 ⁴ | |
| Water projects (2015 SB 2020; 2017 HB 1020) | 8,633,420 ³ | | 34,949,628 ⁵ | |
| Total expenditures and transfers | | 16,038,394 | | 42,449,628 |
| Ending balance | | \$29,099,770 | | \$19,498,592 |

¹As of April 2018 the state has received a tobacco settlement payment of \$53,096,556 for the 2017-19 biennium, of which \$23,803,450 has been transferred from the tobacco settlement trust fund to the water development trust fund for the 2017-19 biennium. The tobacco settlement payment received in April 2018 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. Total transfers of \$213,549,290 have been made from the tobacco settlement trust fund to the water development trust fund.

²Revenues - Interest earned on the water development trust fund is deposited in the general fund. Water development trust fund revenues have been estimated based on actual revenues received through April 2018 and legislative estimates for the 2017-19 biennium, net of funds appropriated from the tobacco settlement trust fund 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 following allocation of the revised estimated collections for tobacco settlement payments through 2025. In 2017 House Bill No. 1012, the Legislative Assembly amended North Dakota Century Code 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 remain at 45 percent. Therefore, the following are estimated allocations of tobacco settlement payments through 2025, based on the temporary reallocation approved by the 2017 Legislative Assembly:

| | Actual and Estimated Total Tobacco Settlement Proceeds, Net of 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 |
| Estimated 2017-19 biennium | 73.1 million ¹ | N/A | 0 | 32.8 million | 40.1 million |
| Estimated 2019-21 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2021-23 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Estimated 2023-25 biennium | 52.5 million | N/A | 23.6 million | 23.6 million | 5.3 million |
| Total | \$561.3 million | \$105.7 million | \$172.0 million | \$204.8 million | \$78.4 million |

¹This 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.

³Sections 1 and 5 of 2015 Senate Bill No. 2020 appropriated \$34.5 million, or any additional funding that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission for the 2015-17 biennium

⁴Section 1 of 2017 House Bill No. 1020 appropriates \$7.5 million from the water development trust fund for loan payments on outstanding bonds that were refinanced during the 2015-17 biennium with the Bank of North Dakota. The outstanding balance of the loans as of March 31, 2018, is \$39,728,192.

⁵Sections 1 and 3 of 2017 House Bill No. 1020 appropriates \$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.

NOTE: The estimated June 30, 2019, balance made at the end of the 2017 regular legislative session was \$8,088,536. The increase in the estimated balance of \$11,410,056 is due to higher than anticipated expenditures during the 2015-17 biennium (\$3,438,394) offset by an increase in estimated tobacco settlement transfers from the tobacco settlement trust fund during the 2017-19 biennium (\$14,848,450).

FUND HISTORY

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 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 2017 House Bill No. 1012, 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 2017 House Bill No. 1012, 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.

In the November 2008 general election, voters approved Initiated Measure No. 3 that amended Section 54-27-25 to establish a tobacco prevention and control trust fund. The measure provides for a portion of tobacco settlement funds received by the state to be deposited in this new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continues in perpetuity, will continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund, and 45 percent to the water development trust fund after the 2017-19 biennium. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement relating to strategic contribution payments, which began in 2008 and continues through 2017, began to be deposited in 2009 into the newly created 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 2009 House Bill No. 1015 provided any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation. 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 1999 Senate Bill No. 2188, provides the principal and interest on bonds issued for flood control projects, the Southwest Pipeline Project, and an outlet to Devils Lake must be repaid with money appropriated from the water development trust fund.

The Legislative Assembly, in 2015 Senate Bill No. 2003, 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.