

## ANALYSIS OF THE STATE BONDING FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$4,903,455	\$4,819,455
Add estimated revenues		
Investment income	(\$85,000)	\$100,000
State bonding fund claims collections	80,000	80,000
Other income	6,000	6,000
Total estimated revenues	1,000	186,000
Total available	\$4,904,455	\$5,005,455
Less estimated expenditures		
Insurance Department - Administration (2001 HB 1010; 2003 SB 2010)	\$25,000 <sup>1</sup>	\$35,000
Transfer to state general fund (2003 SB 2015)	0	2,800,000
State bonding claims losses	35,000	140,000
Claims-related payments	25,000	25,000
Total estimated expenditures	85,000	3,000,000
Estimated ending balance	\$4,819,455	\$2,005,455

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

<sup>1</sup> The 2001 Legislative Assembly provided a \$67,431 special funds appropriation of \$67,431 from the state bonding fund for bonding fund administrative expenses for the 2001-03 biennium. The department is currently estimating to spend only \$25,000 of the \$67,431 special funds appropriation.

## ANALYSIS OF THE CAPITOL BUILDING FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$61,885	\$144,024
Add estimated revenues		
Investment income	\$6,099	\$14,221
Rentals, royalties, bonuses, and contracts	179,708	173,280
Total estimated revenues	185,807	187,501
Total available	\$247,692	\$331,525
Less estimated expenditures		
Administrative expenses	\$23,178	\$22,525
Income payments to counties	5,490 <sup>1</sup>	5,071 <sup>1</sup>
Capitol Grounds Planning Commission operating expenses - 2001 HB 1015; 2003 SB 2015	25,000	25,000
Capitol Grounds Planning Commission - Continuing appropriation	50,000	50,000
Total estimated expenditures	103,668	102,596
Ending balance	\$144,024	\$228,929

**NOTE:** The analysis reflects the legislative appropriation for the 2003-05 biennium and does not include the land owned by the fund.

<sup>1</sup> The 1999 Legislative Assembly passed Senate Bill No. 2088 which provides that the Board of University and School Lands is to pay a fee to the board of county commissioners of each county in which the state retains original grant lands. The total fees paid may not exceed 5 percent of the net revenue generated from the original grant lands in that county during the year preceding the payment. 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 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.

**ANALYSIS OF THE COAL DEVELOPMENT TRUST FUND INVESTMENT  
AND INTEREST INCOME FOR THE 2001-03 AND 2003-05 BIENNIUMS**

	<b>2001-03 Biennium</b>	<b>2003-05 Biennium</b>
Beginning balance - Investment and interest income	\$0 <sup>1</sup>	\$56,080 <sup>1</sup>
Add estimated revenues		
Investment income	\$1,695,911	\$857,530
School construction loan income	1,263,090	1,580,000
Oil, gas, and coal impact loan income	385,890	285,000
Total estimated revenues	3,344,891	2,722,530
Total available	\$3,344,891	\$2,778,610
Less estimated expenditures and transfers		
Administrative expenses	\$17,776	\$14,760
Transfer to the general fund	3,271,035	2,700,000
Total estimated expenditures and transfers	3,288,811	2,714,760
Estimated ending balance - Investment and interest income	\$56,080 <sup>2</sup>	\$63,850 <sup>2</sup>

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

<sup>1</sup> Beginning balance - July 1, 2001, and 2003 - The beginning balance does not include the value of permanent assets of the coal development trust fund which must be maintained pursuant to NDCC Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of March 31, 2003, the total value of permanent fund assets was \$56.2 million, of which \$32.4 million was school construction loans receivable, \$3 million was coal, oil, and gas impact loans receivable, and \$20.8 million was either invested or was a receivable of investment or other earnings.

<sup>2</sup> Estimated ending balance - The estimated ending balance does not include the value of permanent assets of the coal development trust fund which must be maintained pursuant to NDCC Section 57-62-02 and Article X, Section 21, of the Constitution of North Dakota. As of March 31, 2003, the total value of permanent fund assets was \$56.2 million, of which \$32.4 million was school construction loans receivable, \$3 million was coal, oil, and gas impact loans receivable, and \$20.8 million was either invested or was a receivable of investment or other earnings.

**FUND HISTORY**

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

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

North Dakota Century Code Section 57-61-01.5 provides that 70 percent of the money deposited in the coal development trust fund must be transferred to the lignite research fund. Consequently, 30 percent of the coal severance taxes deposited in the fund (4.5 percent of total coal severance taxes collected) remain in the coal development trust fund to be used for the purposes provided in Section 57-62-02.

## ANALYSIS OF THE COMMUNITY HEALTH TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$5,290,078	\$5,528,378
Add estimated revenues		
Transfers to date from the tobacco settlement trust fund	\$5,333,055 <sup>1</sup>	
Remaining transfers from the tobacco settlement trust fund		\$4,594,414
Total estimated revenues	5,333,055 <sup>2</sup>	4,594,414 <sup>2</sup>
Total available	\$10,623,133	\$10,122,792
Less estimated expenditures		
State Department of Health		
Tobacco prevention and control (2001 SB 2004; 2003 HB 1004)	\$4,700,000 <sup>3</sup>	\$4,700,000 <sup>3</sup>
Dentists' loan program (2001 SB 2276; 2003 HB 1004)	80,000 <sup>4</sup>	380,000 <sup>4</sup>
Community health grants (2001 SB 2380; 2003 SB 2297)	200,000 <sup>5</sup>	750,000 <sup>5</sup>
Tobacco "quit line" (2003 HB 1004)	0	680,000 <sup>6</sup>
Department of Human Services		
Breast and cervical cancer assistance (2001 HB 1472; 2003 SB 2012)	114,755 <sup>7</sup>	114,755 <sup>7</sup>
Total estimated expenditures	5,094,755 <sup>3</sup>	6,624,755 <sup>3</sup>
Estimated ending balance	\$5,528,378 <sup>4</sup>	\$3,498,037

<sup>1</sup> As of May 1, 2003, nine transfers have been made from the tobacco settlement trust fund totaling \$5,333,055. Total transfers of \$10,623,133 have been made to date from the tobacco settlement trust fund to the community health trust fund.

<sup>2</sup> Revenues - Interest earned on the community health trust fund is deposited in the state general fund. The tobacco settlement revenues for the community health trust fund were estimated to be \$6,114,358 for the 2001-03 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$781,303 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined. The revenues for the community health trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$5,759,377	\$5,290,078
2001-03	6,114,358	5,333,055
2003-05	5,127,121	4,594,414
2005-07	5,127,121	4,594,414
2007-17 (\$8,223,108/\$7,368,727 per biennium)	41,115,540	36,843,633
2017-25 (\$5,859,149/\$5,250,383 per biennium)	23,436,596	21,001,532
<b>Total</b>	<b>\$86,680,113</b>	<b>\$77,657,126</b>

<sup>3</sup> 1999 House Bill No. 1475 (North Dakota Century Code (NDCC) Section 54-27-25) provides that money in the community health trust fund may be used by the State Department of Health, subject to legislative appropriation, for community-based public health programs and other public health programs, including programs with

emphasis on preventing or reducing tobacco usage. The Legislative Assembly provided an appropriation of \$4.7 million, the same as the 2001-03 biennium appropriation, to the State Department of Health for tobacco prevention and control programs.

<sup>4</sup> 2001 Senate Bill No. 2276 provided an appropriation of \$180,000 to the State Health Council for a dentists' loan repayment program. Each year the State Health Council is to select up to three dentists who agree to provide dental services in the state. The dentists are eligible to receive funds for the repayment of their educational loans. The funds are payable over a four-year period and may not exceed \$80,000 per applicant. The 2001 Legislative Assembly added intent to Senate Bill No. 2276 that the 2003 Legislative Assembly provide sufficient funds for continuation of the program. The annual selection of the dentists is to be based on the size of the community that will be served as follows:

- One dentist serving a community with less than 2,500 residents.
- One dentist serving a community with less than 10,000 residents.
- One dentist serving a community with 10,000 or more residents.

Three dentists were accepted into the program during the 2001-03 biennium, two serving communities over 10,000 residents (both Minot) and one serving a community with less than 2,500 residents (Larimore). Actual 2001-03 expenditures are anticipated to be \$80,000, due to only one dentist applying for the four available loan repayment programs for dentists who agree to practice in a community with less than 10,000 residents. The Legislative Assembly, as provided in 2003 Senate Bill No. 2378, changed the dental loan repayment program effective for the 2003-05 biennium from requiring one dentist from each of the community size categories to providing the highest priority for acceptance into the program to dentists willing to serve the smallest and most underserved communities in North Dakota.

<sup>5</sup> The community health grant program was established in 2001 Senate Bill No. 2380 (NDCC Section 23-38-01) with the intent to prevent or reduce tobacco usage. The 2001 Legislative Assembly appropriated \$350,000 for funding the Community Health Grant Advisory Committee (\$100,000) and to provide grants to cities and counties for tobacco education and cessation programs (\$250,000). The State Department of Health estimates actual 2001-03 biennium expenditures for city and county government cessation programs to be \$100,000. The Legislative Assembly, as provided in 2003 Senate Bill No. 2297, appropriated \$600,000 for funding the Community Health Grant Advisory Committee (\$100,000) and for providing for city, county, and state employee tobacco education and cessation programs (\$500,000). In addition, the Legislative Assembly authorized any unexpended 2001-03 appropriated funds for city and county tobacco cessation and education programs, estimated to be \$150,000, to be carried forward to the 2003-05 biennium. The grants to cities and counties for cessation programs are to be matched with a \$1 local match for every \$3 of state funds.

<sup>6</sup> The Legislative Assembly appropriated \$680,000 for establishing a telephone tobacco "quit line."

<sup>7</sup> The Legislative Assembly appropriated \$114,755, the same as the 2001-03 biennium, to the Department of Human Services for providing medical assistance coverage for women screened and found to have breast and cervical cancer.

#### **FUND HISTORY**

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

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

**ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND 2001-03 AND 2003-05 BIENNIUMS**

	<u>2001-03 Biennium</u>	<u>2003-05 Biennium</u>
Beginning balance	\$1,079,213	\$702,398
Add estimated revenues	<u>2,700,000<sup>1</sup></u>	<u>2,705,000<sup>1</sup></u>
Total available	\$3,779,213	\$3,407,398
Less estimated expenditures		
Agriculture Commissioner		
Noxious weed control (2001 HB 1009; 2003 SB 2009)	\$1,404,602	\$1,494,285
Pesticide disposal project (Safe Send) (2001 HB 1009; 2003 SB 2009)	596,842	307,436
Pesticide programs (2001 HB 1009; 2003 SB 2009)	314,620	387,732
Agriculture in the classroom program (2003 SB 2009)		50,000
Employee compensation package	25,751	
Saltcedar control (2003 SB 2319)		250,000
Pesticide Control Board		
Minor use pesticide registration (2001 HB 1497; 2003 SB 2009)	500,000 <sup>2</sup>	200,000 <sup>2</sup>
Crop Protection Product Harmonization and Registration Board		
Crop protection product registration and labeling and grants (2001 HB 1328; 2003 SB 2009)	35,000 <sup>3</sup>	25,000 <sup>3</sup>
State Department of Health		
Ground water testing (2001 SB 2004; 2003 HB 1004)	200,000	200,000
North Dakota Stockmen's Association environmental services program (2003 HB 1004)		50,000
Agricultural Experiment Station		
Chemical storage expenditures (2003 HB 1021)		<u>120,000</u>
Total estimated expenditures	<u>3,076,815</u>	<u>3,084,453</u>
Estimated ending balance	<u><u>\$702,398</u></u>	<u><u>\$322,945</u></u>

<sup>1</sup> The 1999 Legislative Assembly approved Senate Bill No. 2009 which included a provision increasing the biennial pesticide registration fee by \$50, from \$300 to \$350 only for the 1999-2001 biennium. The 2001 Legislative Assembly approved House Bill No. 1009 which extended the \$350 biennial pesticide registration fee for the 2001-03 biennium. This increase was estimated by the 2001 Legislative Assembly to generate \$416,650, resulting in \$2,499,900 total estimated revenues to be deposited in the environment and rangeland protection fund. The additional \$200,100 increase in estimated revenues is due to a higher number of products registered than previously anticipated. House Bill No. 1066 (2003) provides for a Project Safe Send pesticide and pesticide container collection user fee for rinsate. The rinsate collection fee is to be established at a level that will generate enough revenue to cover the cost of disposal associated with the rinsate that is collected. This fee is estimated to generate \$5,000 in additional revenues to be deposited in the environment and rangeland protection fund. Senate Bill No. 2319 (2003) extends the \$350 pesticide registration fee for the 2003-05 biennium. This increase is estimated to generate \$450,000, resulting in \$2,705,000 total estimated revenues to be deposited in the environment and rangeland protection fund during the 2003-05 biennium.

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

<sup>3</sup> The 2001 Legislative Assembly in House Bill No. 1328 and House Bill No. 1009 created the Crop Protection Product Harmonization and Registration Board. The duties of the board consists of the following:

Identify and prioritize crop protection product labeling needs.

Explore the extent of authority given to North Dakota under the federal Insecticide, Fungicide, and Rodenticide Act.

Identify the data necessary to enable registration of a use to occur in a timely manner.

Determine what research, if any, is necessary to fulfill data requirements for responsibilities of the board.

Request the Agriculture Commissioner to pursue specific research funding options from public and private sources.

Request the North Dakota State University Agriculture Experiment Station to pursue specific research to coordinate registration efforts.

Pursue any opportunities to make more crop protection product options available to agriculture producers in this state through any means the board determines advisable.

The board may administer a grant program through which agriculture commodity groups may apply for funds to be used to address issues related to the registration of crop protection products.

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

The Governor or the Governor's designee (chairman).

The Agriculture Commissioner or the commissioner's designee.

The chairman of the House Agriculture Committee or the chairman's designee.

The chairman of the Senate Agriculture Committee or the chairman's designee.

A member of the House or Senate Agriculture Committee who is not a member of the faction in which the committee chairman is a member, appointed by the Legislative Council chairman.

A crop protection product dealer in the state appointed by the Governor from a list of three nominees submitted by the North Dakota Agricultural Association.

A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Grain Growers Association.

A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Oilseed Council.

A representative of the crop protection product manufacturing industry appointed by the chairman of the Legislative Council (nonvoting).

The director of the Agricultural Experiment Station (nonvoting).

North Dakota Century Code Section 19-18-02.1 created by 1991 Senate Bill No. 2451 establishes the environment and rangeland protection fund. The fund contains collections from pesticide registration fees. The biennial fee is \$350 per pesticide product registered in the state for the 1999-2001 biennium and the 2001-03 biennium. Of this amount, \$300 is deposited in the environment and rangeland protection fund and \$50 in the general fund. The 2003 Legislative Assembly extended the \$350 pesticide registration fee through June 30, 2005, after which the fee reverts to \$300 for a two-year period, of which \$250 is deposited in the environment and rangeland protection fund and \$50 in the general fund.

## ANALYSIS OF THE FIRE AND TORNADO FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$16,688,094	\$14,442,949
Add estimated revenues		
Premium collections	\$7,460,000	\$7,500,000
Investment income	(200,000)	800,000
Boiler inspection fees	280,000	280,000
Loss claims and insurance recoveries	2,590,000	2,300,000
Anhydrous ammonia storage facility inspection fund (2001 HB 1010; 2003 SB 2010)	75,000	175,000
	<u>10,205,000</u>	<u>11,055,000</u>
Total estimated revenues	<u>10,205,000</u>	<u>11,055,000</u>
Total available	\$26,893,094	\$25,497,949
Less estimated expenditures		
Loss claims payments	\$8,650,000	\$8,650,000
Insurance Department administration (2001 HB 1010; 2003 SB 2010) and anhydrous ammonia tank inspection costs	831,145	988,576
State Fire Marshal program (2001 HB 1003; 2003 SB 2003)	143,000 <sup>1</sup>	300,000
Firefighter's Association grants (2001 HB 1015; 2003 SB 2015)	126,000	126,000
Claims-related payments	<u>2,700,000</u>	<u>2,870,000</u>
Total estimated expenditures	<u>12,450,145</u>	<u>12,934,576</u>
Estimated ending balance	<u><u>\$14,442,949</u></u>	<u><u>\$12,565,373</u></u>

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

<sup>1</sup> The 2001 Legislative Assembly provided the Attorney General a special funds appropriation of \$385,143 from the state fire and tornado fund for defraying the expenses relating to the State Fire Marshal program for the 2001-03 biennium. The Attorney General is currently estimating to spend only \$143,000 of the \$385,143 special funds appropriation.



## ANALYSIS OF THE FOUNDATION AID STABILIZATION FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$10,517,143	\$9,071,563
Add estimated revenues		
Oil extraction tax allocations	\$4,055,059 <sup>1</sup>	\$4,758,764 <sup>3</sup>
Total available	\$14,572,202	\$13,830,327
Less estimated expenditures		
Transfer to foundation aid program	\$5,500,639 <sup>2</sup>	\$0 <sup>2</sup>
Estimated ending balance	\$9,071,563	\$13,830,327

<sup>1</sup> 2001-03 estimated revenues - Based on actual oil extraction tax allocations through April 2003 and estimated allocations for the remainder of the 2001-03 biennium per the April 2003 executive revenue forecast.

<sup>2</sup> Estimated expenditures - As provided in Article X, Section 24, of the Constitution of North Dakota, the principal of the foundation aid stabilization fund can only be used to offset foundation aid reductions made by executive action due to a revenue shortfall. For the 2001-03 biennium, funding of \$5,500,639 was transferred to the Department of Public Instruction to offset a reduction in state school aid and special education payments resulting from a 1.05 percent budget allotment ordered by Governor Hoeven in July 2002. No revenue shortfall is currently anticipated for the 2003-05 biennium.

<sup>3</sup> 2003-05 estimated revenues - Based on the estimated allocations for the 2003-05 biennium per the April 2003 executive revenue forecast.

### FUND HISTORY

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

Fifty percent (of the 20 percent) to the common schools trust fund.

**Fifty percent (of the 20 percent) to the foundation aid stabilization fund.**

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

Article X, Section 24, of the Constitution of North Dakota, provides that the interest income of the foundation aid stabilization fund must be transferred to the state general fund on July 1 of each year. However, the State Treasurer's office allocates the interest income to the general fund on a monthly basis. For the 2001-03 biennium, through May 2003, \$219,053 of interest from the foundation aid stabilization fund has been allocated to the state general fund.

## ANALYSIS OF THE HEALTH CARE TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	<b>2001-03 Biennium</b>	<b>2003-05 Biennium</b>
Beginning balance	\$39,147,532	\$27,044,587
Add estimated revenues		
2000 government nursing facility funding pool payment (July 2001)	\$15,398,174	
2001 government nursing facility funding pool payment (July 2002)	19,572,290	
2002 government nursing facility funding pool payment (July 2003)		\$12,430,686
2003 government nursing facility funding pool payment (July 2004)		6,165,373
Investment earnings (market loss through February 2003)	(1,659,018)	
Loan repayments - Principal and interest	252,000	1,064,504
Total estimated revenues	<u>33,563,446</u>	<u>19,660,563</u>
Total available	\$72,710,978	\$46,705,150
Less estimated expenditures		
Department of Human Services		
Grants - 1999-2001 commitments - Department estimate (\$100,226 appropriated)	\$8,183	
Loans - 1999-2001 commitments	2,696,435	
Loans - 2001-03 biennium	9,303,565	
Service payments for elderly and disabled (SPED)	6,898,302	
Health Insurance Portability and Accountability Act (HIPAA) computer project - State matching and other technology projects	3,000,000	
Basic care employee compensation enhancement	202,080	
Basic care facility personal care allowance increase	180,000	
Nursing home bed reduction incentive	4,000,000	
Nursing facility employee compensation enhancement	8,189,054	
Nursing facility rate limit increases resulting from rebasing	681,846	
Nursing facility and intermediate care facility for the mentally retarded personal care allowance increase	309,600	
Qualified service provider training grants (\$140,000 appropriated) (pending reduction from \$140,000)	50,000	
Senior citizen mill levy match	250,000	
Medical assistance - Targeted case management	338,530	
Independent living center grants (pending removal of \$100,000 in 2003-05)	100,000	
Statewide long-term care needs assessment (\$241,006 appropriated)	237,285	
Administrative costs	71,158	
Medical assistance deficiency appropriation (2003 SB 2025)	7,506,238	

Nursing facility deficiency appropriation (2003 HB 1200)	850,000		
State Department of Health			
Quick response unit pilot project	225,000	\$225,000	
Scholarship and nurses student loan repayment grant program	489,500	489,500	
Bank of North Dakota administrative fee	79,615	79,615	
Transfer to general fund (2003 SB 2012)			35,911,035
Total estimated expenditures and transfers		<u>45,666,391</u>	<u>36,705,150</u>
Ending balance		<u>\$27,044,587<sup>1</sup></u>	<u>\$10,000,000</u>

<sup>1</sup> Section 39 of House Bill No. 1196 provides that the State Treasurer may not approve payments from the fund that would reduce the fund's unobligated balance below \$13 million except for payments to repay the federal government for disputed claims until the Department of Human Services certifies to the State Treasurer that the federal Health Care Financing Administration's claim for the return of \$13 million of the state's first-year (FY 2000) payment has been resolved. The department has certified to the State Treasurer that the federal government will not require the state to return the \$13 million from the state's first-year claim.

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

## ANALYSIS OF THE LANDS AND MINERALS TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$2,053,626	\$476,674
Add estimated revenues		
Production royalties	\$2,231,006	\$2,318,000
Mineral leases	90,440	100,000
Oil and gas bonuses	104,959	178,634
Investment earnings	195,458	66,764
Loan repayments from facilities providing services to the developmentally disabled (1983 SB 2020; 1985 SB 2249)	1,593,829	2,367,717 <sup>2</sup>
	<u>4,215,692</u>	<u>5,031,115</u>
Total estimated revenues	<u>\$6,269,318</u>	<u>\$5,507,789</u>
Total available		
Less estimated expenditures and transfers		
Payments to common schools trust fund - DD loan fund Nos. 2 and 3 (2001 HB 1012; 2003 SB 2012)	\$2,077,969 <sup>1</sup>	\$3,261,556 <sup>3</sup>
Industrial Commission - Oil and Gas Division		
Transfer to the general fund (2001 HB 1015; 2003 SB 2015)	3,545,102	2,000,000
Administrative costs/other fees	169,573	195,000
	<u>5,792,644</u>	<u>5,456,556</u>
Total estimated expenditures and transfers	<u>\$476,674</u>	<u>\$51,233</u>
Estimated ending balance	<u>\$476,674</u>	<u>\$51,233</u>

<sup>1</sup> The 2001-03 biennium appropriation in 2001 House Bill No. 1012 totals \$2,261,556.

<sup>2</sup> The Legislative Assembly increased anticipated payments relating to DD loans by \$1 million to reflect potential loan prepayments.

<sup>3</sup> Although the Land Department anticipates actual payments to the common schools trust fund to total \$2,077,969 during the 2003-05 biennium, 2003 Senate Bill No. 2012 appropriates \$3,261,556 to reflect potential loan prepayments or other loan activity.

### FUND HISTORY

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

The principal and interest of the trust fund may be used only for purposes approved by the Legislative Assembly.

## ANALYSIS OF THE LIGNITE RESEARCH FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$11,812,939	\$10,105,000
Add estimated revenues		
Separate two-cent coal severance tax	\$1,237,023	\$1,200,000
Fifty percent of coal severance taxes deposited in the coal development trust fund (result of passage of measure No. 3 in June 1990)	3,479,195	3,375,000
Twenty percent of coal severance taxes deposited in the coal development trust fund (committed to clean coal projects) (result of passage of constitutional amendment passed by voters in June 1994)	1,391,584	1,350,000
Investment income on Dakota Gasification Company ammonia plant project	97,860	
Interest income	273,182	240,000
Total estimated revenues	6,478,844	6,165,000
Total available	\$18,291,783	\$16,270,000
Less estimated expenditures		
Lignite marketing feasibility study	\$1,360,000	\$1,300,000
Administration and development of the lignite research, development, and marketing program (includes funding for clean coal demonstration projects and bond payments)	6,826,783 <sup>1,2</sup>	14,970,000 <sup>1,2</sup>
Total estimated expenditures	8,186,783	16,270,000 <sup>3</sup>
Ending balance	\$10,105,000	\$0

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

<sup>1</sup> The Industrial Commission has a policy stating that 30 percent of lignite research fund income will be used for small research projects and 70 percent for large demonstration research projects. The commission has further directed that no single large demonstration project can receive more than 37.5 percent of available funds.

<sup>2</sup> The Industrial Commission has waived the fund allocation policy and has committed \$11,572,540 through the 2007-09 biennium with \$2,235,040 anticipated to be spent during the 2001-03 biennium, \$1,537,500 anticipated to be spent during the 2003-05 biennium, and the remaining \$7,800,000 during 2005-07 biennium for the Lignite Vision 21 program. The object of the Lignite Vision 21 program is to construct new lignite-fired power plants in North Dakota.

<sup>3</sup> The 2003 Legislative Assembly appropriated \$16,270,000 for lignite research grants; however, at the present time the Industrial Commission anticipates spending \$10,256,502 for lignite research grants during the 2003-05 biennium.

## ANALYSIS OF THE PERMANENT OIL TAX TRUST FUND 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$13,179,298 <sup>1</sup>	\$11,910,000
Add estimated revenues		
Oil and gas production tax and oil extraction tax collections	\$6,674,494	\$734,700
Total estimated revenues	6,674,494 <sup>2</sup>	734,700 <sup>5</sup>
Total available	\$19,853,792	\$12,644,700
Less estimated expenditures		
Department of Human Services deficiency appropriation (Section 2 of 2003 Senate Bill No. 2025)	\$7,943,792 <sup>3</sup>	\$0
Transfer to the general fund (Section 6 of 2003 Senate Bill No. 2015)	0	11,910,000
Total estimated expenditures	7,943,792 <sup>4</sup>	11,910,000 <sup>4</sup>
Estimated ending balance	\$11,910,000	\$734,700

**NOTE:** North Dakota Century Code (NDCC) Section 57-51.1-07.2 (1997 Senate Bill No. 2366) establishes a permanent oil tax trust fund and provides that at the end of each biennium beginning after June 30, 1997, all revenues deposited in the general fund during that biennium and derived from taxes imposed on oil and gas under Chapters 57-51 (Oil and Gas Gross Production Tax) and 57-51.1 (Oil Extraction Tax) which exceed \$62 million are to be transferred into the permanent oil tax trust fund. The State Treasurer is to transfer the interest earned on the fund to the general fund at the end of each fiscal year. Section 26 of 2003 Senate Bill No. 2015 amends Section 57-51.1-07.2 to provide that all revenue deposited in the general fund during that biennium and derived from taxes imposed on oil and gas and which exceed \$71 million, rather than \$62 million, must be transferred to the permanent oil tax trust fund.

<sup>1</sup> Beginning balance - July 1, 2001 - The general fund revenues derived from oil and gas production taxes and oil extraction taxes totaled \$75,179,298 for the 1999-2001 biennium. Since revenues exceeded the \$62 million statutory limit, \$13,179,298 was transferred into the permanent oil tax trust fund on June 30, 2001. Any interest earned is deposited in the general fund.

<sup>2</sup> Estimated revenues - 2001-03 - The revised revenue forecast for the 2001-03 biennium projects oil and gas production tax and oil extraction tax revenues deposited in the general fund to exceed \$62 million by \$6,674,494. Therefore, there is a projected transfer of \$6,674,494 to the permanent oil tax trust fund at the end of the biennium.

<sup>3</sup> Deficiency payment - Section 2 of 2003 Senate Bill No. 2025 provides an appropriation of \$7,943,762 from the permanent oil tax trust fund to the Department of Human Services for certain medical assistance expenses.

<sup>4</sup> Estimated expenditures - Pursuant to NDCC Section 57-51.1-07.2, the principal of the permanent oil tax trust fund may only be spent upon a two-thirds vote of the members elected to each house of the Legislative Assembly.

<sup>5</sup> Estimated revenues - 2003-05 - The revenue forecast for the 2003-05 biennium projects sufficient oil and gas production tax and oil extraction tax revenues to transfer \$734,700 into the permanent oil tax trust fund. Section 26 of 2003 Senate Bill No. 2015 amends NDCC Section 57-51.1-07.2 to provide that all revenue deposited in the general fund which exceeds \$71 million must be transferred to the permanent oil tax trust fund. The 2003-05 biennium oil and gas production tax and oil extraction tax revenues are projected to exceed \$71 million by \$734,700, including the effect of 2003 House Bill No. 1145 which provides for a 24-month exemption from gross production tax for new or recompleted shallow gas wells, which is anticipated to reduce oil and gas production tax by \$13,300.

## ANALYSIS OF THE RESOURCES TRUST FUND 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$14,727,288	\$3,695,891
Add estimated revenues		
Oil extraction tax collections	\$8,173,330	\$9,398,037
Repayments and reimbursements	1,815,739	1,800,704
Investment earnings/miscellaneous	697,565	89,962
Total estimated revenues	10,686,634	11,288,703
Total available	\$25,413,922	\$14,984,594
Less estimated expenditures		
State Water Commission		
Grants and administration (2001 HB 1023; 2003 SB 2022)	\$21,718,031 <sup>1</sup>	\$13,650,000 <sup>2</sup>
Total estimated expenditures	21,718,031	13,650,000
Ending balance	\$3,695,891	\$1,334,594

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

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

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

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

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

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

<sup>1</sup> Section 3 of 2001 House Bill No. 1023 appropriated \$21,718,031 from the resources trust fund to the State Water Commission. The State Water Commission has available 2001-03 biennium spending authority from the water development trust fund and the resources trust fund and has indicated the actual ending balance may be higher depending on the funding source used for remaining water project expenditures.

<sup>2</sup> The Legislative Assembly appropriated \$13,650,000 from the resources trust fund to the State Water Commission for water development projects. Section 10 of Senate Bill No. 2022 provides if 2003-05 biennium revenues are in excess of \$13,650,000, any excess is appropriated to the State Water Commission, subject to Emergency Commission approval.

## ANALYSIS OF THE RISK MANAGEMENT FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$2,263,605	\$452,008
Add estimated revenues		
Premiums	\$3,613,938 <sup>1</sup>	\$4,131,567 <sup>2</sup>
Total estimated revenues	3,613,938	4,131,567
Total available	\$5,877,543	\$4,583,575
Less estimated expenditures		
Administration - 2001 HB 1015; 2003 SB 2015	\$891,067	\$730,002
Claims-related expenses - Continuing appropriation	2,073,468	942,010
Claims and litigation	2,461,000	2,578,000
Total estimated expenditures	5,425,535	4,250,012
Ending balance	\$452,008	\$333,563

**NOTE:** The analysis reflects the Hoeven executive budget recommendations for the 2003-05 biennium.

<sup>1</sup> In response to an actuarial review completed in 2000 by Aon Risk Services, the Risk Management Division has assessed a total of \$3,613,938 in risk management premiums to state agencies, boards and commissions, and the North Dakota University System for the 2001-03 biennium.

<sup>2</sup> In response to an actuarial review completed in 2002 by Aon Risk Services, the Risk Management Division plans to assess a total of \$5,397,553 in risk management premiums to state agencies, boards and commissions, and the North Dakota University System for the 2003-05 biennium. State Fleet Services and the Department of Human Services have a credit of \$1,265,986 because of previous overpayment of federal funds for these agencies into the North Dakota insurance risk fund (NDIRF). When this credit is applied to the premiums, a total of \$4,131,567 is projected to be collected during the 2003-05 biennium.

### FUND HISTORY

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



## ANALYSIS OF THE STATE AID DISTRIBUTION FUND 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$0	\$0
Add estimated receipts		
Sales, use, and motor vehicle excise taxes (based on 4/10 of 1%)	66,383,566	69,435,478
Total available	\$66,383,566	\$69,435,478
Less estimated expenditures		
Payments to political subdivisions		
County share (53.7%)	\$35,647,975	\$37,286,852
City share (46.3%)	30,735,591	32,148,626
Total estimated expenditures	66,383,566	69,435,478
Ending balance	\$0	\$0

**NOTE:** The amounts shown above reflect the 2001-03 revenue forecast and the 2003-05 revenue forecast as approved by the 2003 Legislative Assembly (March 2003).

North Dakota Century Code (NDCC) Section 57-39.2-26.1 provided, prior to January 1, 1999, for the deposit of a portion of sales, use, and motor vehicle excise tax collections equal to 60 percent of an amount determined by multiplying the quotient of 1 percent divided by the general sales tax rate that was in effect when the sales were collected times the net sales, use, and motor vehicle excise tax allocations by the State Treasurer in the state aid distribution fund. The State Tax Commissioner certified to the State Treasurer the portion of sales, use, and motor vehicle excise tax net revenues that were deposited in the state aid distribution fund. The state aid distribution fund had historically been allocated, subject to legislative appropriation, with 50 percent of revenues for state revenue sharing and 50 percent for personal property tax replacement.

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

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

State revenue sharing funding was allocated to political subdivisions based on population and mill levies, and personal property tax funding was allocated to political subdivisions based on the historic real property taxes levied. The new allocation provides for 53.7 percent of the revenues to be distributed to counties and 46.3 percent to be distributed to cities. The distribution to the counties and cities is based on population categories. Each population category receives a percentage of the county or city share of the total and is then allocated to the counties or cities within the categories based on population. The following chart shows the allocation of the fund to the various county and city population categories:

<b>Population Category</b>			
<b>Counties</b>	<b>Percentage</b>	<b>Cities</b>	<b>Percentage</b>
100,000 or more	10.4	20,000 or more	53.9
40,000 or more but less than 100,000	18.0	10,000 or more but less than 20,000	16.0
20,000 or more but less than 40,000	12.0	5,000 or more but less than 10,000	4.9
10,000 or more but less than 20,000	14.0	1,000 or more but less than 5,000	13.1
5,000 or more but less than 10,000	23.2	500 or more but less than 1,000	6.4
2,500 or more but less than 5,000	18.3	200 or more but less than 500	3.5
Less than 2,500	4.1	Less than 200	2.2
<b>Total</b>	<b>100.0</b>	<b>Total</b>	<b>100.0</b>

House Bill No. 1025 (2003), which becomes effective after July 31, 2003, revises the state aid distribution formula for cities and counties to account for population changes resulting from the 2000 federal census. The bill provides for total distribution percentages to cities and counties to remain at current levels--53.7 percent to counties and 46.3 percent to cities; however, the allocation formula to specific counties and cities will be as follows:

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

## ANALYSIS OF THE STUDENT LOAN TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium <sup>1</sup>	2003-05 Biennium <sup>1</sup>
Beginning balance	\$60,078,000	\$53,393,000
Add estimated revenues		
Fund earnings	\$4,505,072	\$4,536,000
Total available	\$64,583,072	\$57,929,000
Less estimated expenditures		
Transfers to the general fund	\$9,000,000 <sup>2</sup>	\$26,258,969 <sup>3</sup>
Fund administration costs	2,190,072	4,980,031
Total estimated expenditures	11,190,072	31,239,000
Estimated ending balance	\$53,393,000	\$26,690,000

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

<sup>2</sup> The 2001 Legislative Assembly provided for a \$9,000,000 transfer from the student loan trust fund to the general fund. (Section 13 of 2001 House Bill No. 1015)

<sup>3</sup> The 2003 Legislative Assembly provided for the following transfers totaling \$26,258,969 from the student loan trust fund to the general fund:

- Section 12 of Senate Bill No. 2015 - \$11,000,000
- Section 19 of House Bill No. 1003 - \$14,258,969
- Section 6 of House Bill No. 1019 - \$1,000,000

### 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 is not in the business of making loans to students or servicing loans which it acquires. The Bank of North Dakota continues to service those loans which the student loan trust fund holds.

The student loan trust is comprised of funds held under two general bond resolutions. The first general bond resolution includes funds from bonds issued in 1979, 1988, 1989, and 1992. The second general bond resolution referred to as the 1996 bond resolution includes funds from bonds issued in 1996, 1997, 1998, and 2000. All issuances with bonds outstanding are insured by Ambac Insurance 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 a general bond resolution have matured, been redeemed or defeased, and all expenses paid, any remaining assets held under the general bond resolution would be transferred to the Industrial Commission for use at its discretion. In order to use assets held under the general bond resolution for a purpose other than those stated in the general bond resolution, the administrator of the student loan trust fund must receive permission from the bond insurer, and the trustee of the bond (Bank of North Dakota) would have to certify that sufficient reserves remain for bond payments and other related program costs.

The 2003 Legislative Assembly with the passage of Senate Bill No. 2232 authorized the Industrial Commission to issue subordinate or residual bonds of up to \$23 million.

## ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 BIENNIUM	2003-05 BIENNIUM
Beginning balance	\$0	\$0
Add revenues		
Tobacco settlement revenues collected to date	\$53,330,545 <sup>1</sup>	
Projected tobacco settlement revenues		\$45,944,134
Total revenues	53,330,545 <sup>2</sup>	45,944,134 <sup>2</sup>
Total available	\$53,330,545 <sup>3</sup>	\$45,944,134
Less expenditures and transfers		
Transfers to the community health trust fund (10%)	\$5,333,055	\$4,594,414
Transfers to the common schools trust fund (45%)	23,998,745	20,674,860
Transfers to the water development trust fund (45%)	23,998,745	20,674,860
Total expenditures and transfers	53,330,545	45,944,134
Estimated ending balance	\$0	\$0

<sup>1</sup> Nine 2001-03 biennium tobacco settlement payments have been received by the state as of May 15, 2003, totaling \$53,330,545. Total tobacco settlement collections of \$106,231,329 have been received to date by North Dakota.

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

<sup>3</sup> The tobacco settlement proceeds for the 2001-03 biennium were estimated to be \$61,143,578 at the end of the 1999 legislative session. The decrease in the amount of tobacco settlement revenues collected for the biennium of \$7,813,033 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined. The total original estimated tobacco settlement collections made during the 1999 legislative session and the total estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$57,593,770	\$52,900,784
2001-03	61,143,578	53,330,545
2003-05	51,271,214	45,944,134
2005-07	51,271,214	45,944,134
2007-17 (\$82,231,080/\$73,687,266 per biennium)	411,155,400	368,436,330
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
<b>Total</b>	<b>\$866,801,136</b>	<b>\$776,571,255</b>

## **FUND HISTORY**

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

Ten percent to the community health trust fund.

Forty-five percent to the common schools trust fund.

Forty-five percent to the water development trust fund.

North Dakota Century Code Section 54-27-25 requires transfers that would otherwise be made to the common schools trust fund during the biennium must be made to the water development trust fund until the amount in the water development trust fund is sufficient to make required bond payments for bonds issued for water projects authorized by Section 61-02.1-04. Once the amount required for the biennium is transferred to the water development trust fund, an equal amount must be transferred to the common schools trust fund, if available, from the money deposited in the tobacco settlement trust fund during the biennium. Once an equal amount has been deposited in each fund, transfers from the tobacco settlement trust fund will be allocated equally for the remainder of the biennium--45 percent to the water development trust fund and 45 percent to the common schools trust fund. The State Engineer has stated that the deposit of 45 percent of the tobacco settlement trust fund into the water development trust fund would be adequate during the 2001-03 biennium. Therefore, transfers to date for the common schools trust fund have not been redirected to the water development trust fund. Section 54-27-25 was amended in 2003 Senate Bill No. 2022, removing the water development trust fund funding priority.

## ANALYSIS OF THE STATE TUITION FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$1,081,145 <sup>1</sup>	\$1,281,131 <sup>1</sup>
Add estimated revenues		
Fines for violation of state laws	\$9,501,781 <sup>2</sup>	\$9,557,512 <sup>2</sup>
Transfers from the common schools trust fund	57,793,000	60,000,000
Total estimated revenues	67,294,781	69,557,512
Total available	\$68,375,926	\$70,838,643
Less estimated expenditures		
Tuition payments to schools	67,094,795 <sup>3</sup>	69,495,371 <sup>3</sup>
Estimated ending balance	\$1,281,131 <sup>1</sup>	\$1,343,272 <sup>1</sup>

<sup>1</sup> Beginning/ending balance - North Dakota Century Code (NDCC) Section 15.1-28-03 provides for the distribution of money in the state tuition fund in August, October, December, February, and April of each fiscal year. Fines proceeds deposited in the tuition fund during May and June of each fiscal year are carried forward for distribution in August of the subsequent year.

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

Fiscal Year	Revenue From Fines	Percentage Increase From Previous Year
1998	\$3,384,890 (actual)	
1999	\$3,818,890 (actual)	12.8%
2000	\$4,866,644 (actual)	27.4%
2001	\$4,241,256 (actual)	(12.9%)
2002	\$4,778,756 (actual)	12.7%
2003	\$4,723,025 (estimate) <sup>a</sup>	(1.2%)
2004	\$4,778,756 (estimate) <sup>a</sup>	1.2%
2005	\$4,778,756 (estimate) <sup>a</sup>	0.0%

<sup>a</sup> The estimated amounts were calculated by the Office of Management and Budget and used in developing the executive recommendation for 2003-05 biennium distributions from the state tuition fund.

<sup>3</sup> Tuition payments - Tuition fund payments for the 2001-03 biennium are currently estimated to be \$67,094,795, \$144,230 less than the 2001-03 appropriation of \$67,239,025. Pursuant to NDCC Section 15.1-28-03, payments are made on the basis of census units, which is the number of school-age children in each district as determined by the last census. Actual and estimated census unit payments are shown below for fiscal years 1998 through 2005:

<b>Fiscal Year</b>	<b>Tuition Fund Payments Per Census Unit</b>	<b>Percentage Increase From Previous Year</b>
1998	\$216 (actual)	
1999	\$223 (actual)	3.2%
2000	\$248 (actual)	11.2%
2001	\$244 (actual)	(1.6%)
2002	\$310 (actual)	27.0%
2003	\$310 (actual)	0.0%
2004	\$335 (estimate)	8.1%
2005	\$335 (estimate)	0.0%

#### **FUND HISTORY**

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

- Interest and income from the common schools trust fund.
- All fines for violation of state laws.
- All other amounts provided by law.

North Dakota Century Code Section 15.1-28-01 provides that the state tuition fund consist of the net proceeds from all fines for violation of state laws and leasing of school lands (included in transfers from the common schools trust fund) and the interest income from the state common schools trust fund. Section 15.1-28-03 directs the Office of Management and Budget, on or before the third Monday in February, April, August, October, and December of each year, to certify to the Superintendent of Public Instruction the amount of the state tuition fund. The Superintendent of Public Instruction then apportions the money in the fund among the school districts in the state based on the number of school-age children in the district.



**ANALYSIS OF THE VETERANS' POSTWAR TRUST FUND 2001-03 AND 2003-05 BIENNIUMS**

	<u>2001-03 Biennium</u>	<u>2003-05 Biennium</u>
Beginning balance	\$4,448,289	\$4,317,031
Add estimated revenues		
Investment income	\$350,000	\$200,000
Sale of vans	<u>17,242</u>	<u>17,500</u>
Total estimated revenues	<u>367,242</u>	<u>217,500</u>
Total available	\$4,815,531	\$4,534,531
Less estimated expenditures		
Department of Veterans Affairs - Anticipated expenditures pursuant to continuing appropriation authority contained in Article X of the North Dakota Constitution as approved by the voters in November 1996		
Grants	\$200,000	\$200,000
Salaries	57,420	62,000
Rent	6,080	6,080
Computer	1,200	1,200
Operating expenses	9,800	2,000
Reserve account transfer	150,000	100,000
Veterans' memorials	2,000	0
Veterans Home activities	32,000	0
Vehicles - Vans	18,000	20,000
Other veterans' programs	13,500	7,500
Board travel	<u>8,500</u>	<u>9,000</u>
Total estimated expenditures	<u>498,500</u>	<u>407,780</u>
Estimated ending balance	<u><u>\$4,317,031</u></u>	<u><u>\$4,126,751</u></u>

**NOTE:** The principal balance of the fund is \$4,101,849, leaving an estimated available investment income balance of \$215,182 as of June 30, 2003, and \$24,902 as of June 30, 2005.

**FUND HISTORY**  
**Established**

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

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

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

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

1. Established the veterans' postwar trust fund as a permanent fund.
2. Required the State Treasurer to transfer \$740,000 per year for five years commencing July 1, 1989, from the state general fund or other sources as appropriated by the Legislative Assembly to the veterans' postwar trust fund to total \$3,700,000.
3. 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.
4. Required the State Treasurer to invest the fund in legal investments as provided by North Dakota Century Code Section 21-10-07.

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

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

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

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

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

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

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

## ANALYSIS OF THE WATER DEVELOPMENT TRUST FUND FOR THE 2001-03 AND 2003-05 BIENNIUMS

	2001-03 Biennium	2003-05 Biennium
Beginning balance	\$23,805,353	\$23,305,804
Add estimated revenues		
Transfers to date from tobacco settlement trust fund	\$23,998,745 <sup>1</sup>	
Remaining transfers from tobacco settlement trust fund		\$20,674,860
Total estimated revenues	23,998,745 <sup>2</sup>	20,674,860 <sup>2</sup>
Total available	\$47,804,098	\$43,980,664
Less estimated expenditures		
Transfer to the general fund	\$9,733,820 <sup>3</sup>	\$10,070,373 <sup>3</sup>
State Water Commission		
Water development projects	9,234,320 <sup>4</sup>	27,521,452 <sup>5</sup>
Bond payments	5,430,398 <sup>6</sup>	5,424,773 <sup>5,6</sup>
State Department of Health		
Total maximum daily load and pollution control plans	99,756 <sup>7</sup>	
Repayment of 2001-03 loans used for the state's matching share of federal disaster relief funding		
University of North Dakota (HB 1003)		1,193,146
North Dakota State University (HB 1003)		262,928
Parks and Recreation Department (SB 2021)		575,287
Total estimated expenditures	24,498,294 <sup>8</sup>	45,047,959 <sup>9</sup>
Estimated ending balance	\$23,305,804	(\$1,067,295)

<sup>1</sup> As of May 15, 2003, nine transfers have been made from the tobacco settlement trust fund totaling \$23,998,745. Total transfers of \$47,804,098 have been made to date from the tobacco settlement trust fund to the water development trust fund.

<sup>2</sup> Revenues - Interest earned on the water development trust fund is deposited in the state general fund. The tobacco settlement revenues for the water development trust fund were estimated to be \$27,514,610 for the 2001-03 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$3,515,865 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined. The revenues for the water development trust fund originally estimated during the 1999 legislative session and the estimated collections as revised by the Office of Management and Budget to reflect anticipated volume adjustments are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$25,917,197	\$23,805,353
2001-03	27,514,610	23,998,745
2003-05	23,072,046	20,674,860
2005-07	23,072,046	20,674,860
2007-17 (\$37,003,986/\$33,159,270 per biennium)	185,019,930	165,796,350
2017-25 (\$26,366,170/\$23,626,724 per biennium)	105,464,680	94,506,896
<b>Total</b>	<b>\$390,060,509</b>	<b>\$349,457,064</b>

- <sup>3</sup> Section 19 of 2001 House Bill No. 1023 provided for a transfer of \$9,733,820, the amount for the State Water Commission administrative expenses, from the water development trust fund to the general fund. A general fund appropriation was then provided by the 2001 Legislative Assembly for the administrative expenses. Section 22 of 2001 House Bill No. 1023 provided legislative intent that the water development trust fund not be used as a source of funding for State Water Commission administrative expenses after the 2001-03 biennium. The 2003 Legislative Assembly authorized, in Section 15 of 2003 Senate Bill No. 2022, a transfer of \$10,070,373 from the water development trust fund to the general fund. The 2003-05 biennium appropriation for the State Water Commission's administrative expenses of \$9,385,396 is funded from the general fund.
- <sup>4</sup> House Bill No. 1475 (1999) (North Dakota Century Code (NDCC) Section 54-27-25) provides that money in the water development trust fund is to be used to address the long-term water development and management needs of the state. Section 4 of 2001 House Bill No. 1023 authorized \$37,631,684 to the State Water Commission from the water development trust fund, consisting of \$28,572,333 included in the water projects line item in Section 1 of the bill, \$422,953 of additional operating costs relating to water projects, and \$8,636,398 for bond payments. The 2001-03 biennium water project expenditures from the water development trust fund are estimated by the State Water Commission and the Office of Management and Budget to be \$9.2 million.
- <sup>5</sup> Senate Bill No. 2022 (2003) includes \$32,946,225 from the water development trust fund to the State Water Commission. The funding is for bond payments (approximately \$5.4 million), reimbursement to the State Department of Health for nonpoint sources of pollution control expenses (up to \$300,000), and water control projects (approximately \$27.2 million).
- <sup>6</sup> Senate Bill No. 2188 (1999) (NDCC Section 61-02.1-02) authorized the State Water Commission to borrow up to \$84.8 million for state water projects to be repaid from the water development trust fund. In March 2000 the State Water Commission issued bonds totaling \$27.5 million (\$23 million for Grand Forks flood control and \$4.5 million for the Southwest Pipeline Project). For the 2001-03 biennium, bond payments on the March 2000 issuance totaled \$5,430,398. The State Water Commission does not anticipate any new borrowing for water projects during the 2001-03 biennium. The 2003 Legislative Assembly authorized, in Senate Bill No. 2022, the State Water Commission to issue up to \$60 million in bonds during the 2003-05 biennium. Bond payments on the March 2000 issuance for the 2003-05 biennium will be approximately \$5.4 million. The State Water Commission does not anticipate issuing additional bonds during the first year of the 2003-05 biennium, thus any additional bond payments would not be due until the 2005-07 biennium.
- <sup>7</sup> Senate Bill No. 2004 (2001) appropriated \$99,756 from the water development trust fund to replace the general fund share of the cost of 2 FTE positions and related operating expenses and equipment to develop total maximum daily loads and pollution control plans.
- <sup>8</sup> The 2001 Legislative Assembly authorized the State Water Commission to spend up to \$67.8 million from the water development trust fund, resources trust fund, and bond proceeds on new water development projects for the 2001-03 biennium. Section 14 of 2001 House Bill No. 1023 limited the bonding authority for the new projects to \$20 million plus the cost of issuing bonds. Contracts for water projects to be paid from the water development trust fund may initially be issued up to an amount equal to 75 percent of the amount appropriated from that fund. Contracts for the remaining 25 percent appropriated may only be issued to the extent uncommitted funds are available in the water development trust fund. The State Water Commission was also authorized in 2001 House Bill No. 1015 to spend up to \$5 million from the resources trust fund or bond proceeds for levees at Devils Lake, which increases the bonding limit to \$25 million and the water project limit to \$72.8 million. The State Water Commission has available 2001-03 biennium spending authority from the water development trust fund and the resources trust fund and has indicated the actual ending balance may vary depending on the funding source used for remaining water project expenditures.
- <sup>9</sup> Senate Bill No. 2022 (2003) appropriated to the State Water Commission a total of \$32,946,225 from the water development trust fund. The funding is for bond payments (approximately \$5.4 million), reimbursement to the State Department of Health for nonpoint sources of pollution control expenses (up to \$300,000), and water control projects (approximately \$27.2 million). In addition, the Legislative Assembly authorized the State Water Commission to issue up to \$60 million in bonds during the 2003-05 biennium and appropriates \$13,650,000 from the resources trust fund for purposes authorized by the Legislative Assembly. Funding for water projects is contingent upon available funds in the water development trust fund. Based on current projections, water project funding from the water development trust fund will be reduced by \$1,067,295, from \$27,521,452 to \$26,454,157.

## FUND HISTORY

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

Ten percent to the community health trust fund.

Forty-five percent to the common schools trust fund.

Forty-five percent to the water development trust fund.

North Dakota Century Code Section 54-27-25 also provides that transfers that would otherwise be made to the common schools trust fund during the biennium must be made to the water development trust fund until the amount in the water development trust fund is sufficient to make required bond payments for bonds issued for water projects authorized by Section 61-02.1-04. Once the amount required for the biennium is transferred to the water development trust fund, an equal amount must be transferred to the common schools trust fund, if available, from the money deposited in the tobacco settlement trust fund during the biennium. Once an equal amount has been deposited in each fund, transfers from the tobacco settlement trust fund will be allocated equally for the remainder of the biennium--45 percent to the water development trust fund and 45 percent to the common schools trust fund. The State Engineer has stated that deposit of 45 percent of the tobacco settlement trust fund into the water development trust fund would be adequate during the 2001-03 biennium. Therefore, transfers to date for the common schools trust fund have not been redirected to the water development trust fund. North Dakota Century Code Section 54-27-25 was amended in 2003 Senate Bill No. 2022 removing the water development trust fund funding priority.

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