Legislative Research Council
SouthDakota

Issue Memorandum 01-13

FIVE MAJOR FUNDS

Introduction

The purpose of this memorandum is to provide a brief description of five reserve or trust funds in the state treasury. South Dakota's treasury contains over 300 separate funds with assets of more than eleven billion dollars. The one underlying reason for creating a separate fund in the state treasury is to segregate money. Beyond that, there are many reasons to segregate money and to provide for a separate accounting.

This issue memorandum will not address all funds in the state treasury, but rather focus on the Budget Reserve Fund, the Property Tax Reduction Fund, the Dakota Cement Trust Fund, the Education Enhancement Trust Fund and the Health Care Trust Fund. These five funds are of considerable interest to the Legislature and the citizens of South Dakota. Each of the funds was created statutorily by the Legislature or the people of South Dakota by amending the Constitution.

In some cases, laws governing these funds have changed since their creation. While this issue memo does provide some history, its primary focus will be on the five funds **as they currently operate**.

The Budget Reserve Fund

The Budget Reserve Fund (SDCL 4-7-31 and 4-7-32) was created by the 1991 Legislature at the urging of Governor Mickelson in order to provide the Governor and Legislature with a pool of money available to address revenue shortfalls resulting from unforeseen circumstances.

Money into the Budget Reserve Fund- The act establishing the Budget Reserve Fund provided that the balance of the fund be set at a maximum of five percent of the previous year's general fund appropriation through the general appropriations bill (or to twenty million dollars in FY1992). Since that time, at the end of a fiscal year unobligated money in the state general fund has been transferred to the Budget Reserve Fund so that the maximum balance in the fund at the start of the next fiscal year is equal to five percent of the previous year's general fund appropriation.

As such, the Budget Reserve Fund came into being on July 1, 1992, with a balance of twenty million dollars. Since that time the Budget Reserve Fund has grown as the state general fund budget has grown. Statute provides that money into the budget reserve fund comes from one of two sources: (1) any general

funds unspent at the end of the previous fiscal year (reversions); or (2) any total general fund revenues in excess of the amount budgeted. The 2002 Legislature increased the maximum amount of the budget reserve fund from five percent of the previous year's general fund appropriation through the general appropriations bill to ten percent of that amount. The balance of the budget reserve fund may fall below the ten percent maximum if there is not enough unobligated cash available for transfer to reach the ten percent maximum or if there are expenditures out of the budget reserve fund.

Money out of the Budget Reserve Fund- The only way to spend from the budget reserve is by way of a special appropriation. This means that a two-thirds vote of each house of the Legislature is required to spend from Budget Reserve Fund.

History of expenditures/transfers out-

1. Following the death of Governor Mickelson, the 1993 Special Session transferred $3,978,204 from the Budget Reserve Fund to the general fund. This amount consisted of: $1,500,000 for a state airplane, $2,458,204 to cover the cost of the riot at the state penitentiary in Sioux Falls, and $20,000 to pay for the gubernatorial transition expenses.
2. The 1994 Legislature transferred $3,072,303 from the Budget Reserve Fund to the general fund. This amount consisted of: $1,451,303 to pay for the state's costs associated with flooding in eastern South Dakota in the spring of 1993; $1,021,000 to pay for the state's share of the costs of fighting the Galena fire in 1988; and $600,000 to cover remaining costs associated with the prison riot.
3. The second special session of the 1994 Legislature addressed the revenue shortfall brought about by the shutdown of the video lottery. The Legislature allowed the transfer of $1,255,442 per week from the Budget Reserve Fund to the general fund for the duration of the video lottery shutdown. The shutdown lasted fourteen weeks and a total of $17,576,188 was transferred from the Budget Reserve Fund to the general fund.
4. The 1996 Legislature transferred $1,287,713 from the Budget Reserve Fund to the general fund to cover the state's costs associated with flooding in eastern South Dakota in the spring of 1995.
5. The 2002 Legislature transferred $6,641,700 from the Budget Reserve Fund to the general fund to address revenue shortfalls in the FY2002 budget.
6. The 2012 Legislature transferred $14,008,369 for costs related to disasters in South Dakota and $6,146,646 for costs related to the suppression of mountain pine beetles in South Dakota.

See Appendix A for Budget Reserve Fund condition statement history.

Restrictions on expenditures out of the Budget Reserve Fund- Statute clearly specifies that expenditures out of the Budget Reserve Fund may be made only to address such unforeseen expenditure obligations or revenue shortfalls as may constitute an emergency as defined by the South Dakota Constitution.

Maximum amount in the Budget Reserve Fund- The Budget Reserve Fund is capped at ten percent of the previous year's general fund

appropriation through the General Appropriations Act. For FY2014, the maximum amount is $123.2 million.

The Property Tax Reduction Fund

The Property Tax Reduction Fund was created by the 1995 Legislature. The Property Tax Reduction Fund was created to serve as a source of revenue to the state general fund for the purpose of providing property tax relief through state aid to education.

Money into the Property Tax Reduction Fund- Money flows into the Property Tax Reduction Fund from one of four sources. The first source is the state's share of net machine income from video lottery ($91.2 million in FY2013). The second source is 60 percent of the taxes collected on the gross receipts of certain telecommunications services ($8.1 million in FY2013). The third source of revenue is thirty-three percent of all revenue deposited in the tobacco prevention and reduction trust fund ($8.0 million in FY2013). The final source is any money in the general fund at the end of the fiscal year after the transfer to the Budget Reserve Fund is made. As such the last source is made up of general funds which have been appropriated but not spent (reversions) and revenues in excess of the adopted revenue estimate.

In addition to the four continuing sources of money flowing into the Property Tax Reduction Fund, the 2006 Legislature passed SB 153 which transferred $38,000,000 from the Railroad Trust Fund to the Property Tax Reduction fund as a result of the sale of the Core line to Burlington Northern Santa Fe in 2005.

Money out of the Property Tax Reduction Fund- There are no special restrictions on spending money out of the Property Tax Reduction Fund. The Commissioner of Finance and Management may transfer money in the fund to the general fund in order to provide property tax relief through state aid to education. Money in the Property Tax Reduction Fund may also be transferred to the general fund through an act of the Legislature. Given these rules, money moves out of the Property Tax Reduction Fund into the general fund with such ease that the Property Tax Reduction Fund may be considered part of the general fund.

History of expenditures/transfers out- Since the creation of the Property Tax Reduction Fund, annual transfers have been made to the general fund for the purpose of providing part of the funding needed to meet the state's obligation for state aid to education. In addition, the Legislature or the Commissioner of the Bureau of Finance and Management has transferred money out of the Property Tax Reduction Fund to the general fund to balance the budget. The amounts are as follows: $6,641,700 in FY2002; $10,474,011 in FY2003; $15,974,511 in FY2004; $24,578,419 in FY2005; $35,387,630 in FY2006; $4,913,211 in FY2007; and $25,600,000 in FY2008.

See Appendix A for Property Tax Reduction Fund condition statement history.

Restrictions on expenditures out of the Property Tax Reduction Fund- There are no restrictions on the expenditure of money out of the Property Tax Reduction Fund.

Maximum amount in the Property Tax Reduction Fund- The Property Tax Reduction Fund is capped at fifteen percent of the previous year's general fund appropriations through the General Appropriations Act. For FY2014, the maximum amount is $184.9 million.

Dakota Cement Trust Fund

Late in 2000, Governor Janklow negotiated the sale of the South Dakota Cement Plant. In December 2000 the Legislature met in special session to consider legislation providing the use of the funds from the sale. The Legislature placed two measures on the ballot to amend the South Dakota Constitution. The first measure created a trust fund and provided for an annual transfer of twelve million dollars from the Dakota Cement Trust Fund to the general fund. The second measure provided that except for the annual twelve million dollar transfer, the original principal of the Dakota Cement Trust Fund forever remain inviolate. However, when the fund balance was sufficient, the Legislature had the option to distribute an amount for the support of education equal to five percent of the value of the Dakota Cement Trust Fund less twelve million dollars.

The 2012 Legislature placed a measure on the ballot to amend Article XIII, sections 20 and 21, of the South Dakota Constitution, to adjust the calculation by which the annual payment is made. The general electors approved the ballot measure which changed the annual payout from $12 million plus the potential additional five percent for education to four percent of the lesser of the sixteen quarter average market value of the trust fund, or the market value of the trust fund at the end of that calendar year for the support of education in South Dakota. The sixteen quarter market value is determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December 31st, and dividing the number by sixteen.

Money into the Dakota Cement Trust Fund- On April 1, 2001, $238,000,000 from the sale of the cement plant was deposited into the Dakota Cement Trust Fund.

Money out of the Dakota Cement Trust Fund- As previously mentioned, the South Dakota Constitution originally provided for an annual transfer of twelve million dollars from the Dakota Cement Trust Fund to the general fund. After that, the Legislature had the option to spend an amount equal to five percent of the Dakota Cement Trust Fund minus twelve million dollars for education. However, in 2012 the general electors amended the calculation to four percent of the lesser of the sixteen quarter average market value or the market value of the trust fund at the end of that calendar year for the support of education in South Dakota.

History of expenditures/transfers out- Beginning in FY2001 through FY2012 annual transfers of $12 million were made to the general fund. In addition, a total of $5,120,177 during fiscal years FY2005 through FY2009 was transferred to the general fund for education per the five percent calculation. Due to the calculation change in 2012, the deposit into the general fund for FY2013 was $9,356,955. *For additional detail see Appendix B.*

Restrictions on expenditures out of the Dakota Cement Trust Fund- Prior to 2012, the South Dakota Constitution

specified that when the balance of the Dakota Cement Trust Fund was sufficient, the Legislature may distribute money from the fund "for the support of education, but not for the replacement of state aid to general education or special education…." However, in 2012, the option for the Legislature to appropriate additional money was removed and the section was amended to say "for the support of education in South Dakota."

It is important to note that other trust funds allow for the Legislature by a super majority to invade the principal of the trust fund or spend the money in the trust fund for purposes other than those provided for in the Constitution or statute. This is not the case with the Dakota Cement Trust Fund. The South Dakota Constitution has the Dakota Cement Trust Fund locked up tight.

Education Enhancement Trust Fund

The voters, by amending the South Dakota Constitution, created the Education Enhancement Trust Fund. This measure was placed on the ballot by the 2001 Legislature. The constitutional amendment provided that all money in the state treasury received as a result of the agreement between the state and major United States tobacco product producers (commonly referred to as the tobacco lawsuit) be deposited into the Education Enhancement Trust Fund. In addition, the constitutional amendment provided that nearly $5.7 million in the Youth-at-Risk Trust Fund be transferred to the Education Enhancement Trust Fund. Furthermore, the 2013 Legislature passed SB 233 and SB 237 which appropriated $1.5 million for a critical teaching needs scholarship program and $1.5 million for a need-based grant program.

The constitution provides that the Education Enhancement Trust Fund be used for education enhancement programs--provided that the principal of the fund may never be invaded nor may money in the fund be used for purposes other than education enhancement programs unless appropriated by a three-fourths vote of each house of the Legislature.

Money into the Education Enhancement Trust Fund- Money into the Education Enhancement Trust Fund has come from six different sources: (1) revenues received under the provisions of the tobacco lawsuit between the first payment received in March of 2000 and April 2002; (2) money in the Youth-at-Risk Trust Fund; (3) earnings on the principal; (4) revenue received from the assignment of tobacco payments (tobacco securitization); (5) earnings on the money from the securitization; and (6) general fund appropriations.

Securitization- In late summer and early fall of 2002, South Dakota sold the state's future revenues from the tobacco Master Settlement Agreement (TSRs) to the South Dakota Educational Enhancement Funding Corporation (SDEEFC). The SDEEFC then sold $278,045,000 of Tobacco Settlement Asset-Backed Bonds, secured and payable by 100% of the TSRs. After expenses of issuing the 2002 Bonds and maintaining a sufficient reserve, the SDEEFC transferred the purchase price of $243.6 million to the state treasury, which was placed into the Education Enhancement Trust Fund. Additionally, the State retained the right to receive all of the TSRs after full repayment of the bonds and dedicated them to the Trust Fund. The 2002 Bonds were refunded in fiscal year 2013 and $169,645,000 of new bonds were issued. Due to the

lower interest rates on the 2013 Bonds and a modification to their repayment structure, it is projected that the refunding will provide additional TSRs to the trust fund and will increase the balance of the trust fund significantly by 2032.

Money out of the Education Enhancement Trust Fund- Article XII, section 6 of the Constitution and SDCL 4-5-29.2 provides that an amount equal to four percent of the market value of the assets of the Education Enhancement Trust Fund may be transferred to the general fund, so long as the principal of the fund is not invaded. Beginning in fiscal year 2008, the market value shall be determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December 31st, and dividing the number by sixteen.

Money transferred from the Education Enhancement Trust Fund must be used for education enhancement programs. The Education Enhancement Trust Fund may not be used for purposes other than education enhancement nor may the principal of the fund be invaded unless approved by a three-fourths vote of each house of the Legislature. However, the earnings may be transferred through an act of the Legislature by a simple majority.

History of expenditures/transfers out- The 2002 Legislature appropriated $3,245,367 from the Education Enhancement Trust Fund to assist South Dakota's public school districts acquire and utilize technology. In addition, there have been annual distributions (with the exception of FY2010) totaling $146.4 million to the general fund in support of education programs. *For details see Appendix B.*

Restrictions on expenditures out of the Education Enhancement Trust Fund- As mentioned earlier, the Constitution allows for expenditures from the Education Enhancement Trust Fund to be used only for education enhancement programs. The Constitution leaves it to the Legislature to define education enhancement programs. Again, the only exception to the education enhancement restriction is the Constitution's allowance for expenditures from the Education Enhancement Trust Fund for purposes other than education enhancement, provided that the expenditure is approved by a three-fourths vote of each house of the Legislature.

Health Care Trust Fund

In 2000, the Legislature authorized the funding mechanism for the Intergovernmental Transfer (IGT) Fund. (*See SDCL 28-6-28 to 28-6-36, inclusive.*) This fund would later be named the Health Care Trust Fund.

History- South Dakota took advantage of a Medicaid loophole which allowed the state to assume, on paper, that the state's entire Medicaid nursing home population was served by the five facilities in the state that are run by local governments. Federal law allows states to reimburse nursing homes that are run by local units of government at the higher Medicaid rate. By written agreement with the state, the nursing homes remitted (minus a small handling fee of approximately $5,000 per year) to the state the difference between the higher Medicaid rate and the lower Medicaid rate. The federal portion of the remittance was credited to the IGT Fund. The funds used to "leverage" the federal moneys were credited back to their original funds. Many states took

advantage of this Medicaid loophole, some for over a decade. Due to this trend, the federal government closed this windfall. Beginning on January 1, 2003, South Dakota was eligible to use the IGT mechanism for only the Medicaid nursing home populations that are owned or managed by local government.

Authorizing Implementation of the Health Care Trust Fund-

1. For FY 2001, the Special Committee on Appropriations amended the General Appropriations Act by appropriating $47,500,000 ($15,000,000 in other fund expenditure authority and $32,500,000 in federal fund expenditure authority) to the Department of Social Services on May 21, 2001.
2. For FY 2002, the Legislature appropriated $42,800,000 from all funds ($14,300,000 in other fund expenditure authority and $28,500,000 in federal fund expenditure authority) in the General Appropriations Act (HB 1233). On June 13, 2002, the Special Committee on Appropriations amended the General Appropriations Act by appropriating another $3,000,000 in other fund expenditure authority.
3. FY 2003, the Legislature appropriated $21,000,000 from all funds ($7,255,500 in other fund expenditure authority and $13,744,500 in federal fund expenditure authority) in the General Appropriations Act (SB 187). On June 25, 2003, the Special Committee on Appropriations amended the General Appropriations Act by appropriating another $3,000,000 in other fund expenditure authority and $1,500,000 in federal fund expenditure authority.

Expenditures from the IGT fund- During 2001 the Legislature passed SB 14 which authorized the expenditure of $1.6 million from the IGT Fund. Senate Bill 14 amended the FY 2001 appropriations bill and authorized any unspent funds to be carried over into FY2002. Six hundred thousand dollars was appropriated to the Department of Health--$100,000 for public access defibrillation equipment, and $500,000 for diabetes screening. Approximately $160,000 was used for diabetes screening in FY 2001; the rest of the money was utilized for anti-terrorism preparations. The remaining one million dollars was appropriated to the Department of Human Services for neuromuscular devices.

Constitutionally created fund- At the special election held on April 10, 2001, the people approved a constitutional amendment that, in part, created the Health Care Trust Fund. This new fund received the principal of the IGT fund minus the $1.6 million that was appropriated. According to Article XII, Section 5 of the Constitution, the Investment Council shall invest the principal amount in stocks, bonds, mutual funds, and other financial instruments. Beginning in FY2003, the State Treasurer shall make an annual distribution from the Health Care Trust Fund to the general fund. These monies are to be appropriated for health care related programs. The principal of the fund can only be appropriated by a three-fourths vote of the members-elect of each house of the Legislature. However, the constitution says: “The calculation of the distribution shall be defined by law and may promote growth of the fund and a steadily growing

distribution amount." (emphasis added) S.D. Const. Art. XII, § 5.

Money out of the Health Care Trust Fund- Article XII, section 5 of the Constitution and SDCL 4-5-29.1 provide that an amount equal to four percent of the market value of the Health Care Trust Fund may be transferred to the general fund, so long as the principal of the fund is not invaded. Beginning in fiscal year 2008, the market value shall be determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December 31st, and dividing the number by sixteen.

Money transferred from the Health Care Trust fund must be used for health care related programs. The Health Care Trust Fund may not be used for other purposes nor may the principal of the fund be invaded unless approved by a three-fourths vote of each house of the Legislature. However, the earnings may be transferred through an act of the Legislature by a simple majority.

History of Expenditures- In FY2003, the Legislature passed SB 187 and distributed $2,590,638 from the Health Care Trust Fund to the general fund for the Divisions of Medical Services ($1,295,319) and Nursing Facilities ($1,295,319) in the Department of Social Services. In addition, there have been annual distributions (with the exception of FY2010) totaling $37.5 million to the general fund in support of health care programs. *For details see Appendix B.*

Summary

Over the past two decades, Governors and Legislatures have resisted the temptation to spend all monies available to them, but rather set aside sums of money when available for the public good. This discipline has resulted in a total balance of just over $965 million in the five funds at the end of FY2013.

Appendix A shows the financial condition of the budget reserve fund and the property tax reduction fund.

Appendix B describes a brief financial history of the three constitutional trust funds.

Appendix C outlines the relevant statutory and constitutional provisions.

In addition, periodic Reserve and Trust Fund Reports can be found on the Legislative Research Council website.

This issue memorandum was first written in 2002 by Dale Bertsch, Chief Analyst for Fiscal Research and Budget Analysis; Reed Holwegner, Senior Fiscal Analyst; and Anne Mehlhaff, Senior Fiscal Analyst for the Legislative Research Council. It was updated in 2013 by Aaron Olson, Senior Fiscal Analyst. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.

Budget Reserve Fund Condition Statement

	Actual FY1992	Actual FY1993	Actual FY1994	Actual FY1995	Actual FY1996	Actual FY1997	Actual FY1998	Actual FY1999	Actual FY2000	Actual FY2001	Actual FY2002	Actual FY2003
Total Receipts	20,000,000	4,897,540	3,773,305	7,096,552	8,314,230	6,500,398	5,163,606	5,320,742	1,398,957	1,675,682	1,561,487	6,178,570
Total Disbursements	0	3,978,204	3,072,303	17,576,188	1,287,713	0	0	0	0	0	6,641,700	0
Net	20,000,000	919,336	701,002	(10,479,636)	7,026,517	6,500,398	5,163,606	5,320,742	1,398,957	1,675,682	(5,080,213)	6,178,570
Beginning Cash Balance	0	20,000,000	20,919,336	21,620,338	11,140,702	18,167,219	24,667,617	29,831,223	35,151,965	36,550,922	38,226,604	33,146,391
Ending Cash Balance	20,000,000	20,919,336	21,620,338	11,140,702	18,167,219	24,667,617	29,831,223	35,151,965	36,550,922	38,226,604	33,146,391	39,324,961

	Actual FY2004	Actual FY2005	Actual FY2006	Actual FY2007	Actual FY2008	Actual FY2009	Actual FY2010	Actual FY2011	Actual FY2012	Actual FY2013	Estimated FY2014
Total Receipts	1,355,714	1,182,209	819,857	317,535	247,214	150,957	0	0	0	47,849,854	24,232,522
Total Disbursements	0	0	0	0	0	0	0	0	20,155,015	0	
Net	1,355,714	1,182,209	819,857	317,535	247,214	150,957	0	0	(20,155,015)	47,849,854	24,232,522
Beginning Cash Balance	39,324,961	40,680,675	41,862,883	42,682,740	43,000,275	43,247,488	43,398,446	43,398,446	43,398,446	23,243,431	71,093,284
Ending Cash Balance	40,680,675	41,862,883	42,682,740	43,000,275	43,247,488	43,398,446	43,398,446	43,398,446	23,243,431	71,093,284	95,325,807

Property Tax Reduction Fund Condition Statement

	Actual FY1996	Actual FY1997	Actual FY1998	Actual FY1999	Actual FY2000	Actual FY2001	Actual FY2002	Actual FY2003	Actual FY2004	Actual FY2005
Total Receipts	45,910,000	88,234,098	91,732,252	101,107,360	112,578,341	107,645,165	112,317,004	104,890,557	110,630,309	114,206,290
Total Disbursements	40,000,000	87,610,700	85,300,000	87,300,000	87,300,000	87,300,000	108,428,776	115,364,568	60,285,513	138,784,709
Net	5,910,000	623,398	6,432,252	13,807,360	25,278,341	20,345,165	3,888,228	(10,474,011)	50,344,797	(24,578,419)
Beginning Cash Balance	0	5,910,000	6,533,398	12,965,650	26,773,010	52,051,351	72,396,516	76,284,743	65,810,732	116,155,529
Ending Cash Balance	5,910,000	6,533,398	12,965,650	26,773,010	52,051,351	72,396,516	76,284,743	65,810,732	116,155,529	91,577,110

	Actual FY2006	Actual FY2007	Actual FY2008	Actual FY2009	Actual FY2010	Actual FY2011	Actual FY2012	Actual FY2013	Estimated FY2014
Total Receipts	152,701,037	120,265,382	126,605,981	125,463,350	123,174,513	110,380,262	102,441,742	107,261,166	110,962,710
Total Disbursements	150,088,667	125,178,593	152,255,981	125,463,350	123,174,513	110,380,262	102,441,742	107,261,166	110,962,710
Net	2,612,370	(4,913,211)	(25,650,000)	0	0	0	0	0	0
Beginning Cash Balance	91,577,110	94,189,480	89,276,269	63,626,269	63,626,269	63,626,269	63,626,269	63,626,269	63,626,269
Ending Cash Balance	94,189,480	89,276,269	63,626,269	63,626,269	63,626,269	63,626,269	63,626,269	63,626,269	63,626,269

Dakota Cement Trust Fund

$238,000,000	Sale Proceeds Deposited as of April 2001
$238,000,000	**Principal as of 6/30/13**

	Fair Market Value Ending Balance	Distributions to the General Fund	Additional 5% to Education
FY2001	$227,227,858.00	$12,000,000.00	$0.00
FY2002	$229,920,245.35	$12,000,000.00	$0.00
FY2003	$234,331,231.00	$12,000,000.00	$0.00
FY2004	$240,662,504.00	$12,000,000.00	$0.00
FY2005	$254,443,413.00	$12,000,000.00	$633,125.22
FY2006	$255,805,408.00	$12,000,000.00	$1,208,295.65
FY2007	$281,584,258.00	$12,000,000.00	$571,476.00
FY2008	$250,896,973.00	$12,000,000.00	$1,184,338.00
FY2009	$194,950,778.00	$12,000,000.00	$1,522,942.00
FY2010	$210,980,552.00	$12,000,000.00	$0.00
FY2011	$242,697,687.00	$12,000,000.00	$0.00
FY2012	$236,725,027.00	$12,000,000.00	$0.00
FY2013	$268,843,121.49	$9,356,955.02	$0.00
		$153,356,955.02	**$5,120,176.87**

Education Enhancement Trust Fund

$81,835,969	Principal as of 6/30/02
$243,647,904	Bond Proceeds (9/02)
$3,846,057	Tobacco Tax (6/07)
$3,000,000	Scholarship Proceeds (3/20/13)
$1,660,667	Tobacco Settlement (4/24/13)
$15,434	Tobacco Settlement (4/26/13)
$5,379	Tobacco Settlement (5/2/13)
$1,202	Tobacco Settlement (6/28/13)
$334,012,613	**Principal as of 6/30/13**

	Fair Market Value Ending Balance	Distributions to the General Fund
FY2002	85,421,811.00	
FY2003	353,437,058.00	$17,577,920.13
FY2004	361,758,229.00	$14,322,737.37
FY2005	378,716,266.00	$15,005,262.52
FY2006	385,805,855.00	$14,986,027.78
FY2007	426,023,969.00	$14,766,914.67
FY2008	383,821,938.00	$15,453,421.83
FY2009	302,487,843.00	$0.00
FY2010	341,082,078.00	$14,802,789.52
FY2011	391,603,274.00	$14,469,388.38
FY2012	386,854,918.00	$14,052,699.87
FY2013	441,011,625.00	$14,413,354.12
		$149,850,516.19

Health Care Trust Fund

$62,465,284	Principal as of 6/30/02
$19,203,135	From Fed (9/02-11/05)
$3,962,605	Tobacco Tax (6/07)
$85,631,024	**Principal as of 6/30/13**

	Fair Market Value Ending Balance	Distributions to the General Fund
FY2002	65,597,315.00	
FY2003	85,702,245.00	$6,068,367.47
FY2004	88,857,735.00	$3,497,887.68
FY2005	93,257,946.00	$3,681,850.11
FY2006	97,794,111.00	$3,801,227.88
FY2007	110,503,118.00	$3,656,090.72
FY2008	101,543,057.00	$3,896,329.68
FY2009	82,341,925.00	$0.00
FY2010	93,580,202.00	$3,886,426.82
FY2011	107,927,590.00	$3,876,297.60
FY2012	106,790,271.00	$3,825,385.16
FY2013	121,106,711.00	$3,959,754.29
		$40,149,617.41

Statutory and Constitutional Provisions

Budget Reserve Fund

4-7-31. Budget reserve fund established. There is hereby established within the state treasury the budget reserve fund. - Source: SL 1991, ch 41, § 1.

4-7-32. Transfer of unobligated cash to budget reserve fund--Legislative action required for reserve fund expenditures. On July first of each fiscal year or at such time that the prior fiscal year general fund ending unobligated cash balance is determined, the commissioner of the Bureau of Finance and Management shall transfer all prior year unobligated cash up to an amount equal to ten percent of the general fund appropriations from the general appropriation act for the prior fiscal year into the budget reserve fund. In no event shall the cash balance in the budget reserve fund be greater than ten percent of the general fund appropriations from the general appropriation act for the prior fiscal year.

Expenditures out of the budget reserve fund shall only be by special appropriation of the Legislature and shall only redress such unforeseen expenditure obligations or such unforeseen revenue shortfalls as may constitute an emergency pursuant to S.D. Const., Art. III, § 1. - Source: SL 1991, ch 41, §§ 2, 3; SL 1996, ch 33; SL 2002, ch 27, § 1.

Property Tax Reduction Fund

10-13-44. Property tax reduction fund--Distribution of money--Tax credit payments. The property tax reduction fund is hereby created in the state treasury. The Department of Revenue shall distribute any money appropriated to the fund. Effective January 1, 1996, through December 31, 1996, the State of South Dakota may remit tax credit payments on a monthly basis for eligible property taxpayers on or about the last day of every month. Tax credit payments shall be sent to counties based upon information received from the counties pursuant to § 10-13-43. In fiscal year 1997 and each year thereafter, the commissioner of finance and management may transfer moneys available from the property tax reduction fund to the general fund necessary to provide property tax relief through state aid to education. - Source: SL 1995, ch 57, § 31; SL 1996, ch 72, § 2C; SL 2003, ch 272 (Ex. Ord. 03-1), § 82; SL 2011, ch 1 (Ex. Ord. 11-1), § 161, eff. Apr. 12, 2011.

4-7-39. Transfer of remaining unobligated cash to property tax reduction fund--Condition. The commissioner of the Bureau of Finance and Management shall transfer any unobligated cash remaining after the transfer into the budget reserve fund as required by § 4-7-32 into the property tax reduction fund if the amount in the property tax reduction fund does not exceed fifteen percent of the general fund appropriations in the General Appropriations Act for the previous fiscal year. - Source: SL 1998, ch 26, § 1; SL 2002, ch 28, § 1.

42-7A-24. Transfer of net proceeds to state funds. Net proceeds from the sale of instant lottery tickets shall be transferred to the state general fund on an annual basis after July first each year. The commission shall maximize the net proceeds to the state from the sale of instant and on-line lottery tickets. In no event may yearly lottery expenses for the sale of lottery tickets, excluding expenditures from retained earnings, exceed the amount of combined net proceeds transferred to the state general fund and the state capital

construction fund. Net machine income from video lottery games shall be directly deposited in the state property tax reduction fund upon receipt. Net proceeds are funds in the lottery operating fund which are not needed for the payment of prizes, lottery expenses, and total retained earnings up to one and one-half million dollars cash deemed necessary by the executive director and commission for replacement, maintenance, and upgrade of business systems, product development, legal and operating contingencies of the lottery.

In each fiscal year, the commission shall transfer the first one million four hundred thousand dollars from the net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the general fund. The commission shall then transfer an amount equal to the remaining net proceeds from the sale of on-line lottery tickets collected pursuant to § 42-7A-24 to the state capital construction fund created in § 5-27-1. - Source: SL 1987, ch 313, § 24; SL 1988, ch 345; SL 1989, ch 372, § 3; SL 1990, ch 341, § 6; SL 1990, ch 46, § 4A; SL 1993, ch 48, § 4; SL 1993, ch 319, § 1; SL 1996, ch 47, § 2; SL 1997, ch 241, § 1; SL 2013, ch 219, § 5.

42-7A-63. State's percentage of net machine income--Deposit into property tax reduction fund and in video lottery operating fund. The commission shall maximize revenues to the state from video lottery. The state's percentage of net machine income shall be fifty percent. The state's percentage of net machine income shall be directly deposited to the property tax reduction fund, except for one-half of one percent of net machine income authorized for deposit into the video lottery operating fund. The effective date of this section is July 1, 1996. - Source: SL 1993, ch 318, § 3; SL 1994, ch 330; SL 1995, ch 243, § 2; SL 1996, ch 72, § 2B.

10-33A-5.1. Disposition of revenues--County telecommunications gross receipts fund created. The secretary shall deposit sixty percent of the revenue collected from the tax imposed by this chapter into the property tax reduction fund and forty percent of the revenue collected from the tax imposed by this chapter into the county telecommunications gross receipts fund. There is hereby created in the state treasury the county telecommunications gross receipts fund. - Source: SL 2005, ch 65, § 1.

10-50-52. Disposition of proceeds of tax. The first thirty million dollars in revenue collected annually pursuant to this chapter shall be deposited in the general fund. All revenue in excess of thirty million dollars collected annually shall be deposited in the tobacco prevention and reduction trust fund. Five million dollars of the revenue deposited annually in the tobacco prevention and reduction trust fund pursuant to this section shall be used to implement the tobacco prevention and reduction program. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund in excess of five million dollars shall be transferred to the property tax reduction fund. Thirty-three percent of any revenue deposited in the tobacco prevention and reduction trust fund in excess of five million dollars shall be transferred to the education enhancement tobacco tax fund. Thirty-four percent of any revenue deposited in the tobacco prevention and reduction trust fund in excess of five million dollars shall be transferred to the health care tobacco tax fund. - Source: SDC 1939, § 57.3918; SL 1959, ch 442, § 2; SL 1965, ch 293, § 3; SL 1969, ch 271, § 4; SL 2003, ch 272, § 82; Initiated Measure 2, approved Nov. 7, 2006, eff. Jan. 1, 2007; SL 2007, ch 27, § 3.

Dakota Cement Trust Fund

South Dakota Constitution, Article XIII, § 20. Trust fund created with proceeds from sale of state cement enterprises_Investment. The net proceeds derived from the sale of state cement enterprises shall be

deposited by the South Dakota Cement Commission in a trust fund hereby created to benefit the citizens of South Dakota. The South Dakota Investment Council or its successor shall invest the trust fund in stocks, bonds, mutual funds, and other financial instruments as provided by law. - History: Section proposed by SL 2000 (SS) ch 1, approved April 10, 2001. Amendment proposed by SL 2010, ch 2, § 2, rejected Nov. 2, 2010. Amendment proposed by SL 2012, ch 266, § 2 approved Nov. 6, 2012.

South Dakota Constitution, Article XIII, § 21. Transfers from trust fund to general fund in support of education. The Legislature shall transfer from the trust fund to the state general fund four percent of the lesser of the average market value of the trust fund determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December thirty-first of that year and dividing that sum by sixteen, or the market value of the trust fund at the end of that calendar year for the support of education in South Dakota. The transfer shall be made prior to June thirtieth of the subsequent calendar year. - History: Section proposed by SL 2000 (SS) ch 1, approved April 10, 2001. Amendment proposed by SL 2010, ch 2, § 3, rejected Nov. 2, 2010. Amendment proposed by SL 2012, ch 266, § 3 approved Nov. 6, 2012.

Education Enhancement Trust Fund

South Dakota Constitution, Article XII, § 6. Education enhancement trust fund established--Investment--Appropriations. There is hereby created in the state treasury a trust fund named the education enhancement trust fund. The state treasurer shall deposit into the education enhancement trust fund any funds received as of July 1, 2001, and funds received thereafter by the state pursuant to the Master Settlement Agreement entered into on November 23, 1998, by the State of South Dakota and major United States tobacco product manufacturers or the net proceeds of any sale or securitization of rights to receive payments pursuant to the Master Settlement Agreement, any funds in the youth-at-risk trust fund as of July 1, 2001, and thereafter any funds appropriated to the education enhancement trust fund as provided by law. The South Dakota Investment Council or its successor shall invest the education enhancement trust fund in stocks, bonds, mutual funds, and other financial instruments as provided by law. Beginning in fiscal year 2003, and each year thereafter, the state treasurer shall make a distribution from the education enhancement trust fund into the state general fund to be appropriated by law for education enhancement programs. The calculation of the distribution shall be defined by law and may promote growth of the fund and a steadily growing distribution amount. The education enhancement trust fund may not be diverted for other purposes nor may the principal be invaded unless appropriated by a three-fourths vote of all the members-elect of each house of the Legislature. - History: Section proposed by SL 2001, ch 1, approved April 10, 2001.

4-5-29.2. Education enhancement trust fund--Calculation of amount eligible for distribution--Transfer to general fund--Need-based matching program--Critical teaching needs scholarship program. Pursuant to S.D. Const., Art. XII, § 6, the state investment officer shall determine the market value of the education enhancement trust fund as of December 31, 2003, and each calendar year thereafter less the investment expenses transferred pursuant to § 4-5-30. The state investment officer shall calculate an amount equal to four percent of that market value, without invading principal, as eligible for distribution. For the purpose of this section, the term, principal, means the sum of all contributions to the fund. Beginning with the

distribution in fiscal year 2008, the market value shall be determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December thirty-first, and dividing the sum by sixteen. Upon notice of that amount by the state investment officer, the state treasurer shall transfer the amount from the education enhancement trust fund to the state general fund as soon as practicable after July first of the next fiscal year. Beginning in fiscal year 2015, the portion of the transfer to the general fund for the need-based matching program, shall be calculated by the state investment officer based on the relative share of the contributions made to the need-based grant fund created pursuant to § 13-55A-14 to the most recently calculated total fair value of the education enhancement fund including the contribution. The calculation shall be updated monthly to reflect any additional contributions to the education enhancement trust fund and the portion of the transfer to the general fund for the need-based matching program shall be based on the average of the monthly calculation.

Beginning in fiscal year 2015, a portion of the funds annually distributed to the general fund pursuant to this section representing the percentage of the appropriation in SL 2013, ch 91, § 9, when deposited, to the total fair value of the education enhancement fund applied to the distribution amount shall be used to fund the critical teaching needs scholarship program created in §§ 13-55-64 to 13-55-71, inclusive. - Source: SL 2002, ch 26, § 4; SL 2004, ch 62, § 2, eff. Mar. 3, 2004; SL 2006, ch 23, § 2, eff. Mar. 10, 2006; SL 2013, ch 91, § 11, eff. Mar. 20, 2013; SL 2013, ch 92, § 13, eff. Mar. 12, 2013.

Health Care Trust Fund

§ 5. Health care trust fund established--Investment--Appropriations. There is hereby created in the state treasury a trust fund named the health care trust fund. The state treasurer shall deposit into the health care trust fund any funds on deposit in the intergovernmental transfer fund as of July 1, 2001, and thereafter any funds appropriated to the health care trust fund as provided by law. The South Dakota Investment Council or its successor shall invest the health care trust fund in stocks, bonds, mutual funds, and other financial instruments as provided by law. Beginning in fiscal year 2003, and each year thereafter, the state treasurer shall make a distribution from the health care trust fund into the state general fund to be appropriated by law for health care related programs. The calculation of the distribution shall be defined by law and may promote growth of the fund and a steadily growing distribution amount. The health care trust fund may not be diverted for other purposes nor may the principal be invaded unless appropriated by a three-fourths vote of all the members-elect of each house of the Legislature. - History: Section proposed by SL 2001, ch 1, approved April 10, 2001.

4-5-29.1. Health care trust fund--Investment officer to calculate amount eligible for distribution--Transfer to state general fund. Pursuant to S.D. Const., Art. XII, § 5, the state investment officer shall determine the market value of the health care trust fund as of December 31, 2003, and each calendar year thereafter less the investment expenses transferred pursuant to § 4-5-30. The state investment officer shall calculate an amount equal to four percent of that market value, without invading principal, as eligible for distribution. For the purpose of this section, the term, principal, means the sum of all contributions to the fund. Beginning with the distribution in fiscal year 2008, the market value shall be determined by adding the market value of the trust fund at the end of the sixteen most recent calendar quarters as of December thirty-first, and dividing the sum by sixteen. Upon notice of that amount by the state investment officer, the state treasurer shall transfer the amount from the health care trust fund to the state general fund as soon as practicable after July first of the next fiscal year. - Source: SL 2002, ch 26, § 3; SL 2004, ch 62, § 1; SL 2006, ch 23, § 1.