

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2005-07 AND 2007-09 BIENNIUMS (REFLECTING THE 2007-09 BIENNIUM EXECUTIVE BUDGET RECOMMENDATION)

	2005-07 Biennium		2007-09 Biennium	
Beginning balance		\$0		\$0
Add estimated revenues				
Tobacco settlement revenues collected to date	\$21,414,069 ¹		\$0	
Projected tobacco settlement revenues	21,823,464		70,002,902	
Total estimated revenues		43,237,533 ²		70,002,902 ²
Total available		\$43,237,533 ³		\$70,002,902 ³
Less estimated expenditures and transfers				
Transfers to the community health trust fund (10%)	\$4,323,753		\$7,000,290	
Transfers to the common schools trust fund (45%)	19,456,890		31,501,306	
Transfers to the water development trust fund (45%)	19,456,890		31,501,306	
Total estimated expenditures and transfers		43,237,533		70,002,902
Estimated ending balance		\$0		\$0

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

²Revenues - 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.

³The tobacco settlement proceeds for the 2005-07 biennium were estimated to be \$51,271,214 at the end of the 1999 legislative session. The decrease in the amount of tobacco settlement revenues collected for the biennium of \$8,033,681 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million. The tobacco companies are contending that the master settlement agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect the full payment. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$43,237,533 do not include the \$2.7 million withheld by tobacco companies. Due to the uncertainty of the lawsuit, the Office of Management and Budget has further reduced the remaining estimated tobacco settlement revenues for the 2005-07 and 2007-09 bienniums by 5 percent or \$1,148,603 for 2005-07 and \$3,684,363 for 2007-09. 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 and legal challenges are:

Biennium	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	53,636,363
2003-05	51,271,214	46,310,010
2005-07	51,271,214	43,237,533
2007-09	82,231,080	70,002,903
2009-11	82,231,080	73,687,266
2011-17 (\$82,231,080/\$73,687,266 per biennium)	246,693,240	221,061,798
2017-25 (\$58,591,490/\$52,503,832 per biennium)	234,365,960	210,015,328
Total	\$866,801,136	\$770,851,985

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

FUND HISTORY

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

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