

ANALYSIS OF THE WATER DEVELOPMENT 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		\$13,200,239		\$9,634,846
Add estimated revenues				
Transfers to date from tobacco settlement trust fund	\$9,636,331 ¹		\$0	
Projected remaining transfers from tobacco settlement trust fund	9,820,559		31,501,306	
Total estimated revenues		19,456,890 ²		31,501,306 ²
Total available		\$32,657,129		\$41,136,152
Less estimated expenditures and transfers				
State Water Commission (2005 HB 1021)				
Water projects	\$4,108,925 ³		\$26,063,285 ⁵	
Bond payments	9,777,033 ³		13,992,714 ⁵	
Administrative expenses	9,116,325 ³			
North Dakota Legislative Assembly				
Legislators' Forum dues	20,000 ⁴		0	
Total estimated expenditures and transfers		23,022,283		40,055,999
Estimated ending balance		\$9,634,846		\$1,080,153

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

²Revenues - Interest earned on the water development trust fund is deposited in the state general fund. The tobacco settlement revenues for the water development trust fund were estimated to be \$23,072,046 for the 2005-07 biennium at the end of the 1999 legislative session. The decrease in the amount of revenues collected from the tobacco settlement trust fund of \$3,615,156 is the result of volume adjustments made to payments received. A volume adjustment is an adjustment made to a settlement payment to reflect increases or decreases in tobacco manufacturers' operating income from cigarette sales. The original estimate was calculated before the anticipated effect of volume adjustments on tobacco settlement collections was determined.

In addition, two major tobacco companies reduced their total 2006 payment to North Dakota by approximately \$2.7 million, of which \$1,215,000 would have been deposited in the water development trust fund. The tobacco companies are contending that the master settlement agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect full payment. The tobacco companies have set aside the additional payment until the dispute is resolved. The total estimated revenues of \$19,456,890 do not include the \$1,215,000 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. The water development trust fund share of the 5 percent reduction represents \$516,871 for 2005-07 and \$1,657,963 for 2007-09. 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 and legal challenges are:

Biennium	1999 Original Estimated Collections	Office of Management and Budget Revised Estimated Collections
1999-2001	\$25,917,197	\$23,805,353
2001-03	27,514,610	24,136,363
2003-05	23,072,046	20,839,504
2005-07	23,072,046	19,456,890
2007-09	37,003,986	31,501,306
2009-11	37,003,986	33,159,270
2011-17 (\$37,003,986/\$33,159,270 per biennium)	111,011,958	99,477,810
2017-25 (\$26,366,170/\$23,626,724 per biennium)	105,464,680	94,506,896
Total	\$390,060,509	\$346,883,392

³Section 5 of House Bill No. 1021 (2005) provides \$29,963,873, or any additional amount that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission.

The total bond payments, including anticipated principal and interest payments on the \$60 million bond issuance (2005) and the \$27.5 million bond issuance (2000), is estimated to be \$9,777,033 for the 2005-07 biennium. The Legislative Assembly also authorized, in House Bill No. 1021, the State Water Commission to issue up to \$7 million in bonds during the 2005-07 biennium. However, the State Water Commission is estimating that sufficient funding will be available for water projects in the water development trust fund and resources trust fund without the additional bond issuance.

The Legislative Assembly appropriated \$9,116,325 from the water development trust fund for administrative expenses of the State Water Commission. The State Water Commission is estimating that approximately \$4.1 million from the water development trust fund will be used for water projects during the 2005-07 biennium.

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

⁵Section 5 of Senate Bill No. 2020 (2007) provides \$40,055,999, or any additional amount that becomes available, from the water development trust fund for the purpose of defraying the expenses of the State Water Commission.

Total 2007-09 biennium bond payments will be \$13,992,714. The remaining balance of approximately \$26.1 million will be available for State Water Commission projects.

FUND HISTORY

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

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

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