

ANALYSIS OF THE TOBACCO SETTLEMENT TRUST FUND FOR THE 2007-09 BIENNIUM

	2007-09 Biennium	
Beginning balance - July 1, 2007		\$0
Add estimated revenues		
Tobacco settlement revenues collected to date	\$36,481,077 ¹	
Projected tobacco settlement revenues	35,001,451	
Total estimated revenues		71,482,528 ²
Total available		\$71,482,528 ^{3,4}
Less estimated expenditures and transfers		
Transfers to the community health trust fund (10%)	\$7,148,252	
Transfers to the common schools trust fund (45%)	32,167,138	
Transfers to the water development trust fund (45%)	32,167,138	
Total estimated expenditures and transfers		71,482,528 ⁴
Estimated ending balance - June 30, 2009		\$0

¹As of May 1, 2008, the state has received two tobacco settlement payments totaling \$36,481,077 for the 2007-09 biennium. The state has received total tobacco settlement collections of \$233,156,352.

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.

³In 2006 certain tobacco companies began reducing their tobacco settlement payments to North Dakota contending that the Master Settlement Agreement allows for the payments to be reduced if they lose sales to small cigarette makers that did not participate in the agreement and if states do not enforce laws intended to make smaller tobacco companies set aside money for legal claims. The Attorney General's office has filed a lawsuit against the tobacco companies to collect the full payment. Due to the uncertainty of the lawsuit, the Office of Management and Budget has further reduced the estimated tobacco settlement revenues for the 2007-09 biennium by 5 percent or \$3,684,363. 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	43,654,951
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	\$771,269,403

⁴The estimated total available and the total estimated expenditures and transfers made at the end of the 2007 legislative session were \$70,002,902. The increase in the estimated total available and the total estimated expenditures and transfers of \$1,479,626 are due to an increase in actual tobacco settlement revenues collected to date.

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.

NOTE: On April 25, 2008, the Secretary of State approved a petition for circulation regarding a proposed initiated measure that would add seven new sections to the North Dakota Century Code and amend Section 54-27-25 to establish a tobacco prevention and control advisory committee and an executive committee; develop and fund a comprehensive statewide tobacco prevention and control plan; and create a tobacco prevention and control trust fund to receive tobacco settlement funds to be administered by the executive committee. The initiated measure provides for a portion of tobacco settlement funds received by the state to be deposited in a new fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement, which continue in perpetuity, would continue to be deposited into the tobacco settlement trust fund and allocated 10 percent to the community health trust fund, 45 percent to the common schools trust fund and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement, which began in 2008 and continues through 2017, would be deposited into the newly created tobacco prevention and control trust fund. The amount received under subsection IX(c)(2) of the Master Settlement Agreement for 2008 was \$13,797,729. The measure also provides that if in any biennium, the tobacco prevention and control trust fund does not have adequate funding for the comprehensive plan, money may be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the executive committee to adequately provide for the comprehensive plan.

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.