

## TOBACCO PREVENTION AND CONTROL TRUST FUND - PROJECTED REVENUES

This memorandum provides information on the tobacco prevention and control trust fund, including estimated revenue from tobacco settlement strategic contribution payments to be received by the state under the Master Settlement Agreement.

### BACKGROUND

The tobacco prevention and control trust fund was created as a result of voter approval of initiated measure No. 3 in the November 2008 general election. The measure added seven new sections to the North Dakota Century Code and amended Section 54-27-25 to establish the 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 dollars to be administered by the executive committee. The measure provides for the advisory committee, appointed by the Governor, to develop the initial comprehensive plan and select an executive committee responsible for the implementation and administration of the comprehensive plan. The initiated measure became effective 30 days after the election (December 4, 2008).

Tobacco settlement payments received by the state under the Master Settlement Agreement are derived from two subsections of the agreement. Subsection IX(c)(1) of the agreement provides payments on April 15, 2000, and on April 15 of each year thereafter in perpetuity, while subsection IX(c)(2) of the agreement provides for additional strategic contribution payments that begin on April 15, 2008, and continue each April 15 thereafter through 2017. Section 54-27-25, created by 1999 House Bill No. 1475, did not distinguish between payments received under the separate subsections of the agreement and provided for the deposit of all tobacco settlement money received by the state into the tobacco settlement trust fund. Money in the fund, including interest, is transferred within 30 days of deposit in the fund as follows:

- 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.

The measure provided for a portion of tobacco settlement dollars received by the state to be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the agreement continues to be deposited in the tobacco settlement trust fund and allocated 10 percent to the community health trust fund (with 80 percent used for tobacco prevention and control), 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 agreement is deposited into the tobacco prevention and control trust fund. Interest earned on the balance in this fund is deposited in the fund. The fund is administered by the executive committee created by the measure for the purpose of creating and implementing the comprehensive plan.

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. The 2009 Legislative Assembly in Section 39 of House Bill No. 1015 provided that any money deposited in the water development trust fund under Section 54-27-25 may only be spent pursuant to legislative appropriation.

### REVENUES

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in Section 54-27-25 prior to amendment by the measure. In 2009 tobacco settlement payments began to be deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25 as amended by the measure.

The following chart provides the allocation of the estimated collections of the tobacco settlement payments for the period 2008 through 2025:

	Actual and Estimated Total Tobacco Settlement Proceeds (Amounts Shown in Millions)	Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund (Amounts Shown in Millions)	Allocation of Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(1)		
			Common Schools Trust Fund (Amounts Shown in Millions)	Water Development Trust Fund (Amounts Shown in Millions)	Community Health Trust Fund (Amounts Shown in Millions)
Actual payment April 2008	\$36.4	N/A	\$16.4	\$16.4	\$3.6
Actual payment April 2009	39.2	\$14.1	11.3	11.3	2.5
Estimated 2009-11 biennium	68.8	26.1	19.2	19.2	4.3
Estimated 2011-13 biennium	73.7	27.6	20.8	20.8	4.5
Estimated 2013-15 biennium	73.7	27.6	20.8	20.8	4.5
Estimated 2015-17 biennium	73.7	27.6	20.8	20.8	4.5
Estimated 2017-19 biennium	52.5	N/A	23.6	23.6	5.3
Estimated 2019-21 biennium	52.5	N/A	23.6	23.6	5.3
Estimated 2021-23 biennium	52.5	N/A	23.6	23.6	5.3
Estimated 2023-25 biennium	52.5	N/A	23.6	23.6	5.3
<b>Total</b>	<b>\$575.5</b>	<b>\$123.0</b>	<b>\$203.7</b>	<b>\$203.7</b>	<b>\$45.1</b>

Interest earned on the balance in the tobacco prevention and control trust fund is deposited in the fund. Investment income deposited in the tobacco prevention and control trust fund during the 2007-09 biennium totaled \$8,290, and investment income to be deposited in the tobacco prevention and control trust fund during the 2009-11 biennium is estimated to total \$345,000.

### EXPENDITURES

Actual expenditures of the Tobacco Prevention and Control Executive Committee for the 2007-09

biennium totaled \$38,815. Section 35 of 2009 House Bill No. 1015 appropriated \$12,882,000 from the tobacco prevention and control trust fund to the Tobacco Prevention and Control Executive Committee for the purpose of providing a level of funding that will meet the annual level recommended by the Centers for Disease Control and Prevention for North Dakota as published in its *Best Practices for Comprehensive Tobacco Control* for the 2009-11 biennium. The Tobacco Prevention and Control Executive Committee is requesting the same level of funding--\$12,882,000--for the 2011-13 biennium.