

Fifty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2380

Introduced by

Senators Holmberg, Heitkamp, Schobinger

Representatives Delmore, Devlin, Price

1 A BILL for an Act to establish a tobacco prevention advisory committee; to amend and reenact  
2 subsection 1 of section 54-27-25 of the North Dakota Century Code, relating to the tobacco  
3 settlement trust fund; to provide an appropriation; and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. Definitions.** As used in sections 1 through 9 of this Act, unless the  
6 context otherwise requires:

- 7 1. "Committee" means the tobacco prevention advisory committee.  
8 2. "Grantee" means a public entity or private nonprofit entity approved by the  
9 committee to receive moneys from the fund for qualified tobacco prevention  
10 programs.  
11 3. "Master settlement agreement" means the settlement agreement and related  
12 documents entered on December 28, 1998, by the state and leading United States  
13 tobacco product manufacturers.  
14 4. "Qualified tobacco prevention program" means a program that meets the criteria  
15 as set forth in the state plan.  
16 5. "State plan" means the state plan for tobacco prevention adopted pursuant to  
17 section 6 of this Act.

18 **SECTION 2. Tobacco prevention advisory committee.**

- 19 1. The tobacco prevention advisory committee is established in the office of the  
20 governor to advise and assist the state health officer in the implementation of a  
21 statewide, comprehensive tobacco control program. The membership of the  
22 committee is:  
23 a. The governor or the governor's designee.  
24 b. Two legislative members appointed by the chairman of the legislative council.

- c. The attorney general or the attorney general's designee.
  - d. One individual who represents American Indians, appointed by the governor from a list consisting of a nominee provided by each of the tribal councils in the state.
  - e. One individual who is under age eighteen at the time of nomination, appointed by the governor.
  - f. One individual who represents nongovernmental, voluntary, tobacco control organizations, appointed by the governor.
  - g. One individual who represents the local public health community, appointed by the governor from a list provided by the North Dakota public health association.
  - h. The superintendent of public instruction or the superintendent's designee.
  - i. The state health officer or the state health officer's designee, who may be the state tobacco prevention control coordinator employed by the state department of health.
  - j. An academic researcher with expertise in tobacco control and health promotion intervention, appointed by the dean of the university of North Dakota medical school.
  - k. One physician, appointed by the governor.
2. The appointed members serve for a term of two years and until a successor is appointed. A vacancy on the committee must be filled in the same manner as the original appointment for the remainder of the unexpired term. All members must be residents of the state.
  3. The governor shall convene the committee's first meeting before May 15, 2001.
  4. Members of the committee are entitled to be compensated at a rate of sixty-two dollars and fifty cents per day and are allowed the mileage and expenses as provided by law for members of state officers and employees.

**SECTION 3. Affairs and business of committee.** The governor or the governor's designee shall administer, manage, and direct the affairs and business of the committee in accordance with sections 1 through 9 of this Act. The committee may use technical experts

1 and other employees on a temporary basis as it may require. The actual expenses incurred in  
2 the performance of these duties must be paid from the fund.

3 **SECTION 4. State health officer powers.** The state health officer may:

- 4 1. Accept, hold, and administer any moneys appropriated or distributed to the  
5 committee or other money, securities, or other property appropriated, given, or  
6 bequeathed to the committee, absolutely or in trust, for the purposes for which the  
7 committee is created;
- 8 2. Distribute the moneys in the fund to entities in accordance with the state plan;
- 9 3. Contract as necessary or convenient for the exercise of its powers and functions;
- 10 4. Make bylaws for the management and regulations of its affairs;
- 11 5. Receive and accept aid, grants, contributions, and cooperation of any kind from  
12 any source for the purposes of sections 1 through 9 of this Act subject to the  
13 conditions, acceptable to the committee, upon which the aid, grants, contributions,  
14 and cooperation may be made;
- 15 6. Invest its funds as permitted by applicable law; and
- 16 7. Do any lawful act necessary or appropriate to carry out the powers granted or  
17 reasonably implied, including use of any lawful act necessary or appropriate to  
18 recover payments wrongfully made from the fund.

19 **SECTION 5. Tobacco prevention fund.**

- 20 1. The state tobacco prevention fund is a special fund in the state treasury. The fund  
21 consists of moneys received by the state under the master settlement agreement  
22 pursuant to section 54-27-25 and all other moneys, including appropriation, gifts,  
23 grants, or other funds, designated for the fund. All interest derived from the  
24 deposit and investment of moneys in the fund must be credited to the fund.
- 25 2. All moneys in the fund are subject to legislative appropriation for the purposes  
26 described in sections 1 through 9 of this Act.
- 27 3. Moneys from the fund may not be used to engage in political activity or lobbying  
28 including support of or opposition to candidates, ballot questions, referenda, or  
29 similar activities.

30 **SECTION 6. State plan for tobacco prevention and dependency treatment.**

- 1       1. Before August 1, 2001, the committee shall propose a state plan for tobacco  
2       prevention and dependency treatment. The committee shall publish its proposed  
3       state plan and submit its proposed state plan to the governor, the department of  
4       human services, the state department of health, and the attorney general. The  
5       public, the governor, the named departments, and the attorney general may submit  
6       comments to the committee on the proposed state plan before November 1, 2001.  
7       Before January 15, 2002, the committee shall adopt and publish a final state plan.  
8       For subsequent years, the committee shall set the deadlines for the submission of  
9       proposed amendments to the state plan, the submission of comments to the  
10       proposed amendments, and the adoption of amendments and publication of the  
11       amended state plan; provided, however, that grant award announcements must be  
12       made before March first as provided in section 8 of this Act.
- 13       2. The committee shall establish and implement a tobacco use prevention and  
14       dependence treatment plan that is a sustainable, long-term, comprehensive  
15       program that integrates science-based, comprehensive, and effective programs  
16       including countermarketing and public education programs, community-based  
17       programs, chronic disease programs, treatment of tobacco dependence,  
18       school-based programs, enforcement programs, and statewide programs and  
19       which includes a mechanism for ongoing monitoring and evaluation of the  
20       program. The state plan must build on and may not duplicate current programs.  
21       The state plan must set out the criteria by which grant proposals are considered by  
22       the committee and must include components of the centers for disease control and  
23       prevention's best practices for comprehensive tobacco control programs. The plan  
24       must also describe the types of tobacco prevention programs that are eligible for  
25       consideration for grants from the fund. The committee shall give priority to  
26       programs that:
  - 27       a. Are research-based or based on proven effective strategies;
  - 28       b. Are designed to coordinate with other activities and education messages  
29       related to other health activities;
  - 30       c. Utilize and enhance existing prevention and treatment activities and  
31       resources; or

d. Involve innovative approaches for the prevention of tobacco use.

3. The state plan must provide for an annual statewide assessment of tobacco-related behaviors and attitudes among youth to establish a baseline to measure statewide effects of tobacco use prevention and treatment activities. To the extent feasible, the assessment must be conducted so that the results may be compared to nationwide data. The assessment must be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, before September first of each year.
4. The state plan must provide that no more than five percent of the fund may be expended on the administrative costs of the committee.

**SECTION 7. Grants for tobacco prevention programs.**

1. The committee shall meet to review applications for grants for tobacco prevention programs. A grant may not be awarded without the approval of the vote of a majority of the committee. To the extent practicable and consistent with the criteria for qualified applicants set forth in the state plan, the committee shall make awards equal to the total amount of funds appropriated for qualified tobacco prevention programs less the administrative costs of the committee.
2. An applicant for a grant for a qualified tobacco prevention program must file an application with the committee no later than April 1, 2002, for the initial year of the program and for subsequent years, no later than November first of the year preceding the fiscal year for which the grant is requested.
3. An applicant that requests funding to initiate, continue, or expand a tobacco prevention program must demonstrate, by means of application, letters of recommendation, and other means as the committee may designate, that the proposed tobacco prevention program for which it seeks funds meets the criteria set forth in the state plan. Previous grant recipients shall include recent evaluations of their programs with their applications. The committee may not award a grant unless it makes a specific finding, as to each applicant, that the program proposed to be funded meets the criteria set forth in the state plan.
4. State and local government departments and agencies are eligible for grants provided pursuant to sections 1 through 9 of this Act.

1       **SECTION 8. Grants award announcements.** Before May 15, 2002, and before  
2 March first of each subsequent year, the committee shall announce the award of grants for the  
3 next fiscal year. Any funds appropriated for qualified tobacco prevention and dependency  
4 treatment programs not expended in the biennium must be retained in the fund and available  
5 for qualified programs in the following biennium without further legislative appropriation.

6       **SECTION 9. Reports.**

- 7       1. As a condition for the receipt of funds under sections 1 through 9 of this Act, a  
8 grantee shall agree to file a report with the committee, before September first, after  
9 the end of the fiscal year for which the grant was awarded, as to:
- 10       a. The amount received as a grant and the expenditures made with the  
11 proceeds of the grant;
- 12       b. A description of the program offered and the number of individuals who  
13 participated in the program; and
- 14       c. Specific elements of the program meeting the criteria set forth in the state  
15 plan.
- 16       2. A grantee failing to timely file the report required under this section is subject to the  
17 jurisdiction of the attorney general for repayment of the full amounts of the grants  
18 expended.
- 19       3. The committee shall review and evaluate the reports of grantees required under  
20 this section and file a written report with the budget section of the legislative  
21 council before December fifteenth of each year on the status of the fund and the  
22 activities of the fund for the fiscal year most recently ended. The report must  
23 include a copy of the annual audit, the name of each grantee, and the amount of  
24 each grant made, the criteria used to award each grant, and whether the program  
25 implemented by each grantee met the criteria. The report is public immediately  
26 upon its filing.

27       **SECTION 10. AMENDMENT.** Subsection 1 of section 54-27-25 of the 1999  
28 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 29       1. Transfers to a community health trust fund to be administered by the state  
30 department of health. ~~The state department of health may use funds as~~  
31 ~~appropriated for community-based public health programs and other public health~~

~~programs, including programs with emphasis on preventing or reducing tobacco~~  
~~usage in this state.~~ Transfers under this subsection must equal ten percent of total  
annual transfers from the tobacco settlement trust fund. Of the funds appropriated  
to the state department of health from the community health trust fund:

- a. The first one million dollars must be used by the department for public health  
emergencies and to provide funding for the grant programs established under  
this subsection, if necessary, based upon the anticipated timing of transfers to  
be received from the tobacco settlement trust fund.
- b. One million dollars must be used to provide state aid to local public health  
units.
- c. An amount not to exceed two million dollars must be used to fund a healthy  
schools grant program that provides grants to schools for preventive health  
programs.
- d. An amount not to exceed two million dollars must be used to fund a healthy  
communities grant program. The eligibility criteria for the program must  
include a one hundred percent matching funds requirement and must provide  
that grant eligibility is based upon a community's effectiveness in enforcing  
state and local tobacco seller and use laws and ordinances.
- e. An amount not to exceed seven hundred fifty thousand dollars must be used  
to fund a statewide tobacco countermarketing media program.
- f. An amount not to exceed two hundred fifty thousand dollars must be used to  
provide antitobacco materials and resources to the public.
- g. Five hundred thousand dollars must be used to fund programs of the Fargo  
community health center.

**SECTION 11. APPROPRIATION.** There is appropriated out of any moneys in the  
community health trust fund, not otherwise appropriated, and from special funds derived from  
federal funds and from other income, the sum of \$7,600,000, or so much of the sum as may be  
necessary, to the state department of health for the purpose of defraying the costs of  
implementing this Act, for the period beginning on the effective date of this Act, and ending  
June 30, 2003.

**SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.