

Fifty-seventh
Legislative Assembly
of North Dakota

REENGROSSED 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; 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 8 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 5 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 8 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 8 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. State plan for tobacco prevention and dependency treatment.**

- 20 1. Before August 1, 2001, the committee shall propose a state plan for tobacco
21 prevention and dependency treatment. The committee shall publish its proposed
22 state plan and submit its proposed state plan to the governor, the department of
23 human services, the state department of health, and the attorney general. The
24 public, the governor, the named departments, and the attorney general may submit
25 comments to the committee on the proposed state plan before November 1, 2001.
26 Before January 15, 2002, the committee shall adopt and publish a final state plan.
27 For subsequent years, the committee shall set the deadlines for the submission of
28 proposed amendments to the state plan, the submission of comments to the
29 proposed amendments, and the adoption of amendments and publication of the
30 amended state plan; provided, however, that grant award announcements must be
31 made before March first as provided in section 7 of this Act.

2. The committee shall establish and implement a tobacco use prevention and dependence treatment plan that is a sustainable, long-term, comprehensive program that integrates science-based, comprehensive, and effective programs including countermarketing and public education programs, community-based programs, chronic disease programs, treatment of tobacco dependence, school-based programs, enforcement programs, and statewide programs and which includes a mechanism for ongoing monitoring and evaluation of the program. The state plan must build on and may not duplicate current programs. The state plan must set out the criteria by which grant proposals are considered by the committee and must include components of the centers for disease control and prevention's best practices for comprehensive tobacco control programs. The plan must also describe the types of tobacco prevention programs that are eligible for consideration for grants from the fund. The committee shall give priority to programs that:
- a. Are research-based or based on proven effective strategies;
 - b. Are designed to coordinate with other activities and education messages related to other health activities;
 - c. Utilize and enhance existing prevention and treatment activities and 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 6. Grants for tobacco prevention programs.

- 1 1. The committee shall meet to review applications for grants for tobacco prevention
2 programs. A grant may not be awarded without the approval of the vote of a
3 majority of the committee. To the extent practicable and consistent with the criteria
4 for qualified applicants set forth in the state plan, the committee shall make awards
5 equal to the total amount of funds appropriated for qualified tobacco prevention
6 programs less the administrative costs of the committee.
- 7 2. An applicant for a grant for a qualified tobacco prevention program must file an
8 application with the committee no later than April 1, 2002, for the initial year of the
9 program and for subsequent years, no later than November first of the year
10 preceding the fiscal year for which the grant is requested.
- 11 3. An applicant that requests funding to initiate, continue, or expand a tobacco
12 prevention program must demonstrate, by means of application, letters of
13 recommendation, and other means as the committee may designate, that the
14 proposed tobacco prevention program for which it seeks funds meets the criteria
15 set forth in the state plan. Previous grant recipients shall include recent
16 evaluations of their programs with their applications. The committee may not
17 award a grant unless it makes a specific finding, as to each applicant, that the
18 program proposed to be funded meets the criteria set forth in the state plan.
- 19 4. State and local government departments and agencies are eligible for grants
20 provided pursuant to sections 1 through 8 of this Act.

21 **SECTION 7. Grants award announcements.** Before May 15, 2002, and before
22 March first of each subsequent year, the committee shall announce the award of grants for the
23 next fiscal year. Any funds appropriated for qualified tobacco prevention and dependency
24 treatment programs not expended in the biennium must be retained in the fund and available
25 for qualified programs in the following biennium without further legislative appropriation.

26 **SECTION 8. Reports.**

- 27 1. As a condition for the receipt of funds under sections 1 through 8 of this Act, a
28 grantee shall agree to file a report with the committee, before September first, after
29 the end of the fiscal year for which the grant was awarded, as to:
 - 30 a. The amount received as a grant and the expenditures made with the
31 proceeds of the grant;

- b. A description of the program offered and the number of individuals who participated in the program; and
- c. Specific elements of the program meeting the criteria set forth in the state plan.

- 2. A grantee failing to timely file the report required under this section is subject to the jurisdiction of the state of North Dakota for repayment of the full amounts of the grants expended. The attorney general may sue for the recovery of grant funds.
- 3. The committee shall review and evaluate the reports of grantees required under this section and file a written report with the budget section of the legislative council before December fifteenth of each year on the status of the fund and the activities of the fund for the fiscal year most recently ended. The report must include a copy of the annual audit, the name of each grantee, and the amount of each grant made, the criteria used to award each grant, and whether the program implemented by each grantee met the criteria. The report is public immediately upon its filing.

SECTION 9. AMENDMENT. Subsection 1 of section 54-27-25 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 1. Transfers to a community health trust fund to be administered by the state department of health. ~~The state department of health may use funds as 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 and federal funds from the centers for disease control and prevention:
 - a. One million dollars must be used to provide state aid to local public health units.
 - b. An amount not to exceed four million dollars must be used to fund:
 - (1) A healthy schools grant program that provides grants to schools for tobacco cessation programs.

1 (2) A healthy communities grant program. The eligibility criteria for the
2 program must include a one hundred percent matching funds
3 requirement and must provide that grant eligibility is based upon a
4 community's effectiveness in enforcing state and local tobacco seller
5 and use laws and ordinances and reducing incidence of youth smoking
6 and other high-risk behaviors.

7 c. An amount not to exceed one million dollars must be used to fund a statewide
8 tobacco countermarketing media program and to provide antitobacco
9 materials and resources to the public.

10 d. The department shall use the remaining funds for public health emergencies
11 and to provide funding for the grant programs established under this
12 subsection, if necessary, based upon the anticipated timing of transfers to be
13 received from the tobacco settlement trust fund. Moneys may not be used to
14 engage in political activity or lobbying, including support of or opposition to
15 candidates, ballot questions, referenda, or similar activities.

16 **SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.