

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2063

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the tobacco prevention and control executive committee; to provide a statement of legislative intent; to provide for reports to the budget section; to amend and reenact sections 23-42-01, 23-42-02, 23-42-04, 23-42-05, 23-42-07, and 54-27-25 of the North Dakota Century Code, relating to the comprehensive tobacco prevention and control plan, advisory committee, plan review, and the tobacco settlement trust fund; to repeal chapter 23-38 of the North Dakota Century Code, relating to the community health grant program and advisory committee; to provide for retroactive application; and to declare an emergency.

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

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the tobacco prevention and control trust fund, not otherwise appropriated, to the tobacco prevention and control executive committee for the purpose of defraying the expenses of the committee, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Comprehensive tobacco control	\$0	\$16,392,495	\$16,392,495
Total special funds	\$0	\$16,392,495	\$16,392,495
Full-time equivalent positions	0.00	4.0	4.0

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the tobacco prevention and control trust fund, not otherwise appropriated, the sum of \$62,403, or so much of the sum as may be necessary, to the tobacco prevention and control advisory committee for the purpose of defraying the expenses of the committee; developing, implementing, and administering the comprehensive tobacco prevention and control plan; and contracting with a consultant to facilitate the development of the comprehensive plan, for the period beginning January 1, 2009, and ending July 1, 2009.

**SECTION 3. LEGISLATIVE INTENT.** It is the intent of the sixty-first legislative assembly that any act of the tobacco prevention and control executive committee or its employees is an act of the state of North Dakota functioning in its sovereign and governmental capacity. As a state entity the committee is subject to accountability requirements, including laws relating to state audits, fiscal management, records retention, and procurement. Employees of the committee are part of the state classified system.

**SECTION 4. REPORTS TO THE BUDGET SECTION.** The tobacco prevention and control executive committee shall report to the budget section quarterly on the implementation of the comprehensive tobacco prevention and control plan and outcomes achieved, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 5. AMENDMENT.** Section 23-42-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-01. Definitions.** As used in this chapter:

1. "Advisory committee" is the nine-member tobacco prevention and control advisory committee responsible to develop the comprehensive plan.
2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and control program that is consistent with the centers for disease control and prevention best practices for comprehensive tobacco prevention and control programs ~~and does not duplicate the work of the community health grant program created in chapter 23-38.~~
3. "Executive committee" means the three-member committee selected by the advisory committee and charged with implementation and administration of the comprehensive plan.
4. "Tobacco prevention and control fund" consists of all principal and interest of the tobacco prevention and control trust fund established by section 54-27-25.

**SECTION 6. AMENDMENT.** Section 23-42-02 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-02. Tobacco prevention and control advisory committee - Membership - Terms - Duties - Removal.**

1. The advisory ~~board~~ committee consists of nine North Dakota residents appointed by the governor for three-year terms as follows:
  - a. A practicing respiratory therapist familiar with tobacco-related diseases;
  - b. Four nonstate employees who have demonstrated expertise in tobacco prevention and control;
  - c. A practicing medical doctor familiar with tobacco-related diseases;
  - d. A practicing nurse familiar with tobacco-related diseases;
  - e. A youth between the ages of fourteen and twenty-one; and
  - f. A member of the public with a previously demonstrated interest in fostering tobacco prevention and control.
2. The governor shall select the youth and public member independently; the respiratory therapist from a list of three nominations provided by the North Dakota society for respiratory care; the four tobacco control experts from a list of two nominations per member provided by the North Dakota public health association's tobacco control section; the medical doctor from a list of three nominations provided by the North Dakota medical association; and the nurse from a list of three nominations provided by the North Dakota nurses association. The governor must make the appointments within three weeks of receiving the respective list of nominees. If the governor fails to make an appointment within three weeks, the association that provided the list of nominees shall select the committee member. In the initial appointments for the advisory committee, the governor shall stagger the terms of the members so that the terms of three members expire each fiscal year and that three members are appointed each year by June thirtieth. Accordingly, the governor's initial appointments, in some instances, must be for terms less than three years. The governor shall fill vacancies for the unexpired term as provided in this section.

3. No individual may serve more than two consecutive three-year terms. However, terms of less than three years are not considered in determining an individual's eligibility for reappointment.
4. A quorum of the advisory committee is required to conduct business, but the advisory committee may conduct a meeting with less than a quorum present. A quorum is a majority of the members of the committee. Any action taken requires a vote of the majority of the members present at the meeting.
5. The advisory ~~board~~ committee shall:
  - a. Select the executive committee;
  - b. Fix the compensation of the advisory committee and the executive committee. However, compensation may not exceed compensation allowed to the ~~legislature~~ legislative assembly. Advisory and executive committee members are entitled to reimbursement for mileage and expenses as provided for state officers in addition to any compensation provided;
  - c. Develop the initial comprehensive statewide tobacco prevention and control program ~~that includes~~, including support for cessation interventions, community and youth interventions, and health communication; and
  - d. Evaluate the effectiveness of the plan and its implementation and, before April first of each year, propose any necessary changes to the plan to the executive committee.
6. The governor may remove any member of the advisory committee for malfeasance in office, but the advisory committee is not subject to section 54-07-01.2.
7. No nomination to, or member of, the advisory committee ~~shall~~ may have any past or current affiliation with the tobacco industry or any industry, contractor, agent, or organization that engages in the manufacturing, marketing, distributing, sale, or promotion of tobacco or tobacco-related products.

**SECTION 7. AMENDMENT.** Section 23-42-04 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-04. Powers and duties of the executive committee.** To implement the purpose of this chapter and, in addition to any other authority granted elsewhere in this chapter, to support its efforts and implement the comprehensive plan, the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this chapter. The executive committee shall prepare and submit a biennial budget to the office of management and budget and the legislative assembly.

**SECTION 8. AMENDMENT.** Section 23-42-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-05. Development of the comprehensive plan.** The advisory committee shall develop the initial comprehensive plan within one hundred eighty days of the initial meeting of the advisory committee. The comprehensive plan must be funded at a level

equal to or greater than the centers for disease control and prevention recommended funding level. Funding for the comprehensive plan must supplement and may not supplant any funding that in the absence of this chapter would be or has been provided for the community health trust fund or other health initiatives.

**SECTION 9. AMENDMENT.** Section 23-42-07 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-07. Audit.** At least once a biennium, the executive committee shall provide for an independent review of the comprehensive plan to assure that the comprehensive plan is consistent with the centers for disease control and prevention best practices. The executive committee shall report the results of that review to the governor and to the state health officer on or before September first in each odd-numbered year.

**SECTION 10. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

**54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

1. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Except as provided in subsection 2, moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:
  - a. 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 which a minimum of eighty percent must be used for tobacco prevention and control.~~
  - b. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
  - c. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.
2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be administered by the executive committee for the purpose of creating and implementing the comprehensive plan provided for under chapter 23-42. If in any biennium, the tobacco prevention and control trust fund does not

have adequate dollars to fund a comprehensive plan, the treasurer shall transfer money from the water development trust fund to the tobacco prevention and control trust fund in an amount equal to the amount determined necessary by the ~~executive committee~~ legislative assembly to fund a comprehensive plan.

3. Transfers to the funds under this section must be made within thirty days of receipt by the state.

**SECTION 11. REPEAL.** Chapter 23-38 of the North Dakota Century Code is repealed.

**SECTION 12. RETROACTIVE APPLICATION.** Section 2 of this Act is retroactive to January 1, 2009.

**SECTION 13. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98045.0209 FN 3**

**A copy of the statement of purpose of amendment is attached.**