

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2004

That the House recede from its amendments as printed on pages 1357 and 1358 of the Senate Journal and pages 1393-1395 of the House Journal and that Engrossed Senate Bill No. 2004 be amended as follows:

Page 1, line 2, replace "and" with "to provide an appropriation for defraying the expenses of the development, implementation, and administration of the comprehensive tobacco prevention and control plan;" and after "intent" insert "; to provide for reports to the budget section; to amend and reenact subsection 2 of section 23-42-01 and sections 23-42-02, 23-42-03, 23-42-04, 23-42-05, and 23-42-07 of the North Dakota Century Code, relating to the comprehensive tobacco prevention and control plan; to provide for retroactive application; and to declare an emergency"

Page 2, after line 17, insert:

**"SECTION 5. 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 state department of health for the purpose of defraying the expenses of the comprehensive tobacco prevention and control advisory 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>
Salaries and wages	\$0	\$252,128	\$252,128
Grants	0	12,629,872	12,629,872
Total special funds	\$0	\$12,882,000	\$12,882,000
Full-time equivalent positions	0.00	2.00	2.00

**SECTION 6. 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 state department of health for the purpose of defraying the expenses of the tobacco prevention and control advisory committee, developing 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 7. REPORTS TO THE BUDGET SECTION.** The comprehensive 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 8. AMENDMENT.** Subsection 2 of section 23-42-01 of the North Dakota Century Code is amended and reenacted as follows:

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.

**SECTION 9. 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 10. AMENDMENT.** Section 23-42-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-03. Executive committee.** The executive committee of the advisory committee consists of three individuals selected by the advisory committee from its membership. The term of each member is for three years. The initial terms of the members must be staggered so that one member serves a three-year term, one member serves a two-year term, and one member serves a one-year term. The determination of initial terms shall be by lot. 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. The advisory committee shall fill vacancies for the unexpired term. An individual selected to serve on the executive committee is no longer eligible to serve if that individual is not a member of the advisory committee. The executive committee, in consultation with the state department of health, is responsible for the implementation and administration of the comprehensive plan, including the appropriateness of expenditures to implement the comprehensive plan. To reduce administrative costs, eliminate duplicative efforts, and maximize funding available to implement the comprehensive plan, the executive committee shall coordinate implementation and administration of the comprehensive plan with the state department of health. The executive committee may seek the counsel and advice of the advisory committee in implementing the plan, but the executive committee is the final decisionmaker.

**SECTION 11. AMENDMENT.** Section 23-42-04 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-04. Powers 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, subject to legislative appropriation, 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.

**SECTION 12. 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 13. 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 14. RETROACTIVE APPLICATION.** Section 6 of this Act is retroactive to January 1, 2009.

**SECTION 15. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly