

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

**CHAPTER A****TOBACCO USE PREVENTION AND CONTROL PROGRAM**

The initiated measure would add seven new sections to the North Dakota Century Code and amend N.D.C.C. section 54-27-25 to establish a 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.

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

**SECTION 1.** Seven new sections to the North Dakota Century Code are hereby created and enacted as follows:

**Definitions.** As used in this Act:

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 best practices for comprehensive tobacco prevention and control programs and does not duplicate the work of the community health grant program created in chapter 23-28.
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 2 of this Act.

**Tobacco Prevention and Control Advisory Committee - Membership - Terms - Duties -**

**Removal.**

1. The advisory board 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 non-state employees that 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 14 and 21;
  - 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 30. Accordingly, the governor's initial appointments must, in some instances, be for terms less than 3 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.

1       4. A quorum of the advisory committee is required to conduct business, but the  
2       advisory committee may conduct a meeting with less than a quorum present. A  
3       quorum is a majority of the members of the committee. Any action taken requires  
4       a vote of the majority of the members present at the meeting.

5       5. The advisory board shall:

6       a. Select the executive committee:

7       b. Fix the compensation of the advisory committee and the executive committee:  
8       however compensation may not exceed compensation allowed to the  
9       legislature. Advisory and executive committee members are entitled to  
10      reimbursement for mileage and expenses as provided for state officers in  
11      addition to any compensation provided;

12      c. Develop the initial comprehensive statewide tobacco prevention and control  
13      program that includes support for cessation interventions, community and  
14      youth interventions, and health communication; and

15      d. Evaluate the effectiveness of the plan and its implementation and, prior to  
16      April 1 of each year; propose any necessary changes to the plan to the  
17      executive committee.

18      6. The governor may remove any member of the advisory committee for malfeasance  
19      in office, but the advisory committee is not subject to section 54-07-01.2.

20      7. No nomination to, or member of, the advisory committee shall have any past or  
21      current affiliation with the tobacco industry or any industry, contractor, agent, or  
22      organization that engages in the manufacturing, marketing, distributing, sale, or  
23      promotion of tobacco or tobacco related products.

24      **Executive Committee.** The executive committee of the advisory committee consists of three  
25      individuals selected by the advisory committee from its membership. The term of each member  
26      is for three years. The initial terms of the members must be staggered so that one member  
27      serves a three-year term, one member serves a two-year term and one member serves a  
28      one-year term. The determination of initial terms shall be by lot. No individual may serve more  
29      than two consecutive three-year terms; however terms of less than three years are not  
30      considered in determining an individual's eligibility for reappointment. The advisory committee  
31      shall fill vacancies for the unexpired term. An individual selected to serve on the executive

1 committee is no longer eligible to serve if they are not a member of the advisory committee.

2 The executive committee is responsible for the implementation and administration of the

3 comprehensive plan, including the appropriateness of expenditures to implement the

4 comprehensive plan. The executive committee may seek the counsel and advice of the

5 advisory committee in implementing the plan, but the executive committee is the final decision

6 maker.

7 **Powers of the Executive Committee.** To implement the purpose of this Act and, in addition to

8 any other authority granted elsewhere in this Act, to support its efforts and implement the

9 comprehensive plan the executive committee may employ staff and fix their compensation,

10 accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money,

11 lease property, provide direction to the state investment board for investment of the tobacco

12 prevention and control fund, and take any action that any private individual, corporation, or

13 limited liability company lawfully may do except as restricted by the provisions of this Act.

14 **Development of the Comprehensive Plan.** The advisory committee must develop the initial

15 comprehensive plan within 180 days of the initial meeting of the advisory committee. The

16 comprehensive plan must be funded at a level equal to or greater than the centers for disease

17 control recommended funding level. Funding for the comprehensive plan must supplement and

18 may not supplant any funding that in the absence of this Act would be or has been provided for

19 the community health trust fund or other health initiatives.

20 **Conflict of Interest.** No member of the advisory committee or of the executive committee who

21 has a direct and substantial personal or pecuniary interest in a matter before them may vote or

22 take any action on that matter.

23 **Audit.** At least once a biennium, the executive committee shall provide for an independent

24 review of the comprehensive plan to assure that the comprehensive plan is consistent with the

25 centers for disease control best practices. The executive committee shall report the results of

26 that review to the governor and to the state health officer on or before September 1 in each odd

27 numbered year.

28 **SECTION 2. Amendment.** Section 54-27-25 of the 2005 supplement to the North Dakota

29 Century Code is hereby amended and reenacted as follows:

30 **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

- 1        1.    There is created in the state treasury a tobacco settlement trust fund. The fund  
2        consists of the tobacco settlement dollars obtained by the state under ~~sections~~  
3        subsection IX (c)(1) (payments) and X1 (calculation and disbursement of  
4        payments) of the master settlement agreement and consent agreement adopted by  
5        the east central judicial district court in its judgment entered December 28, 1998  
6        [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris,  
7        Inc. All Except as provided in subsection 2, moneys received by the state  
8        ~~pursuant to the judgment and all moneys received by the state for enforcement of~~  
9        ~~the judgment~~ under subsection IX(c)(I) must be deposited in the fund. Interest  
10       earned on the fund must be credited to the fund and deposited in the fund. The  
11       principal and interest of the fund must be allocated as follows:
- 12       ~~4-~~    a.    Transfers to a community health trust fund to be administered by the state  
13       department of health. The state department of health may use funds as  
14       appropriated for community-based public health programs and other public  
15       health programs, including programs with emphasis on preventing or reducing  
16       tobacco usage in this state. Transfers under this subsection must equal ten  
17       percent of total annual transfers from the tobacco settlement trust fund of  
18       which a minimum of eighty percent must be used for tobacco prevention and  
19       control.
- 20       ~~2-~~    b.    Transfers to the common schools trust fund to become a part of the principal  
21       of that fund. Transfers under this subsection must equal forty-five percent of  
22       total annual transfers from the tobacco settlement trust fund.
- 23       ~~3-~~    c.    Transfers to the water development trust fund to be used to address the  
24       long-term water development and management needs of the state. Transfers  
25       under this subsection must equal forty-five percent of the total annual  
26       transfers from the tobacco settlement trust fund.
- 27       2.    There is created in the state treasury a tobacco prevention and control trust fund.  
28       The fund consists of the tobacco settlement dollars obtained by the state under  
29       section 1X (c) (2) of the agreement adopted by the east central judicial district court  
30       in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North  
31       Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund

- 1           must be credited to the fund and deposited in the fund. Moneys received into the  
2           fund are to be administered by the executive committee for the purpose of creating  
3           and implementing the comprehensive plan. If in any biennium, the tobacco  
4           prevention and control trust fund does not have adequate dollars to fund a  
5           comprehensive plan, the treasurer shall transfer money from the water  
6           development trust fund to the tobacco prevention and control trust fund in an  
7           amount equal to the amount determined necessary by the executive committee to  
8           fund a comprehensive plan.  
9        3.   Transfers to the funds under this section must be made within thirty days of receipt  
10       by the ~~tobacco settlement trust fund~~ state.