

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

1 CHAPTER A

2 TOBACCO USE PREVENTION AND CONTROL PROGRAM

3 The initiated measure would add seven new sections to the North Dakota Century Code and
4 amend N.D.C.C. section 54-27-25 to establish a tobacco prevention and control advisory
5 committee and an executive committee; develop and fund a comprehensive statewide tobacco
6 prevention and control plan; and create a tobacco prevention and control trust fund to receive
7 tobacco settlement dollars to be administered by the executive committee.

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

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

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

- 12 1. "Advisory committee" is the nine-member tobacco prevention and control advisory
13 committee responsible to develop the comprehensive plan.
- 14 2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and
15 control program that is consistent with the centers for disease control best
16 practices for comprehensive tobacco prevention and control programs and does
17 not duplicate the work of the community health grant program created in chapter
18 23-28.
- 19 3. "Executive committee" means the three-member committee selected by the
20 advisory committee an charged with implementation and administration of the
21 comprehensive plan.
- 22 4. "Tobacco prevention and control fund" consists of all principal and interest of the
23 tobacco prevention and control trust 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 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 reappointments.

1 4. A quorum of the advisory committee may conduct a meeting with 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 allowed to the legislature.
10 Advisory and executive committee members are entitled to reimbursement for
11 mileage and expenses as provided for state officers in addition to any
12 compensation provided:

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

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

19 6. The governor may remove any member of the advisory committee for malfeasance
20 in office, but the advisory committee is subject to section 54-07-01.2.

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

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

1 shall fill vacancies for the unexpired term. An individual selected to serve on the executive
2 committee is no longer eligible to serve if they are not a member of the advisory committee.
3 The executive committee is responsible for the implementation and administration of the
4 comprehensive plan, including the appropriateness of expenditures to implement the
5 comprehensive plan. The executive committee may seek the counsel and advice of the
6 advisory committee in implementing the plan, but the executive committee is the final decision
7 maker.

8 **Powers of the Executive Committee.** The implement the purpose of this Act and, in addition
9 to any other authority granted elsewhere in this Act, to support its efforts and implement the
10 comprehensive plan the executive committee may employ staff and fix their compensation,
11 accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money,
12 lease property, provide direction to the state investment board for investment of the tobacco
13 prevention and control fund, and take any action that any private individual, corporation, or
14 limited liability company lawfully may do except as restricted by the provisions of this Act.

15 **Development of the Comprehensive Plan.** The advisory committee must develop the initial
16 comprehensive plan within 180 days of the initial meeting of the advisory committee. The
17 comprehensive plan must be funded at the level equal to or greater than the centers for disease
18 control recommended funding level. Funding for the comprehensive plan must supplement and
19 may not supplant any funding that is in the absence of this Act would be or has been provided
20 for the community health trust fund or other health initiatives.

21 **Conflict of Interest.** No member of the advisory committees or of the executive committee
22 who has a direct and substantial personal or pecuniary interest in the matter before them may
23 vote or take any action on that matter.

24 **Audit.** At least once a biennium, the executive committee shall provide for an independent
25 review of the comprehensive plan to assure that the comprehensive plan is consistent with the
26 centers for disease control best practices. The executive committee shall report the results of
27 that review to the governor and to the state health officer on or before September 1 in each odd
28 numbered year.

29 **SECTION 2. AMENDMENT.** Section 54-27-25 of the 2005 supplement to the North Dakota
30 Century Code is hereby amended and reenacted as follows:

31 **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 (calculations and disbursement of payments)
4 of the master settlement agreement and consent agreement adopted by the east
5 central judicial district court in its judgment entered December 28, 1998 [Civil
6 No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.
7 ~~All~~ Except as provided in subsection 2, moneys received by the state ~~pursuant to~~
8 ~~the judgment and all moneys received by the state for enforcement of the judgment~~
9 under subsection IX(c)(1) must be deposited in the fund. Interest earned on the
10 fund must be credited to the fund and deposited in the fund. The principal and
11 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.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.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 IX(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 state.