

1999 HOUSE APPROPRIATIONS

HB 1475

1999 HOUSE STANDING COMMITTEE MINUTES
BILL/RESOLUTION NO. House Bill 1475

House Appropriations Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
ONE	X		.8 to 22.5
Committee Clerk Signature <i>Kathleen Jones</i>			

Minutes:

A BILL for an Act to provide for allocation of funds from settlements with tobacco product manufacturers.

1A:0.8 to 1.2 Vice Chairman Rex Byerly called the meeting to order on House Bill 1475.

1A:1.2 to 17.4 Rep. Dalrymple, District 22, gave the committee an overview of HB 1475. This bill would allow the tobacco settlement moneys (principle & interest) in the settlement trust fund and with appropriation of the Legislative Assembly to be expended for the purposes of health education, school trust fund (k-12) and resources trust fund. This would create a road map for future legislators regarding these funds. This bill would put all money into a trust immediately and does not have a continuing appropriated action. This money would move from the trust fund by appropriated by the Legislation Action. On the fiscal note, about \$57.6 million could come into the state during the next biennium. Ten percent of the funds would go to tobacco education.

Rep. Dalrymple stated with this is a windfall the state should consider the funding needed by K-12. This is an area which has failed to meet the goals for state support for K-12 schools.

Also, there are a large number of water needs in our state. Rep. Dalrymple believes the state would return on the invested dollars for any water project would be tremendous.

1A:8.3 to 10.1 Rep Tollefson asked if we limited the number of principle dollars and used only the interest dollars if this fund could be on going for a number of added years. Rep. Dalrymple state this is one of the reason to look into the schools trust fund.

1A:10.4 - 12.3 Rep. Carlson Ask if the money received during the next biennium be used? Rep. Dalrymple stated this would be a legislative decision. This would give the Governor some legislative directive for using the settlement money in the future.

1A:12.3 - 15.4 Discussion took place as to the possibilities of the future use of the tobacco settlement money.

1A: 17.5 - 19.0 Helen Bush, North Dakota Education Association, support HB 1475 and funding for K-12 schools in the state. All the principle of this fund should be persevered and use only the interest of these funds. Ask the committee consider education as a prior of these funds.

1A: 19.0 - 20.3 Mike Dwyer, North Dakota Water Users, stated there are critical water needs across the state from Grand Forks to the Southwest Pipeline. Urge the committee to use some of the funds for water needs as stated in HB 1475.

1A: 20.3 - 21.3 Rosellen Sand, ND Attorney General Office, presented testimony on behalf of the attorney general. A line item of \$150,000 for the enforcement of the judgment. (See enclosed testimony.)

General Discussion

House Appropriations - House Bill 1436 & 1475

Date: January 27, 1999			
Tape Number	Side A	B Side	Meter #
FOUR	X		0.-14.5
Committee Clerk Signature <i>Kathleen Jones</i>			

Minutes: **BILLS REGARDING THE SETTLEMENT OF TOBACCO FUNDS.**

Chairman Dalrymple called for discussion on HB 1436 and HB 1475.

1A:0.0 Rep. Delzer suggested setting up a trust fund with very few restrictions and let the next Legislative Assembly deal with the appropriations of dollars received.

1A:1.7 Rep. Carlisle commented that the common school trust fund which is a constitutional trust may be the safest for the funds if received.

1A: 4.3 Rep. Aarsvold expressed his feeling as to the obligation to use part of the trust fund dollars in health and education, especially tobacco abuse. Several members of the committee expressed their views. Allan Knudson, Legislative Council, stated he was of the opinion that all the tobacco settlement dollars could be used for the wishes of the Legislative Assembly. These funds are currently unrestricted. Discussion continued regarding if the unrestricted funds would continue in the future.

1A:9.8 Rep. Svedjan asked if the common school fund could serve as a repository and if the settlement funds would be commingled with other funds. Also, would there be any restrictions of the common school fund as to the future appropriations of the settlement funds? Allan Knudson, Legislative Council, stated that the funds would be commingled and each Legislative Assembly could appropriate the funds - interest only - as they deemed. Only the interest on principle maybe appropriated from the common school fund.

1A: 11.2 Rep. Byerly believe the responsibility of the committee is deposit a percentage of the funds in the common school fund, perhaps 60%, and the remaining funds could be used for other needs.

1A: 12.9 Rep. Aarsvold asked if the Legislative Council could provide figures on the impact of the common school trust fund. The Legislative Council will provide these figures.

Chairman Dalrymple asked for continuing input from the members of the committee and adjourned the discussion until a later date.

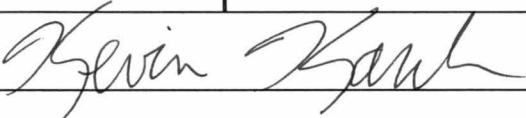
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1475

House Appropriations Committee

Conference Committee

Hearing Date 2/8/99

Tape Number	Side A	Side B	Meter #
1		x	0.6-31.6
Committee Clerk Signature 			

Minutes:

Chairman Dalrymple opened the hearing on HB 1475 in the Roughrider Room.

(0.6) Amendment number .0201 was introduced to the committee and discussion on the amendment took place.

(10.5) Rep. Poolman moved to pass the amendments, which was seconded by Rep. Carlisle.

(12.6) Rep. Poolman then proposed an amendment to line 8 of the bill and discussion took place on this.

(23.7) Rep. Poolman withdrew his motion to pass the amendments, and discussion took place on further amendments being proposed.

The hearing on HB 1475 was closed, without the committee taking action on this day.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date February 11, 1999			
Tape Number	Side A	B Side	Meter #
1	x		13.7-23.1
Committee Clerk Signature <i>Paulette Gussias</i>			

Minutes:

A Bill for an Act to provide for allocation of funds from settlements with tobacco product manufacturers.

13.7 Chairman Dalrymple opened committee work on HB 1475.

14.4 Chairman Dalrymple introduced amendment 90729.0203 about hog houses for the tobacco settlement.

For the tobacco settlement the funds will be received as follows:

1. Health Ed. distributed to schools by 5%
2. 50% common schools trust fund
3. 35% water resource trust fund
4. 10% undesignated, but to include in-force terms of judgment

16.3 Rep. Poolman moves to pass the amendment, 2nd by Rep. Carlisle. The motion passes by voice vote.

21.8 Rep. Poolman moves to pass HB 1475, 2nd by Rep. Carlisle. The vote is 15 yes, 5 no, 0 absent. Rep. Monson carries the bill to the house floor.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: _____ Amendment to: HB 1475

Requested by Legislative Council _____ Date of Request: 2-16-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

The amended bill creates a tobacco settlement trust fund, 5% of the transfer from this fund must be deposited in a health education trust fund administered by the Superintendent of Public Instruction. Fifty percent of annual transfers must go to the common schools trust fund. Transfers to the water trust fund must equal 35%. Ten percent may be transferred for other purposes as designated by the legislature.

- State** fiscal effect in dollar amounts:

	1997-99 Biennium General Fund	Special Fund	1999-2001 Biennium General Fund	Special Funds	2001-03 Biennium General Fund	Special Funds
Revenues:		N/A		Unknown		Unknown
Expenditures:		N/A		Unknown		Unknown

- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: N/A
- For the 1999-2001 biennium: Unknown
- For the 2001-03 biennium: Unknown

- County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
Unknown					Unknown			Unknown

If additional space is needed,
attach a supplemental sheet.

Signed  _____

Typed Name Joseph C. Linnertz

Date Prepared: 2/22/99

Department Department of Public Instruction

Phone Number (701) 328-2278

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB1475 Amendment to: _____

Requested by Legislative Council Date of Request: 1-20-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

This bill requires all tobacco settlement funds to be deposited into a tobacco settlement trust fund. The bill provides a 10% transfer of the settlement funds to a health education trust fund. The State Department of Health will use these funds to administer a tobacco prevention program. There will be no additional FTE's added to our Department. Funds will be granted to local communities to provide direct services.

The remaining 90% of the settlement funds will be transferred to the common school trust fund and the resources trust fund.

See attached for projection of revenue from tobacco settlement.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:		NA		57.6 million est		61.1 million est.
Expenditures:		NA		Unknown		Unknown

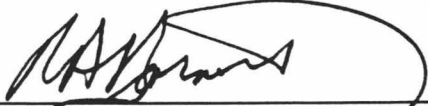
3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: NA
- b. For the 1999-2001 biennium: 5.8 million
- c. For the 2001-03 biennium: 6.1 million

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
		Unknown			Unknown			Unknown

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Robert A. Barnett

Date Prepared: 1-25-99

Department State Department of Health

Phone Number 328-2392

Fiscal Note HB 1475
Tobacco Settlement Funds

The Master Settlement Agreement (signed in November) contemplates the following payments to ND:

- 1998 ~ \$8,784,331
- 1999 ~ \$0
- 2000 ~ \$23,467,889
- 2001 ~ \$25,341,550
- 2002 ~ \$30,427,805
- 2003 ~ \$30,715,772
- 2004 - 2007 ~ \$25,635,606
- 2008 - 2017 ~ \$26,144,365
- 2009 - 2025 ~ \$29,295,744

During the 1999 - 2001 biennium, payments totaling \$57.6 million should be paid into an escrow account and should be available to ND (according to Laurie Loveland).

- On or before 6/30/00 ~ three payments totaling \$32.2 million
- On or before 1/10/01 ~ one payment totaling \$9.3 million
- On or before 4/15/01 ~ one payment totaling \$16.1 million

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1475

Page 1, line 9, replace "state" with "superintendent of public instruction"

Page 1, line 10, remove "department of health" and replace "state department of health may use" with "superintendent of public instruction shall distribute grant"

Page 1, line 11, replace "or reduce tobacco usage" with "substance abuse"

Page 1, line 12, after the period insert "The superintendent of public instruction shall distribute grants to schools on the basis of average daily membership."

Page 1, line 13, replace "ten" with "five"

Page 1, line 16, after the period insert "Transfers under this subsection may not exceed fifty percent of total annual transfers from the tobacco settlement trust fund."

Page 1, line 18, after the period insert "Transfers under this subsection may not exceed thirty-five percent of total annual transfers from the tobacco settlement trust fund."

Page 1, after line 18, insert:

- "4. Transfers for other purposes approved by the legislative assembly may be made in amounts not exceeding ten percent of total annual transfers from the tobacco settlement trust fund."

Renumber accordingly

Date: 2/8/99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House _____ Committee _____

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 90729.0201

Action Taken Do Pass

Motion Made By Poolman Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols		X
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold	X	X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm	X		Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer	X				
Gulleson		X			
Hoffner		X			
Huether	X				
Kerzman		X			
Lloyd	X				
Monson	X				

Total (Yes) 15 *Click here to type Yes Vote* No 5 *Click here to type No Vote*

Absent 0

Floor Assignment *Click here to type Floor Assignment*

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1475

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for allocation of funds from settlements with tobacco product manufacturers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Tobacco settlement trust fund - Interest on fund - Uses.

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 sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. (east central dist. ct., December 28, 1998). All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment 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 shall be appropriated for purposes only as follows:

1. Transfers to a health education trust fund to be administered by the superintendent of public instruction. The superintendent of public instruction shall distribute grant funds as appropriated on the basis of average daily membership only for programs intended to prevent substance abuse in this state, with emphasis on youth education and cessation programs. Transfers under this subsection must equal five percent of total annual transfers from the tobacco settlement trust fund.
2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal fifty percent of total annual transfers from the tobacco settlement trust fund.
3. Transfers to the resources trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal thirty-five percent of the total annual transfers from the tobacco settlement trust fund.
4. Transfers for other purposes approved by the legislative assembly, including enforcement of the terms of the judgment, must equal ten percent of total annual transfers from the tobacco settlement trust fund.

*State Water Commission
approved by Gov.
Statewide development
of water mgmt.*

Transfers to the funds under subsections 1, 2, and 3 must be made within thirty days of receipt by the tobacco settlement trust fund. Funds to be transferred under subsection 4 must be held in the tobacco settlement trust fund until appropriated and transferred as directed by the legislative assembly.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

*Deleg
Hoffner
Nichols
Carr
Kerzner*

Date: 2/11/99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House Appropriations Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number .0203

Action Taken Do Pass

Motion Made By Poolman Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple			Nichols		
Vice-Chairman Byerly			Poolman		
Aarsvold			Svedjan		
Bernstein			Timm		
Boehm			Tollefson		
Carlson			Wentz		
Carlisle					
Delzer					
Gulleson					
Hoffner					
Huether					
Kerzman					
Lloyd					
Monson					

Total (Yes) 20 No 0

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/11/99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Dr Pass As Amended

Motion Made By Poolman Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols		X
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold		X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm	X		Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer		X			
Gulleson	X				
Hoffner		X			
Huether	X				
Kerzman		X			
Lloyd	X				
Monson	X				

Total (Yes) 15 No 5

Absent 0

Floor Assignment Monson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1475: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1475 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for allocation of funds from settlements with tobacco product manufacturers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Tobacco settlement trust fund - Interest on fund - Uses.

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 sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. (east central dist. ct., December 28, 1998). All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment 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 shall be appropriated for purposes only as follows:

1. Transfers to a health education trust fund to be administered by the superintendent of public instruction. The superintendent of public instruction shall distribute grant funds as appropriated on the basis of average daily membership only for programs intended to prevent substance abuse in this state, with emphasis on youth education and cessation programs. Transfers under this subsection must equal five percent of total annual transfers from the tobacco settlement trust fund.
2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal fifty percent of total annual transfers from the tobacco settlement trust fund.
3. Transfers to the resources trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal thirty-five percent of the total annual transfers from the tobacco settlement trust fund.
4. Transfers for other purposes approved by the legislative assembly, including enforcement of the terms of the judgment, must equal ten percent of total annual transfers from the tobacco settlement trust fund.

Transfers to the funds under subsections 1, 2, and 3 must be made within thirty days of receipt by the tobacco settlement trust fund. Funds to be transferred under subsection 4 must be held in the tobacco settlement trust fund until appropriated and transferred as directed by the legislative assembly.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

1999 SENATE APPROPRIATIONS

HB 1475

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. ENGROSSED HB 1475

Senate Appropriations Committee

Conference Committee

Hearing Date 3/9/99; 3/12/99; 3/30/99 a.m.; 3/30/99 p.m.; 4/1/99

Tape Number	Side A	Side B	Meter #
2		1500-end	
3	0-143		
3/12/99	1390-end	0-180	
3/30/99 a.m. 1	3380-4150		
3/30/99 p.m. 3	2845-3480		
4/1/99 1		732-1380	
Committee Clerk Signature		<i>Gaudia Anderson</i>	

Minutes:

SENATOR NETHING: Opened the hearing on engrossed HB 1475; a BILL for an Act to provide for allocation of funds from settlements with tobacco product manufacturers; and to declare an emergency.

JACK DALRYMPLE: Representative, District 22, a cosponsor of HB 1475, to testify in support reengrossed bill. The purpose of the bill is to provide a place for the tobacco settlement funds, if we receive that money. This bill creates a tobacco settlement trust fund, it provides that interest on the fund shall accrue and be deposited in the fund, and it delineates how the principal and the interest on the fund shall be appropriated. The reason is that we have received testimony from the Attorney General that we will receive \$56M in the coming biennium from the tobacco settlement. You can form your opinion on whether that is the right number, but the fact is this is something that may happen. We need to be ready to handle those dollars. In the absence of any action, I suppose the funds are simply accepted by the State Treasurer, and they would land in our ending fund balance. I think there is where you begin to see the reason why we need to have some input now on how we would like to see these funds used on a long-term basis.

The Governor's budgeting process will be taking place basically beginning a year from now. During that long time before we arrive back in session, they will develop an awareness of what kind of dollars might become available. Do we want to have those dollars as part of the biennial budgeting process, or do we not? I think the answer is, we do not at this time. The reason I say that is the windfall funds, some say as much as \$700M or more are really not in a category of everyday operating funds as far as the state is concerned. We have likened this to a family budget in which you have every month a certain amount of income, and every month you have a certain amount of expenses. You do your best to make sure those two amounts are roughly in balance, and at the end of the year you have enough money left over. If a windfall comes to your family for whatever reason, you would take those funds and you would look at them differently than you do your normal monthly operating budget. Those windfall dollars become, I think, an opportunity

to do because of a lack of funds. I think in the case of ND, this is where we would like to prescribe, to some extent, where those kinds of windfall dollars might go.

One of the things we would like to do, long-term, that we have been frustrated that we haven't been able to do to the extent we would like. Consequently, after much discussion, I think the allocation you see here is very much the result of a survey, almost, of the House members. There was not pure consensus on this, to some extent this might be considered an average of a lot of opinions. But, first of all, we know a certain amount of the funds we do want to dedicate to the prevention of tobacco use, particularly among our youth, and to the cessation of smoking to the extent possible. We have dedicated 5% of whatever funds become available to that purpose. Some have said that is not enough, but I think after discussing it we came to the conclusion that one of the problems with spending money on tobacco prevention or cessation is that it is very much subject to a law of diminishing returns. You have probably have had some exposure to prevention programs through our local schools, or whatever, and what our administrators there have told us is that after you have held a certain number of prevention programs, you've done a certain amount of education, and had a certain amount of films, or whatever, it reaches a point where spending more money on that is redundant and not particularly effective. So we do take the attitude, in this case, \$2.00 is not necessarily twice as good as \$1.00 spent in this area. We've also chosen to distribute the funds directly into our schools. We have felt the emphasis should be on our youth. We think the best way to reach our youth is through our own school system. We don't think we need more bureaucracies, more committees, more analysis, we simply need to get the money out there and focus it toward our young people.

The second area is 50% of the money to the common schools trust fund; and, of course K-12 has always been one of our top priorities. I think there one of the nice things is that the common schools trust fund is already a constitutional endowment fund. which means once the funds land there, they stay there, and only the interest on the funds is distributed on an annual basis. That to us is a very long term, but appropriate use of the funds.

The third area is the resources trust fund. There I think we are persuaded, after talking to others, but this is one of the areas that has made all of us frustrated as legislators that we have been unable to come up with the kind of funding we know is needed in that area. The returns on investment there we know are outstanding, and yet we seem to have a hard time building that into our biennial building process. Therefore, on a long term basis, recognizing it is extremely costly, we think it is an ideal use for these funds.

Finally, we had some members who simply had other projects, I guess you could call 'pet projects', and it seemed like everyone had one thing they also wanted to include in this funding scheme. So, we ended up with 10% undesignated. We set up some parameters for the transfer of the funds within 30 days from the tobacco settlement trust fund, and ultimately the further use of these funds is all subject to legislative appropriation. That is the final step in actually using them and expending them each biennium.

So, Mr. Chairman, I think you will find this bill is all-purpose. We would expect you to be discussing it and having your own ideas on it. We think it is quite compatible with the water bill that we've heard in the House which calls for 45% dedication for water projects. If the Senate

feels the other 10% belongs in that category, I think you might as well as go ahead and make that kind of modification. But, on the whole, I think we are on the right track. I saw Senator Conrad last Friday when he was here. He said he was very optimistic that the federal government will not take any significant funds from the settlement. He also said there would be one thing coming out of the Congress and that would be a bill prescribing for the states some kind of allocation scheme. For the same reasons I think we're looking at it here, and I asked him what had been discussed so far. He said so far what he had heard was 50% unrestricted; 40% for education and health in general; and 10% specifically for tobacco-related illnesses or smoking cessation. So just be happenstance, I think we're pretty much in sync to what is being heard so far in Washington.

SENATOR SOLBERG: The money to the water resource trust fund, do you feel this would help in any way or send a message to Washington on the Dakota Water Resource Act? Was there any discussion on this in the House when you looked at this?

DALRYMPLE: Yes, we have been trying for years to send the proper signals to Washington that we are prepared and ready to go on some of these water areas. I think now is a great opportunity for us to truly back that up with some resources. I don't think there would be any question that we would be ready to move in some of these areas.

SENATOR ST. AUBYN: In regards to the last paragraph before the emergency clause, it talks about transfer in subsections 1, 2, and 3, must be made within 30 days within receipt of the tobacco settlement trust fund. If we distribute these funds right away according to the formula designed in there, and then Congress does decide to take part of our funds. How do we get those funds back to the federal government?

DALRYMPLE: The way it has been explained to us is that it is very unlikely that there would every develop any kind of payback situations. If they decided there was some kind of Medicaid offset due the federal government, they would implement an offset scheme against future distributions and that there would not be any kind of a bill coming to the state. We would simply not receive that money initially either as part of the settlement or if we did and they felt that something needed to be returned, we would simply have debits over a period of time.

SENATOR KRAUTER: Subsection 4, about the 10%, is it your interpretation that would be in the ending balance for that?

DALRYMPLE: I think the only interpretation is that it would simply be available for the legislative assembly for appropriation for whatever purpose. You'll notice it does include enforcement. We were told there would be some considerable expenses involved in the enforcement that is required by a settlement, but that is still pretty much an unknown.

SENATOR KRAUTER: Subsection 3, the 35%, when you estimated that \$56M would come into the state, and I divide that out and I come out to about \$9.8M/year, 35% per year. Is that a special number that is relating to the funding of the water project, or is that just a percentage? Can you provide some background as to why you came to 35% versus 30% or 40%?

DALRYMPLE: To some extent it is a number that we backed into. There was people that felt 50% of the common schools trust fund was a necessity. We felt, of course, that tobacco related programs - 5% would probably be a minimum. And, then we had this other consideration of people wanting some funds undesignated. To some extent it was a number we backed into.

SENATOR TOMAC: Subsection 1, with the 5% and the theory of diminishing returns, with the roughly \$2-\$3M in the next biennium going to that. How did you arrive at the \$2-\$3M or the 5%? If we receive \$3M for a biennium, that is 600,000 people, that's \$5.00 for every man, woman, or child for cessation or education. This strikes me as a little on the low side. I see the original bill had 10% in for cessation and education. How concrete are you on that 5%? It strikes me as being small, considering the enormity of the problem.

DALRYMPLE: It is sort of a two-step process. First, it took us a while to accept the idea that health programs, or tobacco programs are not a condition of the settlement of this suit. If you think through the damages that have occurred to the state over a period of decades, you realize we have been paying through our own health care programs, state dollars into the care of these folks at ever level. The settlement is truly the return of our money to us from those expenditures we have already made. As such, Attorney General Heidi Heitkamp negotiated for an unrestricted amount of money. Now, having said that, we do still look at the situation and say if there is a windfall, it would be appropriate to dedicate some funds to the solution of the problem. But, as we looked at solving the problem, it did not seem to us that anything was appropriate other than attempting to prevent future use of tobacco. We wanted to target our efforts to the young folks that might be considering taking up smoking right now. Once you accept that premise, you begin to get into a situation where you realize more is not necessarily better.

SENATOR ANDRIST: Things change so fast in our world, is money that goes into the common schools trust fund locked in if the state had an emergency situation? I'm reasonably certain the water fund would be, but how about the school trust fund?

DALRYMPLE: I believe according to the Constitution, it is indeed locked in and would require a vote of the people, I presume, or a Constitutional Amendment to change that. But, keep in mind, as much as I hate to say it, what you see before you is only a statute. Our own formula can be changed by legislative action. Consequently, this certainly doesn't have that kind of force. This is merely a roadmap--where we think we should proceed at this time.

SENATOR ANDRIST: Did the House have any testimony indicating there would be support for the federal amendment, contingent in the Senate? I understand that Representative Pomeroy is on board, but Senators Dorgan and Conrad are reluctant to sign onto the amendment that would keep the money in the hands of the state. Did you receive any word from them?

DALRYMPLE: No, we did not receive any testimony on that. I did have a conversation with Senator Conrad on Friday. He said it certainly was under discussion, but he was optimistic the states would prevail ultimately.

KEITH JOHNSON: ND Public Health Association and the local Health Departments. I have provided you with testimony from the Cities of Fargo and Bismarck (written testimony), and the

Public Health Association. I am here to request that the Committee do nothing and to deposit the potential tobacco funds into trust funds - perhaps for some of the project purposes that have been laid out here today, but not immediately. We have significant public health needs. We are requesting you consider 20-33 percent of that settlement when it is finally decided upon, or whatever is required to keep the money from being recaptured by the federal government. We want to be sure all of the money stays within the state so we can all use it. (tape 2, B, 3650-3800)

JANE HERMAN: American Heart Association, to testify (attachment 1A) in support of a proposed amendment (attachment 1B) to HB 1475. (tape 2, B, 3800-4600)

SENATOR NAADEN: How effective is the current program?

HERMAN: Youth tobacco usage is increasing. Tobacco advertising in ND is \$12M.

BOB CLEMENTICH: Tobacco Free ND, and the American Cancer Society, to testify in support of committing tobacco settlement moneys to public education initiatives (testimony attached #2) (tape 2, B, 4740-5585)

SENATOR LINDAAS: Are you satisfied with the percentages dedicated to each area in the current bill?

CLEMENTICH: No. First of all we don't have what it would cost ND to do a comprehensive tobacco prevention program. We have guidelines set, and we have other states whose guidelines we can use. That's why we're asking for an interim study to see how we can use our money wisely.

SENATOR ST. AUBYN: In regards to the poll you did, do you have a copy of the questions? Also, I find it interesting on polls, are the people receiving these questions, are they aware of the information, i.e. how much the state has put into health related things already, etc.?

CLEMENTICH: I can get a copy of that poll for you. I don't know about the second part of your question, I would have to find that out for you. I do know, however, that there are no moneys set aside specifically for tobacco prevention in ND.

MARSHA DUPRE: Tobacco Free ND and Uni-Med Medical Center, to testify in support of committing tobacco funds to education opportunities. (attachment #3) (tape 2, B, 5900-end; tape 3, A, 0-143)

SENATOR NETHING: Recessed the hearing until 9:00 a.m., Friday, March 12.

SENATOR NETHING: Reopened the hearing on engrossed HB 1475, and requested those wishing to appear on behalf of Tobacco Free North Dakota, to submit their testimony in writing as there have been two others who have testified on their behalf.

MARV MUTZENBERGER: Senator, District 32, to offer some simple amendments to engrossed HB 1475. (attachment #1) You may be aware of SB 2250 which I proposed early in the session that the tobacco agreement settlement be placed into a trust fund and that the earnings of that fund be used dually: one portion to be reinvested in the fund itself to inflation-proof that fund, and the other portion to be used primarily to fund health related programs. I still favor that, but I'm quite certain this won't come to be. Tobacco use damage ought to be addressed more substantially than it is in HB 1475. Health issues were the basis for the tobacco settlement. These amendments increase the health education trust fund from 5% to 15%, it reduces the common schools trust fund from 50% to 45%, and it reduces administration and enforcement from 10% to 5%. (tape 1, A, 1390-1735)

CLINT THOM: Mandan, Respiratory Therapist, and President-Elect, ND Society for Respiratory Care (NDSRC), to testify in support of modifying HB 1475, as noted in NDSRC's guidelines that were sent to Committee members earlier for applying the tobacco settlement dollars. (testimony attached #2) (tape 1, A, 1735-2019)

SENATOR BOWMAN: How many millions will we spend to educate kids on what they already know?

THOM: Ads have become ineffective. We will only be successful when the adult population changes so we have to target that population as well.

MURRAY SAGSVEEN: State Health Officer, presented testimony (attachment #3, page 1) which summarized detailed background information (attachment #3, pages 2-13). He noted pages 9 and 10 which contain draft language to designate 10% of the settlement dollars going into community health grant programs. (tape 1, A, 2190-3560)

SENATOR GRINDBERG: What is your understanding of how these community health grant funds would be managed?

SAGSVEEN: The community groups would collaborate to determine priorities and then use these funds to meet what the groups decide are priorities. Every community's needs would not necessarily be the same.

SENATOR LINDAAS: Is there any data on what tobacco companies are spending on advertising?

SAGSVEEN: We can provide the amount spent nationwide, but not for ND.

SENATOR ST. AUBYN: Some of your materials indicate 40% of high schoolers smoke; you say 20%. Why the difference?

SAGSVEEN: It depends on how you ask the question. The question from the disease center is more for regular smokers.

LINDA JOHNSON: Director, School Health Programs for the Department of Public Instruction, to testify in favor of HB 1475, Section 1, regarding the health education trust fund. (attachment #4A) She also outlined principles of effectiveness (attachment #4B) and highlighted other features in her remaining attachments. (tape 1, A, 3800)

SENATOR SOLBERG: How long has the drug education program been in effect?

JOHNSON: Since 1987 in various amounts.

SENATOR SOLBERG: There's been a concerted effort to keep school drug free, yet we see drug usage rising. Why?

JOHNSON: Schools are involved in programming, but there has to be support from parents and the community. Billboards are coming down, certain t-shirt can't be printed, etc. Nicotine is a drug and is the gateway to other drugs.

DANA BOND: Director, ND Water Coalition, to speak in support of funding water projects with tobacco settlement money. The members of the Water Coalition like the 45% which is in SB 2188 which was introduced by your Chairman, endorsed by this Committee, and passed by the Senate. It was also endorsed by the Water Coalition last week. (tape 1, A, 4955)

ROBERT OLHEISER: State Land Department, to testify on behalf of the School Trust Fund. He presented information to encourage providing some funding for the common schools trust fund. The bill as currently exists would put 50% into that particular fund. The handout I'm distributing is the current performance results of educational funds in the common schools trust fund, the securities portfolio. In keeping with some of the testimony heard earlier, the Committee might be interested to know that within the normal distribution from endowments that is distributed, approximately 5% of your principle, anything over that goes back into grow the fund. But, if we received in the common schools trust fund half of the money, in the first year that would be \$25M, and we distributed 5% of that, initially that means an additional \$1,200,000 per year that's available for K-12 and over the course of the funds that may come in assuming a \$750M total, at some point in time that results in over \$17M additionally that would be available for distribution to K-12, based on a 5% distribution rate. Our point is not to lobby for a particular number, but we would certainly encourage you to put some money away in the permanent land grants trust fund. (attachment #5)

HEIDI HEITKAMP: Attorney General, indicated she felt there would be federal funds available, but cautioned committee members against encumbering all of the anticipated funds. She stated the amendments as presented by the Heart Association which simply says we have critical water needs, keep all of the water in the bill, but commit the 45% up to the \$85M to deal with the critical water needs which is a stop-gap measure. Maybe when we find out what the congressional response is we'll have an opportunity to restore the full 45%. I think getting a plan for tobacco control, getting critical water needs funded, and then reserving a period of time to find out what happens, congressionally before we finalize the plans for the use of the tobacco dollars. (tape 1, A, 5600-end)

SENATOR ANDRIST: Is your coalition prepared to go to court again if you get a reaction from Congress that seems unduly restrictive?

HEITKAMP: We're preparing our legal position. I've said repeatedly these are not Medicaid recoupment dollars, certainly not in ND, and that we will fight to keep every dime of these dollars. That could put us in a precarious position with our Medicaid expenditures. I think if they (Congress) decides they should keep 50% of that, I think we should still fight it from a sovereignty standpoint.

WRITTEN TESTIMONY:

PAULA FLANDERS; Director, Bismarck Burleigh Nursing Service and Public Health Nurse, Bismarck

MARY KAY HERRMANN: Director of Public Health, Fargo

SHARON LEET: Registered Nurse and Nurse Coordinator of Chemical Dependency Services in Minot, and Division of Juvenile Service with Tobacco Offenders

PENNI WESTON: ND Nurses Association, Bismarck

SUSAN KAHLER: Regional Program Coordinator, American Lung Association of ND, Bismarck

SENATOR NETHING: Closed the hearing on engrossed HB 1475.

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3/30/99 tape 1, A, 3380-4150

SENATOR NETHING: Reopened the hearing on engrossed HB 1475.

SENATOR KRAUTER: Presented and explained amendments # 90729.0402, and moved do pass.

SENATOR ROBINSON: Seconded the motion.

ROLL CALL: 5 yeas; 9 nays; 0 absent & not voting.

MOTION FAILED TO DO PASS AMENDMENTS #90729.0402.

SENATOR ST. AUBYN: Presented and explained amendments # 90729.0403, and moved do pass.

SENATOR HOLMBERG: Seconded the motion.

ROLL CALL: Voice vote passed to adopt amendments #900729.0402.

SENATOR NAADEN: Moved do pass engrossed HB 1475, as amended.

SENATOR ANDRIST: Seconded the motion.

ROLL CALL: 10 yeas; 4 nays; 0 absent & not voting.

MOTION CARRIED TO DO PASS ENGROSSED HB 1475, AS AMENDED

Yeas: Nething, Naaden, Solberg, Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad, Bowman, Andrist

Nays: Lindaas, Tomac, Robinson, Krauter

CARRIER: SENATOR NETHING

SENATOR NETHING: Closed the hearing on engrossed HB 1475.

3/30/99 p.m. tape 3, A, 2845-3480

SENATOR NETHING: Reopened the hearing on HB 1475.

SENATOR NAADEN: Moved reconsider action on HB 1475.

SENATOR ST. AUBYN: Seconded the motion.

ROLL CALL: Unanimous voice vote carried to do pass motion.

MOTION CARRIED TO RECONSIDER ACTION.

SENATOR ANDRIST: Presented the amendments, but noted these were not the correct amendments.

SENATOR NETHING: Suspended the hearing.

4/1/99 tape 1, B, 732-1380

SENATOR NETHING: Resumed the hearing on engrossed HB 1475.

SENATOR ANDRIST: Presented the amendments 90729.0405, and moved do pass.

SENATOR BOWMAN: Seconded the motion.

ROLL CALL: Unanimous voice vote approval carried to do pass amendment.

MOTION CARRIED TO DO PASS PROPOSED AMENDMENT 90729.0405.

SENATOR ANDRIST: Moved do pass engrossed HB 1475, as amended.

SENATOR BOWMAN: Seconded the motion.

ROLL CALL: 10 yeas; 4 nays; 0 absent & not voting.

MOTION CARRIED TO DO PASS ENGROSSED HB 1475, AS AMENDED.

Yeas: Nething, Naaden, Solberg, Tallackson, St. Aubyn, Grindberg, Holmberg, Kringstad,
Bowman, Andrist

Nays: Lindaas, Tomac, Robinson, Krauter.

CARRIER: SENATOR NETHING

SENATOR NETHING: Closed the hearing on engrossed HB 1475.

90729.0401
Title.

3/12/99
HB 1475

#1
Prepared by the Legislative Council staff for
Senator Mutzenberger
March 9, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1475

Page 1, line 19, replace "five" with "fifteen"

Page 1, line 21, replace "fifty" with "forty-five"

Page 2, line 4, replace "ten" with "five"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1475

Page 1, line 2, after "manufacturers" insert ", to create the health and tobacco control trust fund, and to create the health and tobacco control committee; to provide an appropriation"

Page 1, line 4, replace "**Tobacco settlement trust fund - Interest on fund - Uses**" with "**Health and tobacco control trust fund - Interest on fund - Allocation of tobacco settlement funds - Appropriation**"

Page 1, line 5, replace "tobacco settlement" with "health and tobacco control"

Page 1, line 12, replace "shall be appropriated" with "may be expended only for the following purposes:"

Page 1, remove line 13

Page 1, line 14, replace "a health education trust fund to be administered by the superintendent" with "the resources trust fund of not more than forty-five percent of each annual payment, but in no event to exceed eighty-five million dollars in total, of the funds received pursuant to sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. (east central dist. ct., December 28, 1998) for use in paying for bonds issued under section 3 of senate bill no. 2188, as approved by the fifty-sixth legislative assembly, and for other water projects authorized by the legislative assembly.

2. A transfer of nine hundred thousand dollars to the general fund.
 - a. Eight hundred thousand dollars, or so much of the sum as may be necessary, is appropriated from the state general fund to the department of human services for the biennium beginning July 1, 1999, and ending June 30, 2001, to supplement funds appropriated in senate bill no. 2012, as approved by the fifty-sixth legislative assembly, to provide the state match for the children's health insurance program provided for in senate bill no. 2182, as approved by the fifty-sixth legislative assembly, for all North Dakota children living at or below two hundred percent of poverty.
 - b. One hundred thousand dollars, or so much of the sum as may be necessary, is appropriated from the state general fund to the state department of health to defray the expenses of the health and tobacco control committee for the period beginning with the effective date of this Act and ending on June 30, 2001.
3. The remainder of the funds obtained by the state, and not otherwise appropriated or transferred by this section, must remain in the health and tobacco control trust fund and may not be expended until the health and tobacco control committee created by section 2 of this Act has completed its work and the legislative assembly has enacted a statutory plan to meet the needs of North Dakota's citizens related to tobacco diseases and addiction and to adopt and implement a tobacco control program."

Page 1, remove lines 15 through 24

Page 2, remove lines 1 through 5

Page 2, line 6, replace the first comma with "and" and remove ", and 3"

Page 2, line 7, replace "tobacco settlement" with "health and tobacco control" and replace "4" with "3"

Page 2, line 8, replace "tobacco settlement trust fund until appropriated and transferred as directed by the" with "health and tobacco control trust fund except as appropriated or transferred by this Act."

Page 2, remove line 9

Page 2, after line 9, insert:

"SECTION 2. Health and tobacco control committee - Study - Report to legislative council.

1. The health and tobacco control committee shall study tobacco control in North Dakota and the health needs of North Dakota citizens related to tobacco disease and addiction. The committee consists of nineteen members. Ten members must be legislators chosen by the legislative council, five of whom must be members of the senate, three from the majority party and two from the minority party, and five of whom must be members of the house, three from the majority party and two from the minority party. The state health officer and the attorney general, or their respective designees, are members of the committee. Seven private members, one from each of the following organizations, shall also serve on the committee and must be selected in the manner each of the organizations they represent may choose:
 - a. Tobacco free North Dakota;
 - b. North Dakota chapter of the American cancer society;
 - c. North Dakota chapter of the American heart association;
 - d. North Dakota chapter of the American lung association;
 - e. North Dakota public health association;
 - f. North Dakota medical association, which shall choose a member who is active in public health; and
 - g. North Dakota nurses association, which shall choose a member who is a public health or public school nurse.

Membership on the committee does not require the above organizations to comply with either the open meetings or open records laws except when in attendance at the committee meetings or engaged in work directed to be undertaken by the committee.

2. The committee shall begin its work as soon as practicable after the effective date of this Act. The committee shall report its findings to the legislative council at its November 2000 meeting. The committee's report must include a comprehensive plan including implementing legislation outlining present and future uses for the funds obtained by the state under sections IX (payments) and XI (calculation and disbursement of payments)

of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. (east central dist. ct., December 28, 1998), for the needs of the North Dakota citizens related to tobacco diseases and addiction and development and implementation of tobacco control programs.

3. The state health officer and attorney general or their designees and the legislative members of the committee are entitled to reimbursement for mileage and meals at the rates set for state employees pursuant to sections 44-08-04 and 54-06-09. The legislative members designated to serve are also entitled to a per diem of sixty-two dollars and fifty cents per day for each day, or portion of a day, spent in committee meetings."

Renumber accordingly

Date: 3/29/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. Engrossed H B 1407A 1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90729.0402

Action Taken DO PASS

Motion Made By Senator KRAUTER Seconded By Senator ROBINSON

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman		✓			
Senator Naaden, Vice Chairman		✓			
Senator Solberg		✓			
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn		✓			
Senator Grindberg		✓			
Senator Holmberg		✓			
Senator Kringstad		✓			
Senator Bowman		✓			
Senator Andrist		✓			

Total (Yes) 5 No 9

Absent 0

Floor Assignment Senator _____

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1475

Page 1, line 2, after "manufacturers" insert "; to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to monitoring tobacco product manufacturers settlement funds by the office of management and budget"

Page 1, line 19, replace "five" with "ten"

Page 1, line 21, replace "fifty" with "forty-five"

Page 2, line 1, replace "thirty-five" with "forty-five"

Page 2, remove lines 3 through 5

Page 2, line 6, replace "subsections 1, 2, and 3" with "this section"

Page 2, line 7, remove "Funds to be transferred under subsection 4 must be held"

Page 2, replace lines 8 and 9 with:

"SECTION 2. A new subsection to section 54-44-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Shall account for and monitor all funds received by the state from any tobacco settlement dollars described in section 1 of this Act and all associated settlements and related funds and shall report to the budget section of the legislative council on the status of such funds, settlements, offsets, and net resulting revenues and any other related information the budget section requires."

Renumber accordingly

Date: 3/29/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 90729.0403

Action Taken DO PASS

Motion Made By Senator St. Aubyn Seconded By Senator Holmberg

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE VOTE - PASSED No _____

Absent _____

Floor Assignment Senator _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/29/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 90729.0403

Action Taken DO PASS AS AMENDED

Motion Made By Senator NAADEN Seconded By Senator ANDRIST

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson	✓				
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Senator NETHING

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1475

Page 1, line 2, after "manufacturers" insert "; to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to monitoring tobacco product manufacturers settlement funds by the office of management and budget"

Page 1, line 14, after "a" insert "community", remove "education", and replace "superintendent" with "state department of health"

Page 1, line 15, remove "of public instruction" and replace "superintendent of public instruction shall distribute grant" with "state department of health may use"

Page 1, line 16, replace "on the basis of average daily membership only for programs" with "for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state"

Page 1, remove line 17

Page 1, line 18, remove "education and cessation programs"

Page 1, line 19, replace "five" with "ten"

Page 1, line 21, replace "fifty" with "forty-five"

Page 2, line 1, replace "thirty-five" with "forty-five"

Page 2, remove lines 3 through 5

Page 2, line 6, replace "subsections 1, 2, and 3" with "this section"

Page 2, line 7, remove "Funds to be transferred under subsection 4 must be held"

Page 2, replace lines 8 and 9 with:

"SECTION 2. A new subsection to section 54-44-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Shall account for and monitor all funds received by the state from any tobacco settlement dollars described in section 1 of this Act and all associated settlements and related funds and shall report to the budget section of the legislative council on the status of such funds, settlements, offsets, and net resulting revenues and any other related information the budget section requires."

Renumber accordingly

Date: 3-30-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90729.0404

Action Taken RECONSIDER PREVIOUS AMENDMENT

Motion Made By SENATOR NAADEN Seconded By SENATOR GRINDBERG

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE VOTE UNANIMOUS No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-30-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 90729.0404

Action Taken RECONSIDER PREVIOUS ACTION ON BILL

Motion Made By Senator NARDEN Seconded By Senator ANDRIST

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE VOTE - UNANIMOUS No _____

Absent _____

Floor Assignment Senator _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-30-99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

✓ Legislative Council Amendment Number 90729.0404

Action Taken RECONSIDER PREVIOUS ACTION

Motion Made By SENATOR NAADEN Seconded By SENATOR ST. AUBYN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman					
Senator Naaden, Vice Chairman					
Senator Solberg					
Senator Lindaas					
Senator Tallackson					
Senator Tomac					
Senator Robinson					
Senator Krauter					
Senator St. Aubyn					
Senator Grindberg					
Senator Holmberg					
Senator Kringstad					
Senator Bowman					
Senator Andrist					

Total (Yes) VOICE VOTE UNANIMOUS No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-1-99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. HB1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 90729.0405

Action Taken Do Pass

Motion Made By Senator Andrist Seconded By Senator Bowman

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson	✓				
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) ~~11~~ 10 No 4

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-1-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1475

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

✓ Legislative Council Amendment Number 90729.0425

Action Taken DO PASS AS AMENDED

Motion Made By Senator Andrist Seconded By Senator BOWMAN

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson	✓				
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Senator NETHING

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1475, as engrossed: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1475 was placed on the Sixth order on the calendar.

Page 1, line 2, after "manufacturers" insert "; to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to monitoring tobacco product manufacturers settlement funds by the office of management and budget"

Page 1, line 8, after "the" insert "east central judicial" and replace "in State of North Dakota, ex rel. Heidi" with "December 28, 1998 (Civil No. 98-3778)"

Page 1, line 9, remove "Heitkamp v. Philip Morris, Inc. (east central dist. ct., December 28, 1998)"

Page 1, line 14, after "a" insert "community", remove "education", and replace "superintendent" with "state department of health"

Page 1, line 15, remove "of public instruction" and replace "superintendent of public instruction shall distribute grant" with "state department of health may use"

Page 1, line 16, replace "on the basis of average daily membership only for programs" with "for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state"

Page 1, remove line 17

Page 1, line 18, remove "education and cessation programs"

Page 1, line 19, replace "five" with "ten"

Page 1, line 21, replace "fifty" with "forty-five"

Page 2, line 1, replace "thirty-five" with "forty-five"

Page 2, remove lines 3 through 5

Page 2, line 6, replace "subsections 1, 2, and 3" with "this section"

Page 2, line 7, remove "Funds to be transferred under subsection 4 must be held"

Page 2, replace lines 8 and 9 with:

"SECTION 2. A new subsection to section 54-44-04 of the 1997 Supplement to the North Dakota Century Code is created and enacted as follows:

Shall account for and monitor all funds received by the state from any tobacco settlement dollars described in section 1 of this Act and all associated settlements and related funds and shall report to the budget section of the legislative council on the status of such funds, settlements, offsets, and net resulting revenues and any other related information the budget section requires."

Renumber accordingly

1999 HOUSE APPROPRIATIONS

HB 1475

CONFERENCE COMMITTEE

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date April 10, 1999			
Tape Number	Side A	B Side	Meter #
1	x		.8-20.8
Committee Clerk Signature <i>Paulitt Gussiaas</i>			

Minutes:

CONFERENCE COMMITTEE ON HOUSE BILL 1475

1.0 DORSO: opened the conference committee with Nelson, Nothing, Mathern, Aarsvold present.

1.2 NELSON: SB 2188 just met, which is the water bill. A proposal to draw up a set of amendments was discussed in 2188. We should have the same person for both bills for amendments. The proposal for the amendment developed water development trust fund that the percentage that we agree on is 45% of the tobacco funds. The trust fund would have the first responsibility for paying off any bonds under 2188. The second responsibility is resources trust fund. The third other available sources for paying the bonds. 45% water, 45% school trust fund, 10% health related programs is what the tobacco trust fund. I make the motion for the amendments, 2nd by NOTHING.

4.6 AARSVOLD: I have had some discussion with some of the folks representing the health department. They are content with the language of the 45,45,10 breakdown. There are some concerns. Perhaps some of the proceeds from the common school trust fund to be delivered to the public schools through tuition.

5.7 NELSON: I have heard comments on that particular subject to. If in fact there are any dollars, I think you would be talking about 300 to 450 dollars per student.

7.8 NELSON: If read the language, the last part says including programs with emphasis on preventing or reducing tobacco usage in the state. I guess I'm comfortable with that is giving a enough direction here.

8.4 MATHERN: Nelson do your motions change the senate language at all or the structure of the percent.

8.6 NELSON: In that regard I'm wondering in the working. It is using words like including in there. I think we need to clean up the language some.

9.2 DORSO: I did visit with the degressional delegation. I told them that we would spend it on all addictions. I put it to them on the stand point of one, we want to ties on the money.

11.4 AARSVOLD: I would prefer the course of the court or congress to set the rules up in advance. For what ever reason they choose not to do so. My point of view at least it seems that no one lost more in terms of dealing with the tobacco issue. The big looser in the whole process is the federal government, it would not surprise me a bit if they came in and garnish a portion of that.

12.5 NELSON: I don't think they have one bit of right to those dollars. The state on ND suede the tobacco companies. The federal government did not. The federal government was not a party in the lawsuit.

13.0 DORSO: Our attorney general herself said that it wasn't their money. She didn't pursue it under anything than the anti trust suit. She also stated that if the feds tried to take any of it they would find themselves in court.

16.4 AARSVOLD: The senates amendments page 1 line 15, section is addressing community developed trust fund. That might show congress that we are concerned about the tobacco issue.

17.1 NELSON: Aarsvold if you want to work with the language and being something to the next meeting, that would be fine.

20.7 DORSO: adjourned the conference committee.

1999 CONFERENCE COMMITTEE MINUTES

BILL/RESOLUTION NO. 1475

Appropriations Committee

Conference Committee

Hearing Date April 12, 1999

Tape Number	Side A	Side B	Meter #
1	x		35.0-end blank
Committee Clerk Signature <i>Casey Davis</i>			

Minutes:

Chairman Dorso opened the meeting on HB 1475.

Rep. Aarsvold presented an amendment which was a policy statement regarding funds to be used for prevention efforts. He stated his concern that unless a portion of the funds are used for prevention, the state may lose the settlement funds.

Sen. Nelson said that the entire portion should be used the way North Dakota wants it to be used. He has trouble with the idea that it will only be used for one purpose.

Rep. Aarsvold said that their intent is not as divergent as he was led to believe.

Sen. Nelson said that the state presently spends \$386,000 per year on tobacco related programs. If we put 10% of the tobacco settlement funds into it, it would be a phenomenal amount.

Rep. Dorso said that the Senate amendments look like the next legislative assembly would have their fingers in the Health Care Trust Fund anyway.

Sen. Nelson replied that the Senate's intent was to split it 10-45-45.

Rep. Aarsvold said the tobacco industry spends \$20 million to promote their products in North Dakota. We should be making a more substantial effort.

Rep. Aarsvold moved for the adoption of his amendment. The motion was seconded by Sen. Tallackson. A roll call vote was taken and the motion failed. The votes were as follows: Sen. Nelson, no; Sen. Nothing, no; Sen. Tallackson, yes; Rep. Dorso, no; Rep. Aarsvold, yes; Rep. Dalrymple, absent and not voting.

Rep. Dorso presented amendment 0406 which was explained by Legislative Council staff.

Sen. Nelson asked if the references to the House Journal and Senate Journal are references to the House and Senate amendments that were put on.

Legislative Council said this was correct.

Rep. Aarsvold said he had reservations with the funds being equal beneficiaries and equal risks. They should be coequal beneficiaries.

Sen. Nelson said he also had some reservations, but in the bigger picture this would give a boost to the interest rate on bonds.

Sen. Tallackson said he liked this concept. The state has an obligation to pay off the bonds first.

Sen. Nothing moved for the adoption of amendment 0406. The motion was seconded by Sen. Tallackson.

Rep. Dorso stated that the point was to make the bonds more saleable.

A roll call vote was taken and the motion carried unanimously.

Sen. Nelson moved that the House acede to the Senate amendments and further amend. Sen. Nothing seconded the motion.

Rep. Aarsvold stated his concern that the state would risk losing federal funds. He would oppose the motion.

Appropriations Conf. Committee

April 12, 1999 HB 1475

Page 2

A roll call vote was taken and the motion carried. The votes were as follows: Sen. Nelson, Yes; Sen. Nething, yes; Sen. Tallackson, yes; Rep. Dorso, yes; Rep. Dalrymple, yes; Rep. Aarsvold, no.

The meeting was adjourned.

Amendment to HB 1475

At the Request of the Conference Committee

Transfers to a community health trust fund to be administered by the state department of health. The state department of health ~~may~~ shall use funds as appropriated for community-based public health programs and other public health programs, ~~including programs with emphasis on~~ for 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.

Date: 4-12-99

Roll Call Vote #: 1

1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House Appropriations

- Subcommittee on _____
- or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Aarsvold Amendment

Motion Made By Aarsvold Seconded By Tallackson

Representatives	Yes	No	Senators	Yes	No
Dorso		X	Nelson		X
Dalrymple			Nething		X
Aarsvold	X		Tallackson	X	

Reps. (Yes) 1 No 1

Sen. (Yes) 1 (No) 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Fails

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1475

That the House accede to the amendments as printed on page 1187 of the House Journal and pages 1053 and 1054 of the Senate Journal and that Engrossed House Bill No. 1475 be further amended as follows:

Page 1, line 12, replace "shall" with "must" and replace "appropriated" with "allocated"

Page 1, line 13, remove "for purposes only"

Page 1, line 23, replace "resources" with "water development"

Page 2, after line 2, insert:

"Notwithstanding the provisions of this section, during each biennium transfers that would be made to the common schools trust fund under subsection 2 must instead be transferred to the water development trust fund until the state water commission certifies to the state treasurer that deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for that biennium on bonds authorized under section 61-02.1-01. When that certification is received, the state treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund under subsection 3 must instead be transferred to the common schools trust fund until deposits in the common schools trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first."

Renumber accordingly

Date: 4-12-99
Roll Call Vote #: 2

1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House Appropriations

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken am. 0406 adoption

Motion Made By Nothing Seconded By Tallackson

Representatives	Yes	No	Senators	Yes	No
Dorso	X		Nelson	X	
Dalrymple	X		Nothing	X	
Aarsvold	X		Tallackson	X	

Reps. (Yes) 3 No 0

Sen. (Yes) 3 (No) 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4-12-99
Roll Call Vote #: 3

1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1475

House Appropriations

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken House accede to Sen. am + further amend.

Motion Made By Nelson Seconded By Nothing

Representatives	Yes	No	Senators	Yes	No
Dorso	X		Nels	X	
Dal	X		Nothing	X	
Aars		X	Tallacksa	X	

Reps. (Yes) 2 No 1

Sen. (Yes) 3 (No) 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

(Bill Number) 1475 (, as (re)engrossed):

Your Conference Committee

Attendance	SENATORS	Vote
X	NELSON ✓	n
X	NETHING ✓	n
X	TALLACKSON ✓	y

Attendance	REPRESENTATIVES	Vote
X	DORSO	n
X	DALRYMPLE	-
X	AARSVOLD ✓	y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) the (Senate/House) amendments on (S/J/H) page(s) _____ - _____

and place _____ on the Seventh order.

, adopt (further) amendments as follows, and place 1475 on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1475 was placed on the Seventh order of business on the calendar.

DATE: 04 / 12 / 99

CARRIER: DORSO

LC NO. 90729 . 0406 of amendment

LC NO. 90729 . 0400 of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

Code, relating to the supervision of probationers and sentencing for drug offenses; to provide an effective date; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 5 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: Bowman; Mutch; Solberg; Stenehjem, B.; Thompson

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1016, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

.....

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY) MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2008, SB 2180, SB 2188, SB 2307, SB 2410.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM C. PARKER, SECRETARY) MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1016.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK) MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1022.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK) MADAM PRESIDENT: The House has adopted the conference committee report and subsequently passed: SB 2009.

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK) MADAM PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2020: Reps. Monson; Boehm; Aarsvold

MESSAGE TO THE SENATE FROM THE HOUSE (LANCE HAGEN, CHIEF CLERK) MADAM PRESIDENT: The Speaker has appointed Rep. Dalrymple to replace Rep. Monson on the Conference Committee on SB 2020.

MOTION

SEN. ST. AUBYN MOVED that the Senate stand in recess until 5:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Myrdal presiding.

REPORT OF CONFERENCE COMMITTEE

HB 1475, as engrossed: Your conference committee (Sens. G. Nelson, Nething, Tallackson and Reps. Dorso, Dalrymple, Aarsvold) recommends that the HOUSE ACCEDE to the Senate amendments on HJ page 1187, adopt further amendments as follows, and place HB 1475 on the Seventh order:

That the House accede to the Senate amendments as printed on page 1187 of the House Journal and pages 1053 and 1054 of the Senate Journal and that Engrossed House Bill No. 1475 be further amended as follows:

Page 1, line 12, replace "shall" with "must" and replace "appropriated" with "allocated"

Page 1, line 13, remove "for purposes only"

Page 1, line 23, replace "resources" with "water development"

Page 2, after line 2, insert:

"Notwithstanding the provisions of this section, during each biennium transfers that would be made to the common schools trust fund under subsection 2 must instead be transferred to the water development trust fund until the state water commission certifies to the state treasurer that deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for that biennium on bonds authorized under section 61-02.1-01. When that certification is received, the state treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund under subsection 3 must instead be transferred to the common schools trust fund until deposits in the common schools trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first."

Renummer accordingly

Engrossed HB 1475 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SEN. G. NELSON MOVED that the conference committee report on Engrossed HB 1475 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1475, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1475: A BILL for an Act to provide for allocation of funds from settlements with tobacco product manufacturers; to create and enact a new subsection to section 54-44-04 of the North Dakota Century Code, relating to monitoring tobacco product manufacturers settlement funds by the office of management and budget; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; DeMers; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kelsh; Kilzer; Kinnoin; Klein; Krauter; Krebsbach; Kringstad; Kroepin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Mutzenberger; Naaden; Nelson, C.; Nelson, G.; Nething; O'Connell; Redlin; Robinson; Sand; Schobinger; Solberg; St. Aubyn; Stenehjem, W.; Tallackson; Thane; Thompson; Tomac; Traynor; Urlacher; Wanzek; Wardner; Watne

NAYS: Stenehjem, B.

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1475, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

.....

REPORT OF CONFERENCE COMMITTEE

HB 1003, as engrossed: Your conference committee (Sens. St. Aubyn, Bowman, Krauter and Reps. Wentz, Carlson, Nichols) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1169-1183 and pages 1271-1272, adopt amendments as follows, and place HB 1003 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1169-1183 and 1271 and 1272 of the House Journal and pages 1009-1022 and 1034 and 1035 of the Senate Journal and that Engrossed House Bill No. 1003 be amended as follows:

Page 1, line 2, after "system" insert "; to provide for legislative council studies; to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to the adoption of the midwestern regional higher education compact; and to declare an emergency"

Page 1, replace lines 12 through 24 with:

1999 TESTIMONY

HB 1475

TESTIMONY ON HOUSE BILL 1475
BEFORE THE HOUSE APPROPRIATION COMMITTEE
January 25, 1999

My name is Rosellen Sand and I am appearing on behalf of Attorney General Heidi Heitkamp to offer technical amendments to House Bill 1475.

Attached to my testimony is an amendment that implements the following changes:

1. Clearly identifies the judgment entered by the judge as the source of the funds and refers specifically to those portions of the settlement agreement which relate to the payment of the funds.
2. Provides that, in addition to the other uses, the funds can be used for enforcement of the terms of the agreement.
3. Provides for an emergency clause so that the money will go directly to the separate fund created by the bill.

There are several reasons for the technical changes I offer today.

First, it is important to clearly identify the source of the funds and refer to the judgment and the portions in the agreement because the agreement contemplates that other manufacturers will join in at a later date under similar terms. The bill refers to a settlement agreement entered in 1998 or any successor agreement. Some manufacturers did not agree to be bound by the terms of the agreement until 1999. However their agreements are not "successor agreements". Adding the suggested language will assure that all aspects of the agreement we entered in 1998 and the agreements with subsequent participating manufacturers will be covered by the terms of the bill.

Second, we must have the ability to enforce the agreement or we will not have any assurance that the tobacco companies will continue to make the scheduled payments. It seems most logical that payment for enforcement of the agreement should be made with tobacco moneys and not general taxpayers' dollars. A provision for expending funds for enforcement as appropriated by the Legislature is included in the attached amendment.

Third, a separate fund will strengthen our position with the federal government concerning Medicaid reimbursement. By way of background, the Health Care Finance Administration (HCFA) has indicated its intent to claim the tobacco moneys for Medicaid reimbursement. We are hopeful we will achieve a successful political resolution to this dispute in Congress. To further our legal argument that this is not recoupment of Medicaid dollars, it has been our recommendation that the money be placed in a separate fund. Although this bill creates a separate fund, it will not become effective until August 1, 1999. It is our understanding that we will receive moneys as early as May of 1999. To buttress our position that the funds are not Medicaid recoupment dollars we suggest that an emergency clause be added to the bill so that the fund will be available when the tobacco money arrives.

PROPOSED AMENDMENTS TO HOUSE BILL NUMBER 1475

Page 1, line 1, after "Act" insert "to create and enact two new sections to the North Dakota Century Code relating to establishing a trust fund for tobacco settlement funds;"

Replace "from settlements with tobacco product" with "; and to declare an emergency."

Remove line 2

Page 1, line 4, after "SECTION 1." Insert:

Two new sections to the North Dakota Century Code are created and enacted as follows:

Tobacco settlement fund – interest on fund. There is hereby created in the state treasury, a fund, to be known as the tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections IX (Payments) and XI (Calculation and Disbursement of Payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc. (East Central Dist. Ct., December 28, 1998). All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund."

Page 1, line 4, remove "All funds received by the"

Page 1, remove lines 5 and 6.

Page 1, line 7, remove "settlement trust fund."

Page 1, after line 18, insert:

"4. Enforcement of the terms of the judgment.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

*\$ 150,000
limited legal fees!*

March 8, 1999

Mr Chairman, Senators, my name is Sharon Leet. I am a Registered Nurse and Nurse Coordinator of Chemical Dependency Services in Minot. I also work with the Division of Juvenile Services with the tobacco offenders and have done so for the past 3 years.

I am alarmed at what I am seeing happen over the last 3 years with tobacco and adolescent use in North Dakota. We talk about being such a "clean air" state and yet we have the third highest tobacco use rate in the US with our kids!

What I am seeing is frightening. Most of the adolescents I come into contact with are heavily addicted by the time they are 15 years old. They smoke a pack per day of Marlboro Reds, which is of course the number one advertiser in the Tobacco Industry. These kids have been smoking 3-5 years already by the time I see them. They are experiencing increased shortness of breath with exercise, coughs, increase in colds, and allergies. They readily admit the addiction has them and most wish they had never started.

I am also seeing a marked increase this past year in chewing tobacco usage. Young ladies are chewing now, which may surprise a lot of us "older" folks! Cigar use is up, and many kids are using cigarettes and chewing tobacco. They are not spitting the juice out. They have already progressed to the swallowing stage which is endangering their lives greatly. These are not just the "troubled" kids. I am seeing the adolescents from all walks of life, heavily addicted to tobacco products.

These teens are also working in restaurants where they are receiving high levels of second hand smoke.

When does this stop? Where does it stop? We need prevention, education and cessation available for our kids; and we need it now! Without it our state will have a generation of heavily addicted adults with multiple health problems requiring large amounts of financial assistance.

I urge you to "take care of our kids". They will be taking care of us! We need healthy, strong and educated youngsters to carry on our work in North Dakota. Please designate a portion of our tobacco settlement monies for a Comprehensive Tobacco control program.

Thank you for your time,



Sharon Leet RN
Box 206
Surrey, ND 58785
1-701-852-7077

Testimony on House Bill 1475
before the
Senate Appropriations Committee
Murray G. Sagsveen, State Health Officer
March 9, 1999

Summary

The November 1998 Master Settlement Agreement, negotiated by the state attorneys general and the tobacco manufacturers, will result in payments totaling more than \$25,000,000 each year to North Dakota.

At least 10% of the annual payments should be allocated to public health purposes, such as a Community Health Grant Program, to address community-prioritized public health issues. This would be consistent with Governor Schafer's request in his State of the State Message: "I am proposing we devote 10 percent of any tobacco settlement dollars to public health programs, including important initiatives on diabetes, drug and alcohol abuse, and tobacco prevention and cessation."

Communities could utilize the grant funds for essential local public health programs, such as a continuing effort to reduce teenage tobacco use. Communities may determine that tobacco-related issues are a priority because:

- The Surgeon General has determined that tobacco use is the single leading preventable cause of death in the United States.
- Tobacco use is responsible for about 18% of the annual deaths in the United States.
- Tobacco use injures the unborn children of smokers.
- Tobacco alone kills more people each year in the U.S. than AIDS, car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.
- Smokers cut short their lives by an average of 12 years.
- Active smoking and exposure to cigarette smoke are associated with many illnesses and diseases.
- Smoking by high school age and college age students is increasing.
- Many young pregnant women are smoking.
- About one-fifth of high school students in North Dakota are smokers.
- The medical expenditures in the U.S. attributable to smoking are estimated to be 11.8% of the total medical expenditures.

If funds were appropriated in this bill, we could initiate a community health grant program during the second half of next the biennium. Accordingly, I urge this committee to also recommend that the bill be amended to appropriate \$2,500,000 for this purpose (this amount equals \$3.90 per capita per year – less than the price of two packs of cigarettes).

Background Information

The November 1998 Master Settlement Agreement (MSA) between the state attorney's general and the major tobacco companies provided for perpetual payments to the states.

Over the next 25 years, the payments to North Dakota could be (without considering the several adjustments that could be made pursuant to the MSA) (the years are the dates of payment by the tobacco companies, not necessarily the years the funds will be available to the states):

- 1998 ~ \$8,784,331 (deposited in the escrow account on 12/28/98)
- 1999 ~ \$0
- 2000 ~ \$23,467,889
- 2001 ~ \$25,341,550
- 2002 ~ \$30,427,805
- 2003 ~ \$30,715,772
- 2004 – 2007 ~ \$25,635,606
- 2008 – 2017 ~ \$26,144,365
- 2009 – 2025 ~ \$29,295,744

During the 1999 – 2001 biennium, payments totaling \$57.6 million will be paid into an escrow account and disbursed to ND:

- Payments on or before 6/30/00 and disbursed by mid-July 2000 ~ three payments totaling \$32,252,221.02
- Payment on or before 1/10/01 and disbursed in January 2001 ~ one payment totaling \$9,319,296.97
- Payment on or before 4/15/01 and disbursed about May 1, 2001 ~ one payment totaling \$16,022,254.10

Governor Schafer outlined his concepts for allocating the money in his January 5 State of the State Message:

I want to discuss the tobacco settlement and what it means for North Dakota. Over the life of this 25-year agreement, North Dakota could receive more than \$700 million – \$30 million in this biennium alone.

I stress "could." Considerable uncertainty remains about when, if and how much money North Dakota will receive. I argue – I believe – spending dollars we do not yet have would be fiscally irresponsible.

We should have two goals for all potential settlement money: public health and fiscal responsibility. We can address both of these with the following plan....

I am proposing we devote 10 percent of any tobacco settlement dollars to public health programs, including important initiatives on diabetes, drug and alcohol abuse, and tobacco prevention and cessation. This will fund programs primarily driven at the local level....

Several bills and resolutions have been introduced to allocate the tobacco settlement payments: HB1436 (failed), HB1475, SB2188, SB2250 (failed), HCR3032 (failed), SCR4008, SCR4012 (failed), and SCR4013.

There has been some public discussion about the possible federal Medicaid recoupment efforts. Secretary Shalala has announced that the Department of Health and Human Services may attempt to recover more than half of the tobacco settlement payments on a Medicaid subrogation theory. However, there have been recent efforts by members of the Congress to prevent federal recoupment of these funds.

There has been very little public discussion about the potential decrease in state tobacco tax revenues as a result of the settlement. Based upon the information currently available to me, the decreased state tobacco tax revenues could substantially affect the net receipts. The Tax Department has advised that the tobacco tax revenue for calendar years 1997 and 1998 was \$24,056,092.66 + \$23,978, 505.89 = \$48,034,598.55.

I am aware of several estimates about possible declines in consumption as a result of the latest tobacco price increases.

- The *Investor's Tobacco Reporter* (December 1998 Update) stated: "Terms of the settlement clearly benefit tobacco company shareholders. At the states' request, smokers will pay for virtually all of the settlement proceeds, to be disbursed over 25 years, through higher retail prices. Only 1 percent of the damage awards will come out of tobacco company coffers. Philip Morris and RJR Nabisco have quickly raised wholesale prices by 45 cents a pack, and the other big producers are expected to follow suit. That increase – combined with a 20-cent-per-pack hike in wholesale prices following four earlier state settlements, as well as an increase in federal excise taxes – means that smokers soon will be paying 40 percent more for a pack of cigarettes than they were just two years ago. The latest price increase is expected to curb domestic cigarette consumption by 6 to 12 percent next year."
- A 1994 publication titled *Growing Up Tobacco Free ~ Preventing Nicotine Addition in Children and Youths*, released by the Division of Biobehavioral Sciences and Mental Disorders, Institute of Medicine, provided a formula: "Because of the addictive qualities of tobacco, some researchers have speculated that consumption of cigarettes will

be insensitive to price changes at least in the short run. However, numerous studies, using a variety of methodologies, have shown that overall consumption of cigarettes is responsive to price changes, Estimates of the price effect vary, but generally speaking a 10% increase in the retail price reduces consumption by around 4%.

- John Quinlan, ND Tax Department, has suggested that that the decrease in consumption might be minimal. He observed a substantial decrease in consumption from the early 1980s to the early 1990s, but consumption has remained fairly constant for the last several years. He speculated that we might be down to the “hard core,” who will keep smoking even if the prices substantially increase.
- An attorney who assisted with the state attorney general negotiations has advised that the sale of “roll your own” tobacco has dramatically increased. Because each “roll your own” cigarette takes time to roll and contains less tobacco, she believes the shift to “roll your owns” could signal a decrease in cigarette sales.
- The attorney has also advised that at least one tobacco manufacturer anticipates a continuing 2% to 2.5% per year decrease in consumption (without taking any increase in price into account).

This information suggests that the settlement-related price increases could decrease cigarette and tobacco sales by 6% to 16% (admittedly a wide range). Accordingly, a conservative approach to the tobacco settlement funding situation would suggest the following for the next biennium:

- During the 1999 – 2001 biennium, payments totaling \$57.6 million will be paid into an escrow account and could be available to ND.
- The federal government could “attach” (one way or the other) up to 62% of the payments – $62\% \times \$57.6 \text{ million} = \35.7 million .
- The decrease in consumption (because of increases in price over the past two years) could reduce state tobacco tax revenue by 6% to 16% -- $6\% \times \$48.0 \text{ million} = \2.9 million and $16\% \times \$48.0 \text{ million} = \7.7 million .
- More effective enforcement and counter-smoking programs could reduce consumption by an additional 5% in ND during the next biennium – $5\% \times \$48 \text{ million} = \2.4 million .
- It is possible (though perhaps unlikely) that the combined impact of increased prices, a higher minimum smoking age, better enforcement, and improved counter-tobacco programs could reduce consumption and tobacco tax revenue by up to 20% during the next biennium – $20\% \times \$48.0 \text{ million} = \9.6 million .

Based upon these assumptions and estimates, the “net” revenue from the tobacco settlement payments could be significantly less than \$57.6 million:

Gross anticipated payment to ND during 1999-2001 \$57.6 million

Less possible federal recoupment	-\$35.7 million
Less possible decrease in state tax revenues	<u>-\$ 9.6 million</u>
Possible net revenue from tax settlement	\$12.3 million

The Public Health Challenge Caused by Tobacco

Governor Schafer appointed me State Health Officer last February 1. During the past year, I've learned many disheartening statistics about tobacco use in our society. For example, *The Forum* recently recalled early tobacco industry advertisements that extolled the virtues of cigarettes. For example: in 1927, Lorillard Tobacco Co. claimed there was "not a cough in a carload" of Old Golds; in 1948, the R. J. Reynolds Tobacco Co. was proclaiming that "More doctors smoke camels than any other cigarette"; in 1953 Liggett & Myers boasted that its L&M cigarettes were "Just what the doctor ordered"; and also in 1953 Liggett & Myers advertised that "It's so satisfying to know that a doctor reports no adverse effects to the nose, throat and sinuses from smoking Chesterfield".¹ The disclosure of internal tobacco industry documents has revealed the industry suspected – or knew – at the time that cigarettes were hazardous to their customers' health.

Sixty two years after the "not a cough in a carload" advertisement, the Surgeon General determined that tobacco use is the single leading preventable cause of death in the United States.² Several years after the Surgeon General's report, the *Journal of the American Medical Association* (JAMA) report that tobacco use was responsible for about 18% of the approximately 2,148,000 annual deaths in the United States:

Tobacco accounts for approximately 400 000 deaths each year among Americans. It contributes substantially to deaths from cancer (especially cancers of the lung, esophagus, oral cavity, pancreas, kidney, and bladder, and perhaps of other organs), cardiovascular disease (coronary artery disease, stroke, and high blood pressure), lung disease (chronic obstructive pulmonary disease and pneumonia), low birth weight and other problems of infancy, and burns. In a major effort that drew on analyses that had been commissioned to assess the mortality, morbidity, and financial burden imposed by each of 15 priority health problems, the Carter Center's *Closing the Gap* project attributed 17% (338 000) of all deaths in 1980 and 13% of all potential years of life lost from death before 65 years of age to tobacco. Other estimates have placed tobacco's contribution in the range of 11% to 30% of cancer deaths, 17% to 30% of cardiovascular deaths, 30% of lung disease deaths, 24% of pneumonia and influenza deaths, 10% of infant deaths, and 20% to 30% of low-birth-weight infants. Approximately 3000 lung cancer deaths annually among nonsmokers have been attributed to

environmental tobacco smoke. The sum of the low and upper boundaries, respectively, for these estimates would yield an approximate range of 257 000 to 468 000 tobacco attributable deaths in 1990. Using a specially developed software package, the Centers for Disease Control and Prevention (CDC) estimated that 418 690 deaths were caused by tobacco in 1990, including approximately 30% of all cancer deaths and 21% of cardiovascular disease deaths. The CDC estimates have been widely accepted and provide the basis for the 400 000 figure...³

In addition to killing smokers (and nonsmokers who may inhale tobacco smoke), tobacco injures the unborn children of smokers. Dr. Stanley Glantz, a nationally-known critic of the tobacco industry, has explained:

All the toxins from cigarette smoke that reach a pregnant woman's blood go to the developing baby and cause damage. Carbon monoxide prevents the fetus from getting enough oxygen: A two-pack-a-day pregnant smoker takes away the equivalent of one-fourth of her baby's oxygen supply

The carcinogens in cigarette smoke also damage the genetic material – DNA – in placental and fetal cells. As a result, smoking (and passive smoking) by a pregnant woman increases the risk of birth defects in her baby and her chance of spontaneous abortion or stillbirth by about one-third.

Unfortunately, 1 in 5 women in the United States smokes during pregnancy. A baby born to such a mother is twice as likely to be born at a lower birth weight than a baby of a nonsmoking mother. Babies with low birth weights are at a greater risk of many complications.

One in 10 infant deaths is due to smoking. Also, of the children with low birth weights, 1 in 4's low weight is due to the mother's smoking during pregnancy. Tobacco's effects on infants is a much greater problem than that of "crack" babies.⁴

Five years ago, the Institute of Medicine reported that tobacco alone kills more people each year in the United States than acquired immunodeficiency syndrome (AIDS), car accidents, alcohol, homicides, illegal drugs, suicides, and fires, combined.⁵ Two years ago, the Centers for Disease Control and Prevention (CDC) concluded that smokers cut short their lives by an average of 12 years.

A steady stream of studies linking tobacco use to virtually every major disease, illness, and health problem has followed the 1993 JAMA article and subsequent reports. For example, in 1998:

- The authors of a 1998 JAMA article have determined that active smoking and exposure to cigarette smoke are associated with the progression of atherosclerosis.⁶
- The authors of an article in a AMA-related pediatrics magazine have concluded that environmental tobacco smoke is an important risk factor for middle ear disease in preschool-age children.⁷
- The authors of another 1998 JAMA article have completed studies involving adults aged 48 to 92 years which suggest that environmental tobacco smoke may play a role in age-related hearing loss.⁸
- A Colorado State University study even found that dogs whose owners smoke have a 50% greater risk of developing lung cancer.⁹

Although these scientific studies should be convincing evidence that tobacco use injures and kills, tobacco use is actually increasing among certain age and ethnic groups. The CDC recently reported that the “findings from the analysis [of self reported data from the national Household Survey on Drug Abuse] indicated that, during 1988 –1996 among persons aged 12-17 years, the incidence of initiation of first use increased by 30% and of first daily use increased by 50%, and 1,226,000 persons aged <18 years became daily smokers in 1996.”¹⁰ Similarly, the Office on Smoking and Health, CDC, reported its findings from a 1997 Youth Risk Behavior Survey:

Findings indicate that among U.S. high school students in 1997, 70.2% had tried cigarette smoking. Among students who had ever tried cigarette smoking, 35.8% went on to smoke daily. Among those who had ever smoked daily, 72.9% had ever tried to quit smoking and 13.5% were former smokers.¹¹

A high percentage of American Indians are also addicted to tobacco. The CDC estimates that, at 36.2% (37.3% of men and 35.4% of women), American Indian/Alaskan Native adults have the highest tobacco use rates of all major racial or ethnic groups in America¹²

There is also more smoke on the campuses. A 1998 JAMA article recently reported that smoking jumped an alarming 28% among college students between 1993 and 1997.¹³

Despite the many and frequent warnings about smoking when pregnant, pregnant women continue to smoke. The CDC has reported that the “rates of smoking during pregnancy for women 15 – 19 years of age declined between 1990 and 1994 but increased in the last two years, and now they have the highest rates of all age groups.”¹⁴

North Dakota teens are also smokers. The 1997 North Dakota Youth Risk Behavior Survey indicates that 5% of the 7th graders, 8% of the 8th graders, 13% of the 9th graders, 18% of the 10th graders, 20% of the 11th graders, and 22% of

the 12th graders regularly smoke (i.e., has smoked on 20 or more of the past 30 days).¹⁵

The additional health costs to the nation and the state, because of tobacco use, is phenomenal. The authors of a recent article in *Public Health Reports* have estimated that the proportion of total medical expenditures attributable to smoking for the U.S. as a whole was 11.8% in 1993.¹⁶ They also calculated the total 1993 medical expenditures, for people ages nineteen and older, attributable to cigarette smoking in several categories (in millions):

Type of Expenditure	United States	North Dakota
Ambulatory Care	\$200,710	\$483
Prescription Drugs	\$67,778	\$145
Hospital Care	\$268,682	\$760
Home Health Services	\$21,616	\$15
Nursing Home	\$55,772	\$205
All Types	\$614,559	\$1,607

To place the health issue in a global perspective, the World Health Organization estimates that “tobacco-related illnesses will be the world’s leading cause of death by the year 2020” and that “the annual toll of tobacco-related deaths worldwide will soon surpass deaths from AIDS, car accidents, tuberculosis, homicide, and suicide *combined*.”¹⁷

Accordingly, there should be no doubt that tobacco use, particularly tobacco use by teenagers, is a serious public health problem in the United States and North Dakota.

Other Public Health Challenges in North Dakota

Most of the general fund money appropriated to the Department of Health is used to match available federal funds. Accordingly, the Department primarily acts as an agent of the federal government to implement federal programs in North Dakota (i.e., state general funds are generally unavailable to implement state-specific public health programs).

If additional state funds would be available from the tobacco settlement payments, the Department of Health could implement public health programs designed for North Dakota, such as:

- Enhanced funding for immunization programs. The Centers for Disease Control and Prevention (CDC) has funded immunization programs in ND for many years, but this source of funding has continuously declined in recent years (e.g., immunization funds for the 24 local public health units has been reduced from \$353,959 in FY 97-98 to \$112,450 in FY 98-99 – the funds this year are only 31.8% of the funds available the prior year). With an increase in funding, we could

significantly increase our immunization goals, particularly for preschool children and vulnerable senior citizens

- Funding a preventive health education program at the UND School of Medicine. Dr. Jim Brosseau will be assuming responsibility for the Community Health Program at the UND School of Medicine beginning April 1. Dr. Wilson (Dean of the UND School of Medicine) and Dr. Brosseau would like to significantly enhance the preventive health programs (i.e., preventing disease and promoting wellness) rather than solely curing disease and illness.
- Increasing state aid to local public health units from the current \$990,000 to a higher level, such as \$2.0 million per biennium. This increase could offset reductions in CDC immunization funding (mentioned above), could reduce pressure on local property taxes, or could provide additional local public health infrastructure.
- Funding public health programs that are not funded with federal grants or state general fund money, such as arthritis programs for the elderly and men's health programs.
- Enhanced tobacco control programs (the state's program is currently 100% federally funded).
- Enhancing the school nurse program (the school nurse grant program in HB1345 was defeated in the House, apparently because it was funded by a 1¢ per pack tax increase on cigarettes).

Recommendation

At least 10% of the tobacco settlement funds should be set aside for essential public health programs. If 10% of the tobacco settlement funds were set aside and a portion of those funds would be appropriated for the 1999-2001 biennium, we could establish a "Community Health Grant Program" based on the following concepts:

- If 10% of total tobacco settlement payments would be allocated to public health programs, the amount could be \$5.76 million during the next biennium.
- The allocated payments could be transferred to a "community health trust fund."
- The annual payments after 2000 should be at least \$25,000,000. Accordingly, a 10% allocation to public health programs would provide at least \$2,500,000 each year to a community health trust fund.
- At least \$2,500,000 would be transferred to a community health trust fund by July 2000 and could be available for a community health grant program.
- 100% of the allocated money would pass through the department to communities. The community health grant program could fund community-prioritized public health issues (e.g., tobacco, substance abuse, elder health, mental health, etc.), with a focus on tobacco-

related issues (e.g., youth access, education, and cessation programs).

- A request for proposals (RFP) process could require that communities submit a consolidated grant proposal (i.e., the various health-related interests in a community must arrive at a consensus concerning the health-related needs and priorities within the community – single purpose categorical grants would generally not be approved unless the community wanted to focus on a specific issue). An advisory committee could be established to assist with the development of the RFP process.
- The Health Council could approve the grants.
- A community health grant program, funded at a \$2,500,000 per year level, could provide at least \$3.90 per capita per year to communities (\$3.90 is less than two packs of cigarettes). Accordingly, a community with a population of 15,000 could receive at least \$58,500 through a community health grant program.
- Outcomes would be evaluated. The success of a grant program would depend upon whether the objectives were obtained, not by the quantification of inputs.

Suggested Amendments

House Bill 1475 could be amended to accomplish two essential public health objectives:

- establish a public health trust fund; and
- allocate at least 10% of all tobacco settlement funds to that trust fund.

A suggested amendment is provided below (to be inserted at an appropriate location in the bill):

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 only for community-based public health programs, with an emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection may not exceed ten percent of total annual transfers from the tobacco settlement trust fund.

House Bill 1004 could also be amended to appropriate part of the tobacco settlement money for a community health grant program and to provide suitable facilities for the laboratories and state morgue. Suggested language follows:

SECTION __. APPROPRIATION. There is hereby appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as

may be necessary, to the state department of health for the purpose of a community health grant program, for the biennium beginning July 1, 1999, and ending June 30, 2001.

SECTION __. APPROPRIATION. There is hereby appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$3,260,000, or so much of the sum as may be necessary, to the state department of health for the purpose of constructing a new microbiology laboratory, construction a new chemistry laboratory, leasing temporary morgue facilities, and reconstructing the existing East Main laboratory, for the biennium beginning July 1, 1999, and ending June 30, 2001.

Conclusion

Department of Health personnel will be available, at any time, to answer questions about this testimony. The primary contact person will be:

Murray G. Sagsveen
State Health Officer
Telephone: 328-2372
Fax: 328-4727
E-mail: "sagsveen@state.nd.us"

Endnotes

- ¹ "Cigarette ads touted health benefits," *The Fargo Forum*, May 2, 1998 (p. C1).
- ² Center for Disease Control and Prevention. (1989). Reducing the health consequences of smoking: 25 years of progress – a report of the Surgeon General. Rockville, Maryland: U.S. Department of Health and Human Services (Publication No. CDC 89-8411).
- ³ McGinnis, J. M. & Foege, W. H. (1993). Actual Causes of Death in the United States. *Journal of the American Medical Association*, 270, 2207-2212.
- ⁴ Glantz, *Tobacco: Biology & Politics*, Waco, Tx: Health Edco (1992), p. 21.
- ⁵ *Growing Up Tobacco Free: Preventing Nicotine Addiction in Children and Youths*, Lynch and Bonnie, editors (1994). Institute of Medicine.
- ⁶ Howard, G., Wagenknecht, L. E., Burke, G. L., Diez-Roux, A., Evans, G. W., McGovern, P., Nieto, F. J., Tell, G. S., "Cigarette Smoking and Progression of Atherosclerosis: The Atherosclerosis in Communities (ARIC) Study," *Journal of the American Medical Association*, (1998) 279, 119-124.
- ⁷ Adair-Bischoff, C. E. & Sauve, R. S., "Environmental Tobacco Smoke and Middle Ear Disease in Preschool-Age Children," *Archives of Pediatrics & Adolescent Medicine* [a publication of the American Medical Association], (1998) 152, 127-133.
- ⁸ Cruickshanks, K. J., Klein, R., Klein, B. E. K., Wiley, T. L., Nondahl, D. M., & Tweed, T. S., "Cigarette Smoking and Hearing Loss: The Epidemiology of Hearing Loss Study," *Journal of the American Medical Association*, (1998) 279, 1715-1719.
- ⁹ "Chew on these health information bites," *The Bismarck Tribune*, November 29, 1998 (p. E1).
- ¹⁰ Crump, C., Packer, L., & Gfroerer, J., "Incidence of Initiation of Cigarette Smoking – United States, 1965 – 1996," *Morbidity and Mortality Weekly Report* [Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (October 9, 1998) 47, 837-840.
- ¹¹ Office on Smoking and Health, "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students – United States, 1997," *Morbidity and Mortality Weekly Report* [Center for Disease Control and Prevention, U.S. Department of Health and Human Services], (May 22, 1998) 47, 386-389.

¹² "Cigarette Smoking Among Adults – United States, 1995," *Morbidity and Mortality Weekly Report* [Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (December 26, 1997) 47, 1217-1220.

¹³ Wechsler, H., Rigotti, N. A., Gledhill-Hoyt, J., & Lee, H., "Increased Levels of Cigarette Use Among College Students," *Journal of the American Medical Association*, (1998) 280, 1673-1678.

¹⁴ Matthews, T. J., "Smoking During Pregnancy, 1990-1996," *National Vital Statistics Reports* [published by the National Center for Health Statistics, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services], (November 19, 1998) 47, 10.

¹⁵ *1997 North Dakota Youth Risk Behavior Survey*. Bismarck, ND: ND Department of Health.

¹⁶ Miller, L. S., Zhang, X., Rice, D. P., & Max, W., "State Estimates of Total Medical Expenditures Attributable to Cigarette Smoking, 1993," *Public Health Reports*, (1998) 113, 447-458. However, the authors have also cautioned that many public health studies do not factor in the savings that result when smokers prematurely die. He stated that smokers impose higher medical costs, group life insurance rates, and fire damage on nonsmokers, but "the costs that were avoided when dead smokers didn't need nursing homes or pensions offset most of that."

¹⁷ Headden, "The Marlboro Man lives!," *U.S. News & World Report*, (September 21, 1998), 125, 58-59.

HB 1475
3/9/99
Bob Clementich

#2

Testimony of Mr. Bob Clementich
President of Tobacco Free North Dakota
American Cancer Society Area Director
PO Box 1133
Minot, North Dakota 58702
701-857-6015

Mr. Chairman and Committee Members:

I am speaking on behalf of Tobacco Free North Dakota and the American Cancer Society.

The funds from this settlement give North Dakota the opportunity to fight our tobacco epidemic without having to raise taxes or cut back on other spending priorities tobacco companies spend billions of dollars every year marketing their products to kids to ensure new generations of smokers. Their work has paid off: smoking among teen is at historically high levels; more than 3,000 kids become regular smokers every day.

PUBLIC EDUCATION

The Problem:

- * The tobacco industry spends over five billion dollars a year marketing and advertising its products.
- * In 1995, an article in the Journal of the National Cancer Institute found that tobacco marketing has a greater influence than exposure to parents or peers who smoke in spurring kids to take up smoking
- * Other studies have shown the vast majority of young smokers prefer one of the three most heavily advertised brands of cigarettes - the result of a deliberate strategy on the part of tobacco companies to attract the youth market.

While there are a handful of local-level public education initiatives that attempt to counter the tobacco industry's substantial marketing efforts,

3/8/99

there is no statewide nor comprehensive anti-tobacco public education campaign to counter this pro-tobacco imagery.

Recommendations:

Comprehensive efforts to reduce tobacco use should include a sustained, highly visible and well-developed public education campaign.

Public Education campaigns play a vital role in reducing the appeal of tobacco products, with specific focus to:

- * keep kids from picking up a tobacco habit at a young, more vulnerable age
- * encourage adults and youth that they are capable to quit using tobacco and that resources are available.

The standard for public education in the tobacco arena is a multi-pronged model, incorporating:

- * mass media (radio, newspaper, and television) prevention and cessation advertising,
- * school-based information programs,
- * lifeskills training, parental interventions, community programs, and clinical (e.g., doctors, nurses) involvement.

For such a campaign to be effective, it must contain, at a minimum, the following elements:

- * It must be well-integrated and complementary with all the components outlined above.
- * It must be well-funded over the long term from a reliable source.
- * It must target both adults and kids, in the areas of both prevention and cessation.
- * It must address special populations with culturally sensitive language.
- * It should include statewide campaigns complemented by local-level programs that address local issues.
- * It must contain a method for reliable evaluation and modification.

Public Education Campaigns Can Reduce Tobacco Use

* Cigarette smoking prevention programs have consistently shown reductions in the proportions of students who begin regular smoking, and there is clear evidence that school-based programs are most effective when supplemented by mass-media interventions

* In terms of cost per years of life gained, mass-media and education campaigns are among the most cost-effective smoking prevention and cessation methods currently available.

* Three years after Massachusetts began its public education and tobacco control campaign, an independent evaluation found that:

* Tobacco consumption in Massachusetts declined at a rate three times that of rate for the rest of the nation, (20% vs. 6%, excluding CA).

* Smokers were smoking less. The proportion of light smokers (less than half a pack of cigarettes a day) increased from 21 to 34 percent of all smokers, while the proportion of heavy smokers (more than a pack a day) dropped from 26 percent to 13 percent.

* While smoking among high school students increased dramatically on the national level, it did not increase significantly in Massachusetts.

* Doctors and dentists are advising more patients to quit smoking

* Compliance with youth access restrictions has improved. The proportion of retailers making illegal sales dropped from 48 percent to 19 percent.

* A 15-year follow-up study recently reported in the American Journal of Public Health showed that a school based education program combined with community and mass media interventions could have long-term smoking prevention effects. Mean lifetime cigarette consumption was 22 percent lower among program subjects than among control subjects. Even among 28 year olds, the intervention that began 15 years earlier still resulted in significantly lower rates of smoking.

Public Support:

* Eighty-nine percent of the individuals polled favored the use of the settlement on efforts to reduce smoking among children.

* Nearly seven of every ten North Dakotans "strongly favor" using the funds for reducing tobacco use.

* More than six of every ten respondents feel at least half of the settlement funds should be spent towards these efforts.

* according to a poll commissioned by the Tobacco Free North Dakota coalition, in partnership with the North Dakota Medical Association, American Cancer Society, American Lung Association and the American Heart Association.

To not protect tobacco settlement funds for tobacco prevention would be a costly mistake. Unless the funds are used for tobacco prevention programs such as public education, community and school-based programs, and help for smokers who want to quit, North Dakota and its taxpayers will find themselves right back in the financial hole created by the rising costs of caring for the current generation of teen smokers when it becomes a generation of addicted adults. I urge you to take advantage of this golden opportunity -for our youth and our state's future.

**Written Testimony for House Bill 1475
Senate Appropriation Committee
March 9, 1999**

My name is Paula Flanders and I am the Director of Bismarck Burleigh Nursing Service and am speaking as a Public Health Nurse.

Bismarck Burleigh Nursing service received 12.6% of the federal immunization dollars for 1999 as was received in 1998. These dollars will not cover our postage costs for mailing out reminders of immunizations which are due this year. These dollars will not touch the supplies needed to administer the immunizations. North Dakota has come a long way to increasing the immunization rates of children and adults. Without appropriate funding, much ground will be lost in this area.

I support the findings which Mr. Sagsveen reports but feel he does not go far enough. The tobacco settlement was based on health care issues. At least 20% of the settlement should be allocated to Public Health which would include dollars for a statewide tobacco prevention and cessation campaign. Public Health has numerous unmet needs including school nursing which received tremendous statewide support but was not funded as the source would have added a new tax to tobacco users.

Please consider at least 20% of the tobacco settlement to be allocated to Public Health before allocating the remainder to other worthwhile causes.

HB 1475

WRITTEN TESTIMONY

**Fargo Cass Public Health**

401 3rd Avenue North

Fargo, ND 58102-4839

701-241-1360 • Fax 701-241-8559

To: Senate Appropriations Committee:
From: Mary Kay Herrmann, Director of Public Health
Date: March 9, 1999

The Fargo Cass Board of Health would like to express to you our concern with any legislation that only devotes 10% of the proceeds of the tobacco settlement to health and wellness programs. The settlement creates a great opportunity for North Dakota to improve health outcomes and we would like to encourage the legislature to take the time to plan for the best utilization of that funding.

The settlement represents health-related costs that have occurred from the illnesses that are caused by tobacco. It seems irresponsible to only devote 10% of the funds to health programs without really knowing what it would take to make an impact on the health and wellness of North Dakota citizens.

We urge you to support two goals for tobacco settlement funds. First, to ensure a long-term funding stream by depositing the majority of the funds into a special fund whereby only the interest earned on these dollars are then spent and not the principal. Secondly, we would like to see an interim study committee review the health needs of North Dakotans and make funding decisions that can make an impact on improved health outcomes for North Dakota citizens.

Laura Carney, Chair
Fargo Cass Board of Health
Fargo School District

Arlette Preston
Fargo City Commission

Kathy Hogan
Cass County

Malinda Lindstrom
Rural Cass

J.D. Mund
State Bank of Fargo

Richard Rohl, MD

Brent Holman, DDS

HB 1475
3/9/99
Marsha Dupre

#3

Testimony of Marsha Dupre
Marketing Director
Uni-Med Medical Center
407 3rd St. SE
Minot, North Dakota 58701
701-857-2059

Mr. Chairman and Committee Members

I am speaking on behalf of Tobacco Free North Dakota and Uni-Med Medical Center.

It is with great concern that I am before you today. Tobacco use by youth in North Dakota can no longer be ignored nor thought of as a rite of passage into adulthood. North Dakota has the third highest youth smoking rate in the nation, with 40 % of our high school youth smoking (Center for Disease Control-CDC, 1998). If this number is not disturbing enough, consider that if these current trends continue over 12,000 of our children alive today will die from a smoking related cause(CDC,1996).

Fortunately, we-this legislature and the people of North Dakota, do not have to stand by and watch as our children move quickly from experimentation to addiction to tobacco and ultimately to die prematurely from a decision made as a child. Premature death for smokers is a painful reality. In the American Cancer Society 1999 Cancer Facts & Figures publication, it is stated that about half of all continuing smokers die prematurely. Of these, about half die in middle ages, losing an average of 20-25 years of life expectancy.

You can make a difference in youth initiation into smoking and a difference in the premature deaths of continuing smokers. Those in the field of tobacco control and prevention know what is effective in terms of decreasing youth initiation into smoking. Without overly simplifying the situation-given adequate resources, North Dakota can join the states that are experiencing declines in smoking consumption rates and declines in youth smoking. States such as Massachusetts and California, who have devoted adequate funding to tobacco prevention, are realizing documented gains in their efforts to reduce and prevent smoking. While youth smoking rates were steadily increasing nationwide, they went down or increased much more slowly in these states.

In California, cigarette consumption has declined by 38%, with over one million Californians quitting smoking. While teenage smoking increased significantly throughout the country, smoking among California teens remained constant.. (Campaign for Tobacco Free Teens).

In Massachusetts, similar decreases in consumption and slowing rates of youth smoking have occurred, with actual decreases in youth smoking in certain age groups. Also, the illegal sales of tobacco to youth has fallen 48% to just 8%.

I can appreciate your circumstance as legislators with the many needy and worthy causes looking towards the settlement dollars for their programs or activities. However, curbing the harm done

by tobacco to this state must be first on the list of priorities. Nearly 90% of the people polled in North Dakota agree, that a meaningful portion of the settlement dollars be directed toward tobacco prevention. The allocation of money for a comprehensive tobacco control program should reflect the alarming trends of increased tobacco Use in North Dakota, especially among our children.

I urge you to remember the original reason of the tobacco lawsuit and to decide that the people of North Dakota have suffered and given enough lives to tobacco. Use this one time opportunity, North Dakota's tobacco settlement, to prevent tobacco from killing another generation of our youth.

#01475
3/12/99
Linda Johnson

4 H

TESTIMONY ON HB 1475
SENATE APPROPRIATIONS COMMITTEE
March 9, 1999
by Linda Johnson, Director of School Health Programs
328-4138
Department of Public Instruction

Mr. Chairman and members of the committee:

My name is Linda Johnson and I am the Director of School Health Programs for the Department of Public Instruction. I am here to speak in favor of HB 1475, Section 1, regarding the transfer of tobacco settlement dollars to a health education trust fund to be administered by the superintendent of public instruction.

The infrastructure is in place to distribute dollars to school districts for prevention and cessation programs for youth through the present Safe and Drug Free Schools and Communities program. In the 1998-1999 school term, school districts received \$11 per pupil for prevention and early intervention programs in the areas of substance use and violence prevention. Next year we will take a 17% reduction in these dollars and districts will receive only \$9.34 per pupil.

The loss of funding at this time is very unfortunate and a boost from another source would be very timely. This year the Safe and Drug Free Schools program has instituted the *Principles of Effectiveness* for effective use of the prevention dollars. These principles promote programs that can prove a measurable difference in use behavior. Only within the last few years has research shown us what is truly effective in prevention and behavior change in youth risk areas. We are educating

school staff and applying these principles for best prevention practices for North Dakota youth. More dollars to promote this effort will lead to fewer children at risk.

Attached are the *Principles of Effectiveness*, the components of effective prevention education, and current North Dakota Youth Risk data in the area of substance use.

Children with healthy bodies and healthy minds are more easily educated to become productive and happy adults of tomorrow.



PRINCIPLES OF EFFECTIVENESS

The Department of Education has announced that the following Principles of Effectiveness will govern recipients' use of fiscal year 1998 and future years' funds received under Title IV - State and local programs of the Elementary and Secondary Education Act—the Safe and Drug-Free Schools and Communities Act (SDFSCA) State Grants Program. The Principles of Effectiveness take effect on July 1, 1998.

<p align="center">Principle 1: <i>Conducting Needs Assessments</i></p>	<p align="center">Principle 2: <i>Setting Measurable Goals and Objectives</i></p>
<p>A grant recipient shall base its program on a thorough assessment of objective data about the drug and violence problems in the schools and communities served.</p>	<p>A grant recipient shall, with the assistance of a local or regional advisory council, which includes community representatives, establish a set of measurable goals and objectives, and design its activities to meet those goals and objectives.</p>
<p align="center">Principle 3: <i>Effective Research-Based Programs</i></p>	<p align="center">Principle 4: <i>Program Evaluation</i></p>
<p>A grant recipient shall design and implement its activities based on research or evaluation that provides evidence that the strategies used prevent or reduce drug use, violence, or disruptive behavior.</p>	<p>A grant recipient shall evaluate its program periodically to assess its progress toward achieving its goals and objectives and use its evaluation results to refine, improve, and strengthen its program and to refine its goals and objectives as appropriate.</p>

(The four Principles of Effectiveness, as posted in the *Federal Register* of June 1, 1998.)

Eleven Components of Effective Drug Abuse Prevention Curricula

1. Research-based and theory-driven- As researchers broaden their focus; prevention programs are likely to become increasingly effective and appropriate.
2. Developmentally appropriate drug information- Youth are more influenced by the here and now consequences and experiences than what might happen in the future.
3. Social-resistance-skills training- Students learn skills to recognize peer pressure, resist that pressure to use drugs, and keep their friends.
4. Normative education- Teaches students that most people do not use drugs.
5. Broader-based skills training and comprehensive health education- The teaching of skills to make decisions, set goals, manage stress, and communicate.
6. Interactive teaching techniques- Strategies that promote active participation of students such as role-playing and small group activity, rather than lecture and worksheets.
7. Teacher training and support- Teachers receive training from program developers.
8. Adequate coverage and follow up- The program objectives are reviewed and taught again in one or two successive years.
9. Cultural sensitivity- Audience ethnicity and culture must be addressed.
10. Additional components- Perhaps family, media, and community components will increase effectiveness.
11. Evaluation- Most programs can affect a person's knowledge, but whether it can impact drug use behavior is important for any program to ask itself.

Curriculum Fact Sheet

Target Audience

Students in grades 6 through 9. Ideally the program should begin in the 6th or 7th grade with booster sessions in subsequent grades. The curriculum has been successfully implemented in both middle and junior high schools.

Objectives

At the completion of this program, students will have the knowledge and skills to:

- Say “No” to smoked tobacco, alcohol, and other drugs
- Develop a positive self-image
- Make decisions on their own without being influenced by peer group pressures
- Resist peer and media pressure to smoke, drink or use drugs
- Manage anxiety
- Build healthy relationships
- Cope with the challenges of adolescent life

Theory

The curriculum is based on a person-environment interactionist model that assumes there are multiple pathways leading to smoked tobacco, alcohol, and drug use. Social influences to smoke, drink, or use drugs interact with individual vulnerability. Therefore, the curriculum impacts on social risk factors including media influence and peer pressure, as well as personal risk factors such as anxiety and low self-esteem. A combination of personal self-management skills and social skills are taught to promote overall personal competence and decrease vulnerability and motivation to use drugs, in addition to providing specific knowledge and skills related to the problem of drug abuse.

Topics

- *Resistance Skills, Knowledge, and Attitudes*
 - Social influences to smoke, drink, or use drugs
 - Norms supporting the non-use of smoked tobacco, alcohol, and other drugs
 - Prevention-related knowledge
 - Skills for refusing offers to smoke, drink, or use drugs
- *Self-Management Skills*
 - Problem solving and decision making
 - Personal behavior change skills (Goal setting, self-monitoring, self-reinforcement)
 - Stress and anxiety management
- *General Social Skills*
 - Effective communication skills
 - Greetings and brief social exchanges
 - Meeting new people
 - Conversational skills
 - Complimenting skills
 - Assertiveness skills

Length and Placement

Fifteen class periods scheduled one or more times per week. Booster sessions of ten class periods in Year 2 and five class periods in Year 3.

The program can be successfully integrated into many subject areas with health education, science, and drug prevention being the most appropriate.

Activities

The curriculum includes a variety of interactive teaching methods and tools including:

- Large and small group discussion
- Brainstorming
- Demonstration of skills
- Scripted and unscripted skills practice
- Relaxation audio tape
- Worksheets and behavioral homework assignments

Components

- The *Teacher's Manual* contains overall session goals, specific student objectives, and detailed lesson plans.
- The *Student Guide* contains skills guidelines, information, and activities for students to do in the classroom and at home.
- The *audio cassette tape* contains instructions for teaching and implementing a relaxation exercise that may be used to help students reduce and manage their anxiety.

Training

A two-day training workshop is available for teachers, counselors, administrators, community leaders, and health professionals who work with adolescents. Participants learn prevention-related instruction and demonstration techniques that are used in the curriculum. In addition, the workshop focuses on refining coaching and facilitating skills, the use of behavior rehearsal, and general interactive skills.

Where To Get More Information

To purchase materials or arrange for training, contact Princeton Health Press at (609) 921-0540. In addition, some state education and health agencies have the capacity to train teachers in this curriculum.

Life Skills Training



Evaluation Fact Sheet

Research Design

In a study involving nearly 6,000 students from 56 schools, schools were randomly assigned either to receive the *LST* program (treatment condition), or not to receive the *LST* program (control condition). The study began when the students were in the 7th grade and continued in the 8th and 9th grade with *LST* booster sessions.

Tobacco, alcohol and other drug use, as well as other factors associated with substance abuse risk were assessed by questionnaire at the beginning of the semester, before program implementation, and at the end of the semester. Breath samples were collected to increase the reliability of self reports. Program implementation was monitored by project staff in randomly selected classes taught by the teachers in the intervention group. In the first part of the study, data were analyzed to determine differences in smoked tobacco, alcohol and drug use prevalence between treatment and control groups. Later, data were analyzed to determine the long-term effectiveness of the prevention program at the six year follow-up when the students were in the 12th grade.

Behavioral Findings

The results of the first part of the study showed that the program had a significant impact on reducing cigarette, marijuana, and alcohol use after three years for those students whose teachers taught at least 60% of the program. Results of the six-year follow up indicated that the effects of the program lasted until the end of 12th grade. Specifically, there were 44% fewer *LST* students than controls who used tobacco, alcohol, and marijuana one or more times per month and 66% fewer *LST* students who reported using all three substances one or more times per week. The strongest prevention effects were produced for the students who received the most complete implementation of the *LST* program including the two booster sessions.

Other Significant Findings

- *LST* reduced the use of inhalants, narcotics and hallucinogens.
- *LST* was effective when taught by different program providers (e.g., teachers, peer leaders or health professionals).
- *LST* was effective with white, African American, and Hispanic youth.
- *LST* increased levels of assertiveness, self-mastery, personal control, self-confidence, and self-satisfaction.

Twelve major evaluation studies have been conducted with a variety of providers and populations to test the effectiveness of *Life Skills Training (LST)*. Findings from these studies indicate that *LST* can reduce smoked tobacco use by up to 87% and use of alcohol and other drugs by up to 80%. A list of references is on the back of this sheet.

Life Skills Training Evaluation Studies

Botvin, G.J., Eng, A., and Williams, C.L. (1980). Preventing the onset of cigarette smoking through life skills training. *Preventive Medicine*, 9, 135-143.

Botvin, G.J. and Eng, A. (1982). The efficacy of a multi component approach to the prevention of cigarette smoking. *Preventive Medicine*, 11, 199-211.

Botvin, G.J., Renick, N.L., and Baker E. (1983). The effects of scheduling format and booster sessions on a broad-spectrum psychosocial smoking prevention program. *Journal of Behavioral Medicine*, 6, 359-379.

Botvin, G.J., Baker, E., Botvin, E.M., Filazzola, A.D., and Millman, R.B. (1984). Prevention of alcohol misuse through the development of personal and social competence: A pilot study. *Journal of Studies on Alcohol*, 45, 550-552.

Botvin, G.J., Baker, E., Renick, N., Filazzola, A.D., and Botvin, E.M. (1984). A cognitive-behavioral approach to substance abuse prevention. *Addictive Behaviors*, 9, 137-147.

Botvin, G.J., Batson, H., Witts-Vitale, S., Bess, V., Baker, E., and Dusenbury, L. (1989). A psychosocial approach to smoking prevention for urban black youth. *Public Health Reports*, 104, 573-582.

Botvin, G.J., Dusenbury, L., Baker, E., James-Ortiz, S., and Kerner, J. (1989). A skills training approach to smoking prevention among Hispanic youth. *Journal of Behavioral Medicine*, 12, 279-296.

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Botvin, G.J., Dusenbury, L., Baker, E., James-Ortiz, S., Botvin, E.M. and Kerner, J. (1992). Smoking prevention among urban minority youth: Assessing Effects on Outcome and Mediating Variables. *Health Psychology*, 11(5), 290-299.

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Botvin, G.J., Schinke, S.P., Epstein, J.A., & Diaz, T. (1994). Effectiveness of culturally-focused and generic skills training approaches to alcohol and drug abuse prevention among minority youths. *Psychology of Addictive Behaviors*, 8, 116-127.

Botvin, G.J., Baker, E., Dusenbury, L., Botvin, E.M. & Diaz, T. (1995) Long-term follow-up results of a randomized drug abuse prevention trial in a White middle-class population. *Journal of the American Medical Association*, 273(14), 1106-1112.

Botvin, G.J., Schinke, S.P., Epstein, J.A., Diaz, T. & Botvin, E.M. (1995). Effectiveness of culturally-focused and generic skills training approaches to alcohol and drug abuse prevention among minority adolescents: Two-Year follow-up results. *Psychology of Addictive Behaviors*, 9, 183-194.

Project Towards No Tobacco Use (*Project TNT*)



Curriculum Fact Sheet

Target Audience

Ideally, students in 7th grade. *Project TNT* has been implemented with white non-Hispanic, Latino, African American, and Asian American adolescents, ages 10 to 15 years old.

Objectives

At the completion of this program, students will be able to:

- Reduce their initiation or regular use of tobacco products (smoked and smokeless)
- State accurate information about the course of tobacco addiction and disease, the consequences of using tobacco, and the prevalence of tobacco use among peers
- Demonstrate skills including active listening, assertive refusal, effective communication, self-esteem building, and tobacco use-specific cognitive coping skills
- Illustrate ways the media portray "social images" that influence tobacco use
- Understand and practice advocating for no tobacco use
- Make a public commitment about future intentions toward tobacco use

Theory

The theory underlying *Project TNT* is that youth will be best able to resist using tobacco products who (1) are aware of misleading social information that facilitates tobacco use (e.g. advertising, inflating prevalence estimates); (2) have skills that counteract the social pressures to achieve approval by using tobacco; and (3) appreciate the physical consequences that tobacco use may have on their own lives (e.g. the beginnings of addiction). (Sussman, Dent, Burton, Stacy, & Flay, 1995, *Developing School-based Tobacco Use Prevention and Cessation Programs*. Thousand Oaks: Sage.)

Project TNT counteracts different causes of tobacco use simultaneously because the behavior is determined by multiple causes. This comprehensive approach is well suited to a wide variety of youth who may differ in risk factors that influence their tobacco use.

Topics

- Active listening skills
- Information about the course of tobacco addiction and tobacco use prevalence
- Self-esteem building
- Tobacco use-specific cognitive coping skills
- Effective communication skills
- General assertiveness, and assertive refusal learning and practice
- Counteracting media-related tobacco use social influences
- Social advocacy and public commitment about tobacco product nonuse

Length and Placement

Ten core lessons and two booster lessons, 40 to 50 minutes each. The ten core lessons are designed to occur over a two-week period, although they could be spread out over as long as four weeks on the condition that all lessons are taught. The two-lesson booster was developed to be taught one year after the core lessons in a two-day sequence, although they could be taught one lesson per week.

Activities

A wide variety of activities are used to encourage student involvement and participation. Activities include games, videos, role-plays, large and small group discussion, use of student worksheets, homework assignments, advocate letter writing and a videotaping project. The two-lesson booster program summarizes previously learned material and discusses how this material might be used in daily living.

Components

An implementation manual provides step-by-step instructions for completing each of the ten core lessons and two booster lessons, with background and introductory material (e.g. consistent with CDC guidelines, classroom management information, tobacco product and consequences facts). Other components of the curriculum include two videos (one on assertive refusal and the other on combating tobacco use-specific social images), a student workbook, and an optional kit that includes posters and other instructional materials.

Training

A two-day teacher training prior to implementation of the curriculum is recommended.

Where To Get More Information

To purchase materials or arrange for training, contact Sande Craig at USC, (213) 342-2586.

Project Towards No Tobacco Use

(Project TNT)



Evaluation Fact Sheet

Intervention

A comprehensive, 10-day, classroom-based social influences-oriented curriculum was delivered to 7th grade students, of whom 60% were white non-Hispanic, 27% Latino, 7% African American, and 6% Asian American. Students were taught about tobacco addiction and disease, correction of inflated tobacco use prevalence estimates, social skills, the ways the media portray tobacco “social images,” anti-tobacco use social advocacy, and how to make a public commitment about tobacco use. Student involvement was maintained through use of five homework assignments, a classroom groups competition, and a two-lesson booster program that was provided the next year.

Research Design

Five conditions (four programs and the “usual school health education,” or control) were contrasted using a randomized experiment involving 6,716 seventh grade students from 48 junior high schools. Four curricula were developed. Three were designed to counteract the effects of separate (single) program components (normative social influence, informational social influence, and physical consequences), whereas a fourth, comprehensive curriculum, *Project TNT*, was designed to counteract all three effects.

To determine outcomes, one- and two-year follow-ups were conducted after the core 7th grade intervention was delivered.

Behavioral Findings

The “comprehensive social influences plus physical consequences” curriculum showed the largest effects on behavior. Compared to the control condition (“usual school health education”), this program obtained significant effects on initiation and weekly use of smokeless tobacco and cigarettes. The program reduced initiation of cigarettes by approximately 26% over the control group, when one-year and two-year follow-up outcomes were averaged together; reduced initiation of smokeless tobacco use by approximately 60%; weekly or more frequent cigarette smoking was reduced by approximately 30%; and weekly or more frequent smokeless tobacco use was eliminated. These data indicate that the same tobacco use prevention program can be delivered to males and females and can be effective over the transition period from junior to senior high school.

Project TNT Evaluation Studies

Sussman, S., Dent, C.W., Flay, B.R., Burton, D., Craig, S., Holden, S., & Mestel-Rauch, J. (1989). Media manipulation of adolescents' personal level judgments regarding consequences of smokeless tobacco use. *Journal of Drug Education*, 19, 43-57.

Stacy, A.W., Dent, C.W., Sussman, S., Raynor, A., Burton, D., & Flay, B.R. (1990). Expectancy accessibility and the influence of outcome expectancies on adolescent smokeless tobacco use. *Journal of Applied Social Psychology*, 30, 802-817.

Sussman, S. (1991). Curriculum development in school-based prevention research. *Health Education Research: Theory and Practice*, 6, 339-351.

Sussman, S., Dent, C.W., Stacy, A.W., Hodgson, C., Burton, D., & Flay, B.R. (1993). Project Towards No Tobacco Use: Implementation, process and posttest knowledge evaluation. *Health Education Research: Theory and Practice*, 8, 109-123.

Sussman, S., Stacy, A.W., Dent, C.W., Burton, D., & Flay, B.R. (1993). Refusal assertion versus conversational skill role-play competence: Relevance to prevention of tobacco use. *Statistics in Medicine*, 12, 365-376.

Turner, G.E., Burciaga, C., Sussman, S., Klein-Selski, E., Craig, S., Dent, C.W., Mason, H.R.C., Stacy, A.W., Burton, D., & Flay, B.R. (1993). Which lesson components mediate refusal assertion skill improvement in school-based adolescent tobacco use prevention? *International Journal of the Addictions*, 28, 749-766.

Dent, C.W., Sussman, S., Stacy, A.W., Craig, S., Burton, D., & Flay, B.R. (1995). Two-year behavior outcomes of Project Towards No Tobacco Use. *Journal of Clinical and Consulting Psychology*, 63, 676-677.

Donaldson, S.I., Sussman, S., MacKinnon, D.P., Severson, H.H., Glynn, T., Murray, D.M., & Stone, E. (1996). Drug abuse prevention programming: Do we know what content works? *American Behavioral Scientist*, 39, 868-883.

Sussman, S., Dent, C.W., Stacy, A.W., Burton, D., & Flay, B.R. (1995). *Developing school-based tobacco use prevention and cessation programs*. Thousand Oaks, CA: Sage Publications, Inc.

School Expenses to Implement Project TNT or Life Skills Training

Teacher training in either prevention curriculum

Teacher Training Credit Class Expenses	Stipend	\$70 per day	X 2 days	X 6 teachers	\$840
	Transportation	\$.25 per mile @ 150 miles	\$38	X 6 teachers	\$228
	Lodging	\$43 per day @ 2 days	\$86	X 6 teachers	\$516
	Meals	\$20 per day @ 2 ½ days	\$50	X 6 teachers	\$300
Total per Credit Class for 6 Teachers					\$1,884

School expenses for classroom implementation of Life Skills Training

Curriculum Materials	Student guides	Year 1	\$60 per pack (10)	X 150 students	\$9,000
		Year 2	\$50 per pack (10)	X 150 students	\$7,500
		Year 3	\$40 per pack (10)	X 150 students	\$6,000
	Video tapes		\$10	X 6 classes	\$60
Total curriculum expenses for three grades (6, 7, & 8)					\$22,560

School expenses for classroom implementation of Project TNT

Curriculum Materials	Student guides	Year 1	\$19 per pack (5)	X 150 students	\$2,850
		Year 2	\$19 per pack (5)	X 150 students	\$2,850
	Video tapes		\$80	X 6 classes	\$4,800
			\$40	X 6 classes	\$2,400
Total curriculum expenses for two grades (6 & 7)					\$12,900

**Training Expenses for
Proven Effective Prevention Programs**
(Currently a collaborative effort between DPI and DoH)

Project TNT-Tobacco Use Prevention

Teacher Training Credit Class Expenses	Salary	\$750 per credit	\$750		\$750
	Transportation	\$.25 per mile @ 400 miles	\$100	X 2 teachers	\$200
	Lodging	\$43 per day @ 2 days	\$86	X 2 teachers	\$172
	Materials/Books	Per student	\$45	X 35 students	\$1575
	Supplies	\$50	\$50		\$50
	Meals	\$20 per day @ 2 ½ days	\$50	X 2 teachers	\$100
Total per Credit Class for 2 Teachers and 35 students					\$2,847
3 Credit Classes per Year					\$8,541

Life Skills Training-Alcohol, Tobacco, and Other Drug Use Prevention

Teacher Training Credit Class Expenses	Salary	\$750 per credit	\$750		\$750
	Transportation	\$.25 per mile @ 400 miles	\$100	X 2 teachers	\$200
	Lodging	\$43 per day @ 2 days	\$86	X 2 teachers	\$172
	Materials/Books	Per student	\$210	X 35 students	\$7,350
	Supplies	\$50	\$50		\$50
	Meals	\$20 per day @ 2 ½ days	\$50	X 2 teachers	\$100
Total per Credit Class for 2 Teachers and 35 students					\$8,622
3 Credit Classes per Year					\$25,866

1997 North Dakota Youth Risk Behavior

“Health risk behaviors, which contribute to the leading causes of death, injury and social problems among youth and adults, often are established during youth, extend into adulthood, and are interrelated.”

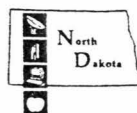
MMWR, Aug. 14, 1998

CONTACT HEALTH DEPARTMENT FOR COPY

During the Spring of 1997, the North Dakota Department of Public Instruction and the North Dakota Department of Health conducted the third Youth Risk Behavior Survey (YRBS). Survey data were obtained from 4,022 seventh and eighth grade students and 5,647 high school students (grades nine through 12).

The 1997 survey data for North Dakota is not weighted. The responses included in this brochure represent **only** the students who were sampled. These responses do not represent all North Dakota youth. Students from the Red River Valley are underrepresented in the survey data because of the 1997 floods.

National data were obtained from a representative sample of students in grades 7 through 12 representing both public and private schools. ³



North Dakota Department of Public Instruction
Dr. Wayne G. Sanstead, State Superintendent
600 East Boulevard Avenue, Dept. 201
Bismarck, N.D. 58505-0440



North Dakota Department of Health
Murray G. Sagsveen, State Health Officer
600 East Boulevard Avenue, Dept. 301
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Support provided by
Centers for Disease Control & Prevention
Cooperative Agreement No. U87CCU808975-06
PHHS Block Grant No. 98-B1-ND-PRVS

HB 1475 Testimony

HB 1475 # 1A
3/19/99
June Herman

June Herman
American Heart Association

The water problems of North Dakota are well documented, as well as the specific actions needed to successfully address those problems. The tobacco usage rates of North Dakota, especially among our young, are also well documented.

While exciting results of comprehensive tobacco education and cessation programs in other states are now becoming available for our consideration, a specific plan for successfully addressing tobacco usage in North Dakota does not yet exist.

Due to the tobacco settlement, an unprecedented opportunity exists to address both of these major problems. Both the water problems and the tobacco usage problems are significant in our state. We ask that as you proceed with the urgent business of addressing the most critical water issues facing North Dakota, that you also take the step to study the use of the remaining tobacco settlement funds. While an urgency exists to address both these issues, you do not have to determine an allocation formula this session beyond the critical water problems of the state. Very insightful questions have been asked of me by both sides of the aisle and different committees as I have spoken to the youth and tax issues related to tobacco. As stewards of these funds, and other state funds, you can take the opportunity to discuss through interim committee the extent of the tobacco health issues of the state and what needs to be done about it.

We proposed that the following amendment to be added to this bill:
(handout language).

This amendment provides the following opportunities:

- It provides the ability to move ahead with the critical water project funding
- It helps to reduce the risk of the uncertainty of the full payment of the tobacco settlement funds
- It provides for a full study of the remaining use of the settlement
- It confirms the focus of the settlement funds to address our other state emergency – the \$180 million annual medical bill for the treatment of tobacco related diseases.
- It provides the opportunity to rationally evaluate the state of our existing tobacco education programs, the rational behind those programs, and the strategies that should be implemented.
- It can provide a bi-partisan recommendation, fully supported by the health and education communities of our state.
- It provides immediate leverage to gain \$2 million in federal funds to provide children's health insurance coverage.

Each year, taxpayers pay out millions of dollars to cover a skyrocketing expense that can be controlled. All Americans, smokers and non-smokers, pay higher taxes and higher insurance premiums to cover tobacco-related health costs.

Each year, the average North Dakota household pays \$290 in taxes to cover costs associated with tobacco related illness. Each household also pays higher insurance premiums resulting from healthcare costs for smoking-related illnesses. You have a unique opportunity to control the taxes associated with tobacco costs and protect our kids from tobacco addiction and death by deferring action beyond funding critical water projects, and supporting an interim evaluation on the further uses of these funds. While it has been said that the only thing you can be sure of in life is death and taxes, this does not have to be one of those times. Please amend HB 1475 as proposed.

HB 1475
3/9/99
June Herman

#1B

PROPOSED AMENDMENT TO ENGROSSED HOUSE BILL NO. 1475

On page 1, line 2, after the semicolon insert "to create the health and tobacco control trust fund; to create the health and tobacco control committee; to provide an appropriation;"

On page 1, line 4, replace "**Tobacco settlement trust fund – Interest on fund - Uses**" with "**Health and tobacco control trust fund – Interest on fund - Allocation of tobacco settlement funds - Appropriation**"

On page 1, line 5, replace "tobacco settlement" with "health and tobacco control"

On page 1, line 12 replace "shall be appropriated" with "may be expended only for the following purposes:"

On page 1, remove line 13

On page 1, line 14, remove "a health education trust fund to be administered by the superintendent"

On page 1, remove lines 15 through 24 and insert:

"the resources trust fund of not more than forty-five percent of each annual payment, but in no event to exceed eighty-five million dollars in total, of the funds received pursuant to sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc. (east central dist. ct., December 28, 1998) for use in paying for bonds issued under section 3 of senate bill 2188 and for other water projects authorized by the legislative assembly.

2. A transfer of \$900,000 to the general fund.
 - A. \$800,000 or so much thereof as may be necessary is appropriated from the general fund to the department of human services for the biennium beginning July 1, 1999 and ending June 30, 2001, to supplement funds appropriated in senate bill 2012 to provide the state match for the children's health insurance program provided for in senate bill 2182 for all North Dakota children living at or below 200 percent of poverty.
 - B. \$100,000 or so much thereof as may be necessary is appropriated from the general fund to the department of health to defray the expenses of the health and tobacco control committee for the period beginning with the effective date of this Act and ending on June 30, 2001.

3. The remainder of the funds recovered by the state not otherwise appropriated or transferred by this section must remain in the health and tobacco control trust fund and may not be expended until the health and tobacco control committee created by section 2 of this Act has completed its work and the legislative assembly has enacted a statutory plan to meet the needs of North Dakota's citizens related to tobacco diseases and addiction and to adopt and implement a tobacco control program."

On page 2, remove lines 1 through 5

On page 2, replace "2, and 3" with "and 2"

On page 2, line 7, replace "tobacco settlement" with "health and tobacco control"

On page 2, line 7, replace "4" with "3"

On page 2, line 8, replace "tobacco settlement fund until appropriated and transferred as directed by" with "health and tobacco control trust fund except as appropriated by this Act."

On page 2, remove line 9

On page 2, after line 9, insert:

SECTION 2. Health and tobacco control committee created – Study – Report to legislative council.

1. A committee to study tobacco control in North Dakota and the health needs of North Dakota citizens related to tobacco disease and addiction is created. The committee consists of 19 members. Ten members shall be legislators chosen by the legislative council, five shall be members of the senate, three from the majority party and two from the minority party; and five shall be members of the house, three from the majority party and two from the minority party. Two members shall be the North Dakota health officer and the attorney general or their respective designees. Seven private members, one from each of the following organizations, shall also serve on the committee and shall be selected in the manner each of the organizations they represent may choose:

1. Tobacco Free North Dakota;
2. North Dakota Chapter of the American Cancer Society;
3. North Dakota Chapter of the American Heart Association;
4. North Dakota Chapter of the American Lung Association;
5. North Dakota Public Health Association;
6. North Dakota Medical Association, which shall choose a member who is active in public health;

7. North Dakota Nurses Association, which shall choose a member who is a public health or public school nurse.

Membership on the committee does not require the above organizations to comply with either the open meetings or open records laws except when in attendance at the committee meetings or engaged in work directed to be undertaken by the committee.

2. The committee shall begin its work as soon as practicable after the effective date of this Act. The committee shall report its findings to the legislative council at its November, 2000 meeting. The committee's report shall include a comprehensive plan including implementing legislation outlining present and future uses for the funds recovered by the state under sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the district court in its judgment entered in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris Inc. (east central dist. ct., December 28, 1998), for the needs of North Dakota citizens related to tobacco diseases and addiction and development and implementation of tobacco control programs.

3. The state health officer and attorney general or their designees and the legislative members of the committee are entitled to mileage and meals at the rates set for state employees pursuant to sections 44-08-04 and 54-06-09. The legislative members designated to serve are also entitled to a per diem of \$62.50 per day for each day, or portion of a day, spent in committee meetings.

Renumber accordingly



549 Airport Rd. • Bismarck, ND 58504 • Phone: (701) 223-1385 • Fax: (701) 223-0575

TESTIMONY ON HB 1475

Chairman Nething and members of the Senate Appropriations Committee. My name is Penni Weston and I am here representing the North Dakota Nurses Association.

Our organization strongly believes tobacco settlement money needs to be used to pay for the diseases and deaths that had to occur for this money to come to North Dakota. We do believe that a state water plan needs to be acted on. While we would have liked to have seen all of the money go to health related needs, we can support the 40% allocation for water projects.

We are asking this committee to not allocate the other portions of the settlement dollars at this time. We support the amendment offered by the American Heart Association. We agree that the most responsible action is to distribute the money in a trust fund and develop a coalition of organizations and individuals who can be involved in an interim study to determine the most effective way to spend these resources.

Tobacco prevention activities and programs must be funded at the maximum amount possible. I disagree that the money spent has a "diminishing return". As with anything that is a culture and social change, it does not happen overnight. Just spending minimal dollars on a few one-shot education programs for a few designated ages is not effective. We must commit to providing the funding required to an all out "war" on tobacco.

Earlier in the session, this committee voted to appropriate the dollars necessary to provide care for the elderly of our state. I applaud you for this. However, we must take care of our kids or no one will be left in the state to provide care for our elderly, regardless of how much money you provide.

We must invest in the youth of our state or else North Dakota has no future. Healthy children who make healthy lifestyle choices must be a priority. Please support the use of tobacco funds for education on prevention of tobacco use so that our children will have a future here in our state.

Thank you for the opportunity to testify and I will be happy to answer any questions.

**NORTH DAKOTA SOCIETY
for RESPIRATORY CARE**



116
3/12/99
Glenn Thom

"A BREATH OF FRESH CARE"

Testimony of: Glenn Thom, Mandan, ND

Title: President-Elect, North Dakota Society for Respiratory Care (NDSRC).

As a licensed, registered respiratory therapist speaking on behalf of the North Dakota Society for Respiratory Care (NDSRC), HB 1475 needs to be modified from its current form.

Copies of the NDSRC's position statement and a guideline for applying Tobacco Settlement dollars toward their intended use were sent to Committee members earlier. I will not reiterate those documents at length here, except to state that 5% of the Tobacco Settlement dollars is an inadequate amount if we are to address tobacco damage now and in the near future.

I do wish, however, to visit 3 important points:

1. First, the tobacco settlement dollars are an ethical reparation for damage done to hundreds of thousands of lives over many years. This damage takes many forms:
 - Millions of healthcare dollars.
 - Premature loss of life.
 - Loss of productivity by those debilitated from tobacco use.
 - Significant tax burden on society.It is only morally responsible to use tobacco dollars to reduce the impact of this damage.
2. Second, reimbursement for the vast majority of patients in North Dakota currently includes nothing for smoking cessation or pulmonary rehabilitation. Both of these programs directly address the problems tobacco use created. Although nicotine replacement patches are available in stores, research has shown that successful smoking cessation is most always connected with a formal smoking cessation program. A large number of patients needing pulmonary rehabilitation are those with emphysema - a lung disease caused almost exclusively by tobacco. Tobacco dollars must be used to help these North Dakotans.
3. Finally, a great deal more than 5% of the tobacco settlement dollars are needed not only for those who are or soon will be affected by tobacco use, but also to help minimize the number of young people trapped in the future. Since this settlement appears to be a one-time opportunity to offset some of the effects of tobacco on North Dakota's citizens, let's make good choices now.

With these views in mind, we recommend adoption of the amendment to HB 1475 proposed by the North Dakota American Heart Association to establish a Health and Tobacco Control Committee to oversee the distribution of funds not allocated to water development.

HB 1475

Written Testimony
3/12/99

Testimony of Mrs. Susan Kahler
Regional Program Coordinator
American Lung Association of North Dakota
Bismarck, ND 58502
1-800-252-6325

Mr. Chairman and Committee Members:

My name is Susan Kahler, Regional Program Coordinator for the American Lung Association of North Dakota.

I am in support of the Amendment for HB 1475 for the following reasons

In 1998, the state of North Dakota signed on to a \$206 billion multi-state settlement with the tobacco industry. As much as \$717 million will come to North Dakota over the next 25 years. In those same 25 years we will pay \$4.5 billion for tobacco-related health costs. This is our opportunity to do something about our high rate of youth smoking. We are ranked 3rd in our nation for youth smoking. This amendment would allow money for the water projects, but refer further expenditure decisions to an interim committee. To work on a statewide tobacco comprehensive program and determine the amount of money needed for that program. The rest of the money that is left over can be used for other worthy causes.

- To this date, North Dakota has spent \$0 on curbing tobacco use. In contrast, the tobacco industry spent \$12 million per year on promotion to our state.
- Research shows that youth are 3 times more sensitive to tobacco advertising than adults and are more likely to be influenced by marketing than by peer pressure.
- 86 percent of children who smoke prefer Marlboro, Camel, and Newport -- the three most heavily advertised brands -- compared to only about one third of adult smokers. Sixty percent of youth smokers use Marlboro, while only a fourth of adult smokers choose this brand.

Tobacco prevention programs work. With organized, funded statewide programs, tobacco use drops. Experience talks. The California Tobacco Control Program has been in place since 1990.

- Cigarette Consumption dropped in California by 38%.
- Smoking among 8th graders in California has varied from 12% -14%, lower than the national average of 17%-22%.
- Adult smoking California declined from 26.7% to 18.1%.
- More than 1.3 million California *Quit* smoking.

The Massachusetts Tobacco Control Program began in 1993.

- Cigarette consumption dropped in Massachusetts by 31%.
- Smoking among 8th graders in Massachusetts decreased slightly between 1993-1996 while rates rose nationally.
- Adult smoking in Massachusetts declined from 22.6% to 20.6%.

California spends \$5.50 per capita in tobacco prevention. Massachusetts spends \$11 per capita. In contrast , the Centers for Disease Control spends 10 cents per capita. North Dakota spends \$0.

Each year, the average North Dakota household pays \$290 in taxes to cover costs associated with tobacco related illness. Each household also pays higher insurance premiums resulting from health care costs for smoking-related illnesses. You have a unique opportunity to control the taxes associated with tobacco costs and protect our kids from tobacco addiction and death by deferring action beyond funding critical water projects, and supporting an interim evaluation on the further uses of these funds. Almost 90% of North Dakotans support using tobacco settlement funds to reduce tobacco use.



NORTH DAKOTA
DEPARTMENT OF HEALTH

600 E. Boulevard Avenue
Bismarck, ND 58505-0200

OFFICE OF
STATE HEALTH OFFICER
701-328-2372
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March 15, 1999

Senator David Nething
Chairman, Senate Appropriations Committee

Senator John Andrist
Subcommittee Chairman for House Bill 1004

Senator Rod St. Aubyn
Subcommittee Chairman for House Bill 1022
600 East Boulevard Avenue
Bismarck, ND 58505

RE: Tobacco Settlement Funds

Dear Senators Nething, Andrist, and St. Aubyn:

This supplements my testimony and our prior discussions concerning the allocation of tobacco settlement funds.

It is my understanding that the major tobacco companies will pay \$57.6 million to North Dakota during the next biennium as a result of the November 1998 Master Settlement Agreement. For cash flow purposes, \$32.3 million should be paid during July 2000, \$9.3 million should be paid during January 2001, and \$16.0 million should be paid during April 2001.

Governor Schafer requested, in the State of the State Message, that 10% of all tobacco settlement payments be allocated "to public health programs, including important initiatives on diabetes, drug and alcohol abuse, and tobacco prevention and cessation. This will fund programs primarily driven at the local level..."

Governor Schafer also requested, in House Bill 1022, that funds be authorized to provide a state morgue and to upgrade the microbiology and chemistry laboratories. At the time House Bill 1022 was filed, we estimated the cost to be about \$3 million.

I believe that we can accomplish several critically important objectives if at least 10% of the tobacco settlement payments during the next biennium are allocated to public health purposes. The concept is summarized below.

→ *House Bill 1475*

It was my recommendation, in the testimony provided to the Senate Appropriations Committee, that House Bill 1475 be amended by inserting the following language:

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 only for community-based public health programs, with an emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection may not exceed ten percent of total annual payments from the tobacco settlement trust fund.

If House Bill 1475 is enacted with this language, \$5.76 million should be paid into the community health trust fund during the next biennium.

House Bill 1004

Governor Schafer recommended that part of the tobacco settlement money should be used to fund public health programs "primarily driven at the local level." If we assume that the tobacco settlement payments will be at least \$25 million for the next 25 years, a 10% allocation would provide \$2.5 million each year for public health programs (about \$3.90 per capita per year). As explained above, this money could be available to initiate a community health grant program (as described in my testimony on House Bill 1475) as early as the second half of the 1999-2001 biennium.

It was my recommendation, in the testimony provided on House Bill 1475, that House Bill 1004 could be amended as follows:

SECTION __. APPROPRIATION. There is hereby appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the state department of health for the purpose of a community health grant program, for the biennium beginning July 1, 1999, and ending June 30, 2001.

Several legislators have expressed concern that North Dakota may not receive part or all of the \$57.6 million during the next biennium. If the funds are not received, money will not be allocated to the community health trust fund and, accordingly, will not be available to fund the grant program.

If House Bill 1475 is amended to allocate 10% to public health, if \$5.76 million is allocated to a community health trust fund, and if \$2.5 million is appropriated for a community health grant program, \$3.26 million will be left in the community health trust fund.

House Bill 1022

House Bill 1022 was amended by the House to delete the \$3 million bonding authorization for the Department of Health. It is my recommendation that the bill *not* be amended in the Senate to re-insert the authorization (which could provide the committee with additional flexibility to address other necessary bonding priorities). Instead, it is my recommendation that House Bill 1004 be further amended, as follows, to take advantage of the \$3.26 million that could be available if North Dakota receives the full \$57.6 million during the next biennium and House Bill 1475 is amended to allocate 10% to public health:

SECTION __. APPROPRIATION. There is hereby appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$3,260,000, or so much of the sum as may be necessary, to the state

department of health for the purpose of leasing temporary facilities for a state morgue, constructing and remodeling the East Main laboratory facility to house the morgue and the microbiology and chemistry laboratories for the biennium beginning July 1, 1999, and ending June 30, 2001.

Again, several legislators have expressed concern that North Dakota may not receive part or all of the \$57.6 million during the next biennium. If the funds are not received, money will not be allocated to the community health trust fund and, accordingly, would not be available to fund the leasing, construction, and remodeling work described above. However, in anticipation of receiving the funds, we would proceed with all necessary preconstruction work, such as providing temporary facilities for a state morgue, retaining an architect to prepare plans and specifications for the construction and remodeling work, and obtaining bids for the construction and remodeling work.

Joel Leapaldt, the State Facility Planner, OMB, has estimated that the total cost will be about \$4 million (see his attached letter dated March 8, 1999). If so, we would seek an additional \$.75 million from the available tobacco settlement funds during the following biennium (2001-2003). The tobacco settlement payments should total over \$60 million during the biennium, so the 10% allocation should fund \$5 million for a community health grant program and up to \$1 million to complete construction.

The proposed sequence of operations would be:

- Ensure there are adequate morgue facilities and offices for Dr. Mizell and his staff during the 1999-2001 biennium (either at the Bismarck medical centers, within Department of Health facilities, or in leased space).
- Retain an architect to prepare plans and specifications for constructing new microbiology and chemistry labs at the East Main site and for remodeling the East Main lab to accommodate a state morgue.
- If funds are available, award construction contracts for new microbiology and chemistry labs at the East Main site (in order to take full advantage of the construction season, it may be necessary to borrow early construction funds from the Bank of North Dakota, which would be repaid when the January and April 2001 payments are received).
- When the labs have been constructed:
 - relocate the microbiology lab to the new facility and terminate the existing \$200,000 per biennium lease; and
 - relocate the chemistry lab from the East Main facility to the adjacent new facility.
- When the chemistry lab has vacated the East Main facility, remodel the facility to comply with the Life Safety Code, upgrade the HVAC (heating, ventilation, and air conditioning) system, and provide a state morgue for the medical examiner.
- Relocate the medical examiner and staff into the remodeled facilities.

* * *

I urge the Senate Appropriations Committee to carefully consider this concept. If the three bills are amended as described above and if the bills are enacted into law, we would have...

- Allocated a reasonable amount of the tobacco settlement money to public health purposes, as initially requested by Governor Schafer.
- Initiated a critically important community health grant program to fund community-prioritized public health programs.

March 15, 1999

- Provided a permanent state morgue facility for the state medical examiner.
- Provided new state-of-the-art microbiology and chemistry lab facilities that fully comply with Life Safety and other applicable codes.
- Remodeled the existing East Main lab to fully comply with Life Safety and other applicable codes and upgraded the existing HVAC system.
- Completed these objectives without impacting the general fund, without bonding, without increasing the operating budget of the Department of Health, and without authorizing any additional FTEs for the Department.
- Made essential long-term infrastructure investments in North Dakota that will be funded with a partnership of state and federal money.

Please contact me (328-2372; sagsveen@state.nd.us), at your convenience, if you would like to further discuss these recommendations.

Sincerely,


Murray G. Sagsveen
State Health Officer

MGS:irr

cc: Governor Edward T. Schafer
Bob Barnett
George Mizell, M.D.
Francis Schwindt
Jim Anders
Myra Kosse
Kenan Bullinger