

1999 SENATE APPROPRIATIONS

SB 2250

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2250

Senate Appropriations Committee

Conference Committee

Hearing Date January 28, 1999

Tape Number	Side A	Side B	Meter #
1	X		100-end
		X	1-278
2/2/99	1		5,219
Committee Clerk Signature <i>Kathy C. Kotteleroock</i>			

Minutes:

SENATOR NETHING: Opened the hearing on SB2250; A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 21-01 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE ESTABLISHMENT OF A HEALTH CARE PROGRAMS TRUST FUND; AND TO PROVIDE AN APPROPRIATION.

MARV MUTZENBERGER: Senator from District 32 to testify in support of SB2250 (testimony attached (tape 100-615). Senator Mutzenberger distributed written testimony on behalf of the Grand Forks Board of Health (attached).

SENATOR ANDRIST: In the Bill it states, before July first of each even-numbered year, the state health council shall submit to the governor and the legislative council a plan detailing suggested uses for the funds and earnings. Is the intent to sercomvent the appropriation's process or would the Health Council have the authority to spend the money to just letting people know how they are going to spend it?

MARV MUTZENBERGER: It is not the intent of the Health Council to spend this money but, to plan and present to us folks for our approval on the use of that money.

SENATOR SOLBERG: In the President's State of the Union address, he's proposing \$5B a year in his budget to be recouped from the settlement. \$25B over the next five years is what he wants to take out of this settlement to the State's. Are you aware of that?

MARV MUTZENBERGER: I'm not aware of the President plans. I am aware that forty-six State's in unison intend to oppose that. We will be having a resolution on the floor this afternoon, which we I think will pass and which the other forty-five State's will pass in the next

two or three weeks to oppose that. We are sending a couple delegates to Washington next week to lobby on our behalf.

SENATOR SOLBERG: Don't you think we are putting the cart before the horse before we see what we're going to get and if it's really going to come and when? Don't we have a couple of years to really work on this, to see if this is the best way to utilize it and if there aren't some other ways. Do you think this is the only way?

MARV MUTZENBERGER: I certainly don't think this is the only way. I do think the plan needs to be in place this Legislative session because there will be money appropriated to this fund before we meet again. "If", like you say this all happens.

TIM MATHERN: Senator District 11, Fargo to testify in support of SB2250 (testimony attached (tape 1118-1280).

JUNE HERMAN: American Heart Association and representing members of organizations, community leaders and individual members of the Tobacco Free North Dakota Association testifying in a neutral position to SB2250 (testimony attached (tape 1484-1595).

SENATOR KRAUTER: Cost to the State, you have a figure of \$180M annually. Do you have demographic data backing that up?

JUNE HERMAN: I will defer that question to the Health Department where I received the data.

SENATOR KRAUTER: Where are those expenses incurred; Hospital, Insurance and etc.?

JUNE HERMAN: I will provide you with the information.

SENATOR ROBINSON: You state that the youth in North Dakota are the third highest in the Nation in a recent survey, in terms of use age of tobacco products. Elaborate on that statistic.

JUNE HERMAN: There are figures available and I will defer to the Health Department. I can provide studies of other State's that have comprehensive programs and their rates have reduced. I can provide that information to you.

SENATOR BOWMAN: Don't they teach no smoking in health class in school.

JUNE HERMAN: You raise an excellent point to fund a comprehensive program effort. Indeed, there are programs in the school that do address youth smoking and do attempt to educate the youth at an early age.

SENATOR SOLBERG: It's illegal for kids to smoke. How many arrests do you see a day? How many arrests do your organization catalog per day in the State of North Dakota made by teenagers smoking?

JUNE HERMAN: I don't know if those records are maintained. I know it's against the law but, we realize from the survey that have been done of smokers, the majority have begun smoking as youth.

SENATOR SOLBERG: Maybe the law enforcement needs to be encouraged to make arrests, it's the same as a traffic violation, drinking under age, is it not?

JUNE HERMAN: We do work with law enforcement, specifically with use access, on enforcement, on programs available to have the youth violators attend and be part of. I would probably defer to others who work in the field but, I believe a youth is referred to a program through the schools because of a violation. It possible could be at the cost to the school, so there are some factors that are involved, perhaps that may not fully enforce the rules that could possibly be utilized.

SENATOR SOLBERG: What your saying is that the cost factor of arresting somebody for using tobacco overrules the law?

JUNE HERMAN: I don't believe that was quite my point.

SENATOR HOLMBERG: The school that I work at, we do have the police site minors if they are smoking and they are turned over to Juvenile authorities. Not a lot happens. They do have to go to a class that is taught in our school and I believe is funded through some grant money that they have. So many of these kids start smoking and get these cigarettes from their parents. That's tough to overcome.

HEIDI HEITKAMP: Attorney General appearing to offer technical amendments to SB2250 (testimony attached) and also concurs with the American Heart Association testimony.

SENATOR BOWMAN: What are our costs in all legal fees associated with this lawsuit.

HEIDI HEITKAMP: We are still collecting those but we think it's going to be in the neighborhood of \$500,000. Those costs will not be paid out of the settlement dollars. We have the ability under the settlement agreement to submit a bill for costs to the tobacco industry and as long as they perceive those to be reasonable, we will get recoupment. Our direct costs are much less than what we will bill them. We can bill for the time at market rate. We don't pay our folk's market rate. We will end up with a windfall.

SENATOR ST. AUBYN: Isn't there a special fund or account for public health that's set aside over and above the \$700.17M that we could potentially get?

HEIDI HEITKAMP: (tape 3325-4628) I think your are talking about our National Public Education Foundation fund. As part of the settlement agreement there is a National Foundation created for two purposes: 1. To do research on why people smoke and what's actually going to work. To research substance abuse, that's not limited to cigarettes. That research and those dollars are, \$250M that will be spent by research institutions. That will not be money our local

folks can access. 2. \$250M next year and this year will go to the Foundation, if we achieve a certain level of participation and then \$300M for the next nine years. The \$300M will continue in perpetuity after the tenth year, if we are able to achieve 99.05% participation in the agreement. Yes, a separate fund that we're guaranteed almost \$3B in that fund and could continue in perpetuity if we involve other manufacturers in the agreement.

SENATOR ST. AUBYN: That one is limited to strictly research?

HEIDI HEITKAMP: The \$3B fund is counter advertising.

SENATOR ST. AUBYN: So local and state vie for those funds?

HEIDI HEITKAMP: Right, but there is no guarantee.

SENATOR ST. AUBYN: Who determines the distribution?

HEIDI HEITKAMP: Right now the Foundation is being created. The Foundation is established under the agreement; two members from the National Association of Attorneys General, two members from the National Conference of State Legislatures and two members from NGA. Those six core members who are representative of public bodies will come together and select five additional members. The National Association of Attorneys General is responsible for putting the Foundation together and doing the legal work. We've hired an attorney and that's ongoing.

SENATOR ST. AUBYN: How soon will those funds be available?

HEIDI HEITKAMP: We have to be ready March 1, because that's the transfer date as I recall.

SENATOR ST. AUBYN: You suggested some amendments. I was wondering about the appropriation's authority to enforce this. It was my understanding, I thought that as part of the settlement, that there is money, extra basically for that purpose for the Attorneys General to force enforcement.

HEIDI HEITKAMP: There was a composite fund of \$50M for the Attorneys General to enforce the fund. Unfortunately, those dollars will probably never be spent on any legal costs. Those dollars are for expert witnesses, investigation costs, hiring research to make sure the billboards are not youth targeting.

SENATOR ST. AUBYN: So those are restrictions that you could not use it for?

HEIDI HEITKAMP: Pretty much. The way the fund is setup, physically those funds are not used to pay in-house attorney's costs in terms of litigating.

SENATOR ST. AUBYN: I thought that was the whole idea, was to have funds available to keep people honest in terms of...

HEIDI HEITKAMP: That's correct, again there's restricted uses to those funds. I'm not suggesting anything more than a one time appropriation of \$150,000 to \$200,000, which if it doesn't get used, make it a line item. This is my recommendation, make it a line item, you only touch it if you are going to do tobacco work and if it doesn't get used, you roll it over the next year. This is a tremendous amount of money and let's assume that all the sudden we have gray market cigarettes, and that's a big problem right now. That's how the wholesale operation works and how customs allow cigarettes that are designed for export outside the country to come back in the country. The settlement agreement does a volume reduction that is keyed off shipments outside and inside the country, if these shipments loop back in, we're going to be in a big legal battle, whether those are cigarettes that they get a volume reduction for. That's a typical case where you would want to have someone get on the job and work with the other state's to enforce it.

SENATOR SOLBERG: Your black-market suggestion on the Indian Reservations. That's already happening. I live thirty miles from the Reservation and we've been seeing this for a while and getting quite bad. How do you enforce something like that? The agreement between the State and Tribal Council is fine but, they're not doing the black-market.

HEIDI HEITKAMP: I suggest that first, we require they impose a tax commencing with state tax. You take off the tax market, which makes those cigarettes attractive. In Standing Rock, they have an agreement, that's enforced by the Tax Commissioner. It's worked well. It's a source of funds for the Tribes. Typically, it's not the Tribal entities that make money on the black-market cigarettes, it's individual members. Next, you agree on how we are going to react and who is going to be responsible for investigation and enforcement if we find violations. I think we can get that accomplished.

SENATOR SOLBERG: When we finally come together as a Legislature and decide how these moneys are going to be used, would legislative intent in there, to encourage the reservations to come together on an agreement like this, would that be useful?

HEIDI HEITKAMP: I'd like to see early negotiations so you would know exactly what your getting into. So there is some certainty to that appropriation that is going to be the carrot your going to hold out to bring folks to the table. I can't overstate the concern I have about this issue and enforcement of the transportation of cigarettes. You'll hear a lot of talk on what the President is looking at. Any pressure we put on the domestic market, we're going to have more and more problems, and Congress passed a gray market prohibition, to try and prohibit those cigarettes from looping back in from offshore at a lower cost. Congress passed it and I was talking to one of the Trail Lawyers that negotiated the agreement on the other side of the Tobacco Lawyer, he said he has read the Federal Statue and there is any number of ways you can get around it.

Tape 1-Side B

LINDA KOHLS: Program director for the American Cancer Society. Commented on her views (tape 1, side B 65-155).

SENATOR BOWMAN: Would you consider putting two other things involved in the whole thing as far as health; drugs, that are also as addictive to our youth that for some reason we are leaving totally out of this formula. I can't believe we haven't included the use of drugs along with the tobacco. To me, if you're going to attack the program of health you better look at the whole thing not just one specific point. I understand from Cancer, your point very well but, there's other things we have associated with health and drugs are a big part of that dealing with our youth.

LINDA KOHLS: Appreciate your point. I think with tobacco control we are talking about addictions. Our concern is more that money isn't set aside specifically for tobacco addiction and drug addictions could go hand-in-hand with that. Our concern is its not spent on other issues that do not address the problem at all.

SENATOR NETHING: Closed the hearing on SB2250.

2/2/99

(tape 1 5219)

SENATOR NETHING: Reopened the hearing on SB 2250, and called for the motion on the amendment.

SENATOR KRAUTER: Moved do pass amendment to SB 2250

SENATOR TALLACKSON: Seconded the motion.

ROLL CALL: 13 YEAS; 1 ABSENT & NOT VOTING

AMENDMENT TO SB 2250 CARRIED

Yeas: Nething; Naaden; Solberg; Lindaas; Tallackson; Robinson; Krauter; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman; Andrist

Absent & Not Voting: Tomac

SENATOR NETHING: Called for the motion on SB 2250 as amended.

SENATOR SOLBERG: Moved do not pass as amended

SENATOR NAADEN: Seconded the motion

ROLL CALL: 9 YEAS; 4 NAYS; 1 ABSENT & NOT VOTING

SB 2250 AS AMENDED FAILED

Yeas: Nething; Naaden; Solberg; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman; Andrist
Nays: Lindaas; Tallackson; Robinson; Krauter

Absent & Not Voting Tomac

CARRIER: SENATOR SOLBERG

SENATOR NETHING: Closed the hearing on SB 2250 (tape 5219)

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB2250 Amendment to: _____

Requested by Legislative Council Date of Request: 1-18-99

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 90% of the funds from the tobacco litigation settlement agreement to be deposited into a health care programs trust fund. The state health council will administer this fund. The state treasurer will invest the funds as designated by the state health council and the earnings will be deposited in the trust fund. The remaining 10% of the tobacco settlement funds will be appropriated to the State Department of Health to administer a prevention and educational tobacco program. There will be no additional FTE's added to the State Department of Health. Funds will be granted to local communities to provide direct services.

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 2250
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 SENATE BILL NO. 2250

Page 1, line 2; replace "and" with "to provide for enforcement;"

line 3, after "appropriation" insert "; and to declare an emergency"

line 9, remove "the tobacco litigation settlement"

remove line 10

line 11, replace "entities" with "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)"

line 16, replace "and" with ","

line 16, after "programs" insert "and shall also provide funds for enforcement of the judgment."

After line 18, insert:

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

Re-number accordingly

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

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2250

Senate APPROPRIATIONS Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken _____

Motion Made By Sen Krauter Seconded By Sen. Tallackson

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) 13 No _____

Absent 1

Floor Assignment _____

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

Amend

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

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2250

Senate APPROPRIATIONS Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO ^{NOT} PASS AS AMENDED

Motion Made By Sen. Solberg Seconded By Sen. Naaden

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) 9 No 4

Absent 1

Floor Assignment Sen. Solberg

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

REPORT OF STANDING COMMITTEE

SB 2250: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). SB 2250 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 1, line 9, remove "litigation" and after "settlement" insert "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 ex rel. Heitkamp v. Philip Morris, incorporated (East Central District Court, December 28, 1998)"

Page 1, remove line 10

Page 1, line 11, remove "entities"

Page 1, line 16, after "programs" insert "and shall provide funds for enforcement of the judgment"

Page 1, after line 18, insert:

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

Renumber accordingly

1999 TESTIMONY

SB 2250

TESTIMONY ON SENATE BILL 2250
BEFORE THE SENATE APPROPRIATION COMMITTEE
January 28, 1999

My name is Attorney General Heidi Heitkamp and I am appearing to offer technical amendments to Senate bill 2250.

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 only to a tobacco litigation settlement agreement. Some manufacturers did not participate in any litigation but only agreed to be bound by the terms of the agreement in 1999. 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 or refrain from activities prohibited by the agreements including advertising and product distribution limitations. 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 is my 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 very likely 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.



NORTH DAKOTA SENATE

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Senator Marv Mutzenberger
District 32
5 East Arbor Avenue
Bismarck, ND 58504-5717



COMMITTEES:
Human Services
Government and
Veterans Affairs

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE
Senate Bill 2250
January 28, 1999

Chairman Nething, Vice Chairman Naaden, Members of the Committee on Appropriations: Good Morning. My name is Marv Mutzenberger and I am the Senator from District 32, which is most of Bismarck's south side.

All of us are aware of the historic settlement in which 46 states ended a four-year struggle with the tobacco industry over treatment costs that states have incurred for illnesses related to the use of tobacco products.

It now appears that these states will receive as much as \$196 billion from tobacco industries over the next 25 years, and that North Dakota's portion will be about \$717 million. We have been led to believe that the first payment of \$23.5 million, is expected in May of this year.

This is, indeed, an unusual, and an unexpected, new revenue source for our state. Although there will be more than one or two, proposals, for how to use, some of us think we need to legislate a prudent and sound stewardship plan for this income.

Just as gasoline taxes (for example) ought to be invested in roads, bridges, etc., we believe that the revenue stream from tobacco litigation ought to be connected to prevention of illnesses and promotion of wellness. Tobacco addiction and second-hand smoke costs the state of ND "mega bucks." Tobacco settlement funds should be directed into that arena.

Senate Bill 2250, and its companion bill, Senate Concurrent Resolution 4012, puts a plan in place for investing the litigation settlement money in a permanent trust fund, if and when it becomes available, and mandates the earnings of that fund to preventive and educational health related programs. (Folks who bend my ear, think this is fiscally prudent, sound, and very responsible).

SB 2250 proposes that the Legislative Assembly appropriate 10% of all money received from the tobacco litigation settlement, each biennium, to sound health related programs. It asks the North Dakota Health Council to present a spending plan to the Governor and the Legislative Council.

SB 2250 further, proposes to establish a Health Care Programs Trust fund to receive 90% of all money received each biennium from the tobacco litigation settlement. The principal of this fund is not to be spent.

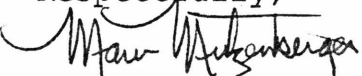
SB 2250 further, proposes that the earnings of the fund be expended in two ways:

- 1) 25% of the earnings shall be reinvested in the fund to "inflation proof" the fund. (I don't know if 25 is the proper percentage. Attached to my testimony is a 25% scenario. It would be an absolute delight to have such a revenue stream available to finance health programs, and "free up" General Fund money for other North Dakota needs.)
- 2) 75% of the earnings shall be appropriated for health related programs. Again, it directs the North Dakota Health Council to submit a plan to the Governor and the Legislative Council for the best use of those revenues.

I will ask Legislative Council Staff to prepare amendments to include the 25% "inflation proofing" mandate.

Mr. Chairman, that concludes my testimony. I'd be pleased to try to answer any questions you have have at this time.

Respectfully,


Marv Mutzenberger
District 32 Senator

Tobacco Settlement

Senate Democratic Plan -- SB 2250

YEAR	Yearly Proceeds	Health Care Share - 10%	Trust Fund Share - 90%	Accumulative Fund Value	6% Earnings From Fund	Yearly Inflation Proofing	Health Care Funding
1999	\$8,784,330	\$878,433	\$7,905,897	\$7,905,897	\$474,354	\$118,588	\$997,021
2000	\$23,467,889	\$2,346,789	\$21,121,100	\$29,145,586	\$1,748,735	\$437,184	\$3,658,340
2001	\$25,341,550	\$2,534,155	\$22,807,395	\$52,390,164	\$3,143,410	\$785,852	\$4,891,712
2002	\$30,427,805	\$3,042,781	\$27,385,025	\$80,561,041	\$4,833,662	\$1,208,416	\$6,668,027
2003	\$30,715,771	\$3,071,577	\$27,644,194	\$109,413,651	\$6,564,819	\$1,641,205	\$7,995,191
2004	\$25,635,605	\$2,563,561	\$23,072,045	\$134,126,900	\$8,047,614	\$2,011,904	\$8,599,271
2005	\$25,635,605	\$2,563,561	\$23,072,045	\$159,210,848	\$9,552,651	\$2,388,163	\$9,728,049
2006	\$25,635,605	\$2,563,561	\$23,072,045	\$184,671,055	\$11,080,263	\$2,770,066	\$10,873,758
2007	\$25,635,605	\$2,563,561	\$23,072,045	\$210,513,166	\$12,630,790	\$3,157,697	\$12,036,653
2008	\$26,144,364	\$2,614,436	\$23,529,928	\$237,200,791	\$14,232,047	\$3,558,012	\$13,288,472
2009	\$26,144,364	\$2,614,436	\$23,529,928	\$264,288,730	\$15,857,324	\$3,964,331	\$14,507,429
2010	\$26,144,364	\$2,614,436	\$23,529,928	\$291,782,989	\$17,506,979	\$4,376,745	\$15,744,671
2011	\$26,144,364	\$2,614,436	\$23,529,928	\$319,689,661	\$19,181,380	\$4,795,345	\$17,000,471
2012	\$26,144,364	\$2,614,436	\$23,529,928	\$348,014,934	\$20,880,896	\$5,220,224	\$18,275,108
2013	\$26,144,364	\$2,614,436	\$23,529,928	\$376,765,085	\$22,605,905	\$5,651,476	\$19,568,865
2014	\$26,144,364	\$2,614,436	\$23,529,928	\$405,946,489	\$24,356,789	\$6,089,197	\$20,882,028
2015	\$26,144,364	\$2,614,436	\$23,529,928	\$435,565,614	\$26,133,937	\$6,533,484	\$22,214,889
2016	\$26,144,364	\$2,614,436	\$23,529,928	\$465,629,026	\$27,937,742	\$6,984,435	\$23,567,743
2017	\$26,144,364	\$2,614,436	\$23,529,928	\$496,143,389	\$29,768,603	\$7,442,151	\$24,940,889
2018	\$29,295,743	\$2,929,574	\$26,366,169	\$529,951,708	\$31,797,103	\$7,949,276	\$26,777,401
2019	\$29,295,743	\$2,929,574	\$26,366,169	\$564,267,153	\$33,856,029	\$8,464,007	\$28,321,596
2020	\$29,295,743	\$2,929,574	\$26,366,169	\$599,097,329	\$35,945,840	\$8,986,460	\$29,888,954
2021	\$29,295,743	\$2,929,574	\$26,366,169	\$634,449,957	\$38,066,997	\$9,516,749	\$31,479,822
2022	\$29,295,743	\$2,929,574	\$26,366,169	\$670,332,875	\$40,219,973	\$10,054,993	\$33,094,554
2023	\$29,295,743	\$2,929,574	\$26,366,169	\$706,754,037	\$42,405,242	\$10,601,311	\$34,733,506
2024	\$29,295,743	\$2,929,574	\$26,366,169	\$743,721,517	\$44,623,291	\$11,155,823	\$36,397,043
2025	\$29,295,743	\$2,929,574	\$26,366,169	\$781,243,508	\$46,874,610	\$11,718,653	\$38,085,532
	\$717,089,349	\$71,708,935	\$645,380,414		\$590,326,986	\$147,581,747	\$514,216,998

Tobacco Settlement Spread Sheet Addendum

Yearly Proceeds -- Amount of dollars per year to be forwarded to North Dakota from the tobacco settlement.

Health Care Share -- 10% of the settlement dollars to be used for health care purposes.

Trust Fund Share -- 90% of all settlement dollars to be put into a health care trust fund. Fund is to be administered by the state health council.

Accumulative Fund Value -- This column shows the yearly value of the trust fund, assuming a conservative 6% annual earnings from the trust fund and 25% of all earnings placed back in the fund.

6% Earnings from Fund -- The yearly amount of earnings from the fund, assuming a 6% return.

Yearly Inflation Proofing -- This column shows the dollar amount each year that would be placed back in the fund to help inflation proof the principle. Senator Mutzenberger will offer an amendment that requires 25% of the earning to be reinvested in the fund.

Health Care Funding -- The yearly amount available for health care funding. This column is the total of the 10% settlement health care share and 75% of the earnings from the fund.

Testimony for Senate Bill 2250
Senator Tim Mathern
Thursday, January 28, 1999

Chairman Nething and members of the Senate appropriation committee, I am Tim Mathern, Senator from District 11 in Fargo.

I'm here to testify in support of SB 2250. SB 2250 would establish the appropriation mechanism for a health care trust fund from the historic tobacco settlement fund. Under the national settlement proposal, North Dakota will receive \$717 million dollars from the tobacco industry over the next 25 years.

The question we have before us as legislators is, what do we do with this unexpected windfall?

Think of the tobacco settlement like insurance money you received if your home was damaged in a storm. You could choose to use the insurance money to repair your home, with a better roof. Or you can use the money to purchase a big screen television. The next time it rains, your roof leaks and your big screen TV is ruined.

As reasonable people, I would expect that we would use the insurance money for the new roof.

We need to fix our roof. We need to stabilize the spending of this money by establishing a trust fund that will always be available to us. We need to spend the earnings on programs that benefit everyone for all time. Lets not buy a television with our insurance money.

SB 2250 is a step in the right direction. With Senator Mutzenberger's inflation proofing amendment -- we will protect the principal for future generations. A fund that will benefit from power of compounding.

SB 2250 is good bill, and I recommend a Do Pass. I'd be happy to answer any questions.



PUBLIC HEALTH DEPARTMENT

122 South 5th Street, Suite 210 • Grand Forks, ND 58201 • Telephone (701) 746-2525 • Fax (701) 746-2534

January 19, 1999

The Honorable Senator Demers
District 18
901 University Ave, #508
Grand Forks, ND 58203

Dear Senator Demers:

The Grand Forks Board of Health is very concerned with Governor Schaffer's recommendations on the recent tobacco settlement. Over the life of this 25-year agreement, North Dakota could receive more than \$700 million, \$30 million in this biennium alone. Governor Schaffer recommended devoting only 10% of these proceeds to public health, diabetes, drug and alcohol abuse, and tobacco prevention programs.

We urge you to support two goals for any settlement funds. First, to ensure a long-term funding stream, a majority of any funds received should be placed in a special fund whereby only the interest earned on these dollars is then spent and not the principal. Secondly, a majority of any funds received should support ongoing public health programs which focus on prevention and wellness for the citizens of North Dakota. The settlement represents health-related costs incurred to treat the very illnesses that are caused by tobacco products. It seems inadequate and imprudent to only devote 10% of these funds for these purposes.

Feel free to contact any of the following Grand Forks Board of Health members or the Grand Forks Public Health Department for further information or comments.

Art Bakken, Vice Chairperson, 1963 Prairie Rose Court, Grand Forks, ND, 58201, 775-5346
Beth Bouley, Member, 124 Fenton Ave, Grand Forks, ND, 58203, 746-8084
Duane Hafner, Chairperson, 3002 Royal Drive, Grand Forks, ND 58201, 795-6716
James Hargreaves, MD, Member, 4615 Loamy Hills Place, Grand Forks, ND, 58201, 780-6253
Sam Martinson, Member, 1610 South 16th Street, Grand Forks, ND, 58201, 775-0013

Your favorable consideration to this matter would be greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "Duane Hafner". The signature is written in a cursive, flowing style.

Duane Hafner, Chairperson
Grand Forks Board of Health

pc: Grand Forks Board of Health Members

SB 2250 Testimony

June Herman

American Heart Association

jherman@heart.org

1-800-437-9710

I'm speaking in a neutral position of this on behalf of the American Heart Association and other member organizations and citizens part of Tobacco Free North Dakota who are working to reduce the devastating toll tobacco takes on people's lives.

Two documents are being distributed to you along with this testimony that I would like to refer to:

- Executive Summary
- Core Principles

By investing a significant portion of the tobacco settlement monies in tobacco prevention programs, ND has a historic opportunity to prevent children from beginning a lifelong addiction to tobacco products, and to help teen and adult smokers who want to quit. By doing so, we can also prevent the disease and death caused by tobacco, and reduce the amount taxpayers are forced to pay to cover the public health costs of tobacco.

Research shows that public education, counter advertisements, enforcement of tobacco control laws, community-based prevention and treatment services, and evaluation research are effective in reducing tobacco addiction. We urge that the original purposes of the tobacco lawsuits be kept in mind as decisions on how to spend tobacco settlement money are made.

The intent of this settlement money is to remedy the wrong tobacco has caused in ND. To use it any other way is like using a car loan to take a vacation, it is irresponsible and doesn't solve your problem of transportation. We need to use this money to work on the problem- tobacco control, education, and cessation programs.

I simply ask that you refrain from making allocations before a comprehensive strategy for tobacco control, prevention, and cessation program is in place and that you make sure the money isn't spent until a researched program is intact.

- 1) The fact that just because North Dakota received the money doesn't mean the problem will just go away. We have to do something now. We have to use it to get rid of the problem of tobacco addiction.
- 2) Using the settlement money on tobacco programs will benefit everyone in the state. If it is spent on tobacco programs, it will reduce the cost of health related problems that taxpayers are paying right now.

The problems faced by the state now are not those drummed up by well-meaning "health fanatics". The problems we faced have come about solely by the tobacco industry. They worked to change the composition of cigarettes not to improve upon taste, but to more strongly addict. These are not the same cigarette products of old. The tobacco industry transformed the product to a serious addictive drug at a time when scientific research began to prove the health risks.

The tobacco industry also took it upon themselves to attract the youth market – knowing that most smoker began smoking during their teen years.

As noted in the Executive Summary, the State of North Dakota spends no funds on tobacco education and quit smoking programs. The only avenue available has been to compete nationally for the limited funds available for these efforts. As a result, the state is unable to mount a comprehensive program for our youth. This has resulted in a number of health groups pursuing smoking policy changes as the remaining way to attempt to reduce youth smoking. This has pitted retailers, hospitality groups, medical providers, community members in fights on smoking initiatives. As Chairman Nething can attest, when this issue arose in Jamestown, business groups encouraged that the youth tobacco problem be addressed through education. You now have that opportunity to provide a positive vehicle for addressing North Dakota's youth smoking rates – which hold the unfortunate distinction of being the third highest in the nation in a recent national survey.

ND SENATE APPROPRIATIONS COMMITTEE EXECUTIVE SUMMARY

Economic Cost of Tobacco to the State of North Dakota

- **\$180 Million Annually Health Care Expenditures directly related to smoking**

Current Revenue Received by the State from Tobacco

- **\$44 Million Biennially through cigarette sales tax**
- **\$40+ Million Year 2000 Estimated Tobacco Settlement Funds**
- **\$717 Million Total Estimated Tobacco Settlement Funds**

State Revenue Spent on Tobacco Education and Quit Smoking Programs

- **\$0 Currently**
- **\$0 Proposed**

Statewide Poll Results*

- **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.

TOBACCO FREE NORTH DAKOTA

CORE PRINCIPLES

The primary purpose of the TFND position statement is to communicate the importance of having a statewide, comprehensive strategy to prevent and reduce tobacco use prior to considering allocations of any sort from the tobacco settlement. There is some uncertainty regarding the timing, amount and longevity of any payments to the state. As a consequence, it would seem prudent to take a "wait & see" approach to serious discussions about the use and allocation of the money. TFND's position is that we should use the biennium prior to the 2001 legislative session, when more certainty about the money is likely, to develop a tobacco prevention and control plan to address North Dakota's specific needs. The plan should form the basis for any allocation from the settlement or other funding sources.

There are a number of resolutions and bills specifying uses for the settlement money. We applaud those understanding the need to allocate a portion to Health needs in our state. Our concern is that allocations are being determined before a comprehensive strategy for tobacco prevention and control has been determined. Until such a strategy is designed, it will be virtually impossible to know what share of the settlement dollars will be adequate, or reasonable. For these reasons, TFND would like you to consider our core principles for the settlement funds.

1. Support appropriate allocation of funds from the tobacco settlement agreement to provide for the prevention and reduction of tobacco use in North Dakota, with particular emphasis on initiatives that focus on children. The allocation should reflect the alarming trends in increased tobacco use in North Dakota, especially among children, and the tremendous costs imposed on taxpayers, individuals, businesses and government as a result of tobacco use.
2. Supports the timely development of a statewide plan to allocate funds for tobacco use prevention and cessation that is cost-effective, results-oriented and utilizes "best practices" to reduce tobacco use. The plan should be developed in collaboration and consultation with public health organizations that have expertise in this area and available to policymakers in preparation for the 2001 appropriations process. This should include an interim legislative study in conjunction with plan development of the public health organizations.
3. Supports the establishment of a trust fund or identified fund to reserve and protect any settlement funds received from supplanting or replacing existing program funding.
4. Opposes the allocation of any of the settlement funds or interest earned from settlement funds until a statewide plan to allocate funds for tobacco use prevention, control and cessation has been developed.