

SENATE BILL NO. 2380

Introduced by

Senators Holmberg, Heitkamp, Schobinger

Representatives Delmore, Devlin, Price

1 A BILL for an Act to establish a youth smoking prevention commission; to provide an
2 appropriation; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. Definitions.** As used in this Act, unless the context otherwise requires:

- 5 1. "Commission" means the youth smoking prevention commission.
- 6 2. "Grantee" means a public entity or private nonprofit entity approved by the
7 commission to receive moneys from the fund for qualified youth smoking
8 prevention programs.
- 9 3. "Master settlement agreement" means the settlement agreement and related
10 documents entered on September 15, 2001, by the state and leading United States
11 tobacco product manufacturers.
- 12 4. "Qualified youth smoking prevention program" means a program that meets the
13 criteria as set forth in the state plan.
- 14 5. "State plan" means the state plan for youth smoking prevention adopted pursuant
15 to section 6 of this Act.

16 **SECTION 2. Youth smoking prevention commission.**

- 17 1. The youth smoking prevention commission is established in the office of the
18 governor. The membership of the commission is as follows:
- 19 a. The governor or the governor's designee.
- 20 b. Two legislative members appointed by the chairman of the legislative council.
- 21 c. Ten members appointed by the governor as follows:
- 22 (1) Five individuals between the ages of thirteen and eighteen; and five
23 individuals with knowledge, competence, experience, or interest in

youth smoking prevention or other relevant background including youth education, public health, social science, and business expertise.

- (2) One of the members appointed by the governor must be selected from a list of three names submitted to the governor by the Indian affairs commission.

2. The appointed members serve for a term of two years and until a successor is appointed. A vacancy on the commission must be filled in the same manner as the original appointment for the remainder of the unexpired term. All members must be residents of the state.

3. The governor shall convene the commission's first meeting before May 15, 2001.

4. Members of the commission must be compensated at a rate of sixty-two dollars and fifty cents per day and are allowed the mileage and expenses as provided by law for members of state officers and employees.

SECTION 3. Commission powers. The commission may:

1. Accept, hold, and administer any moneys appropriated or distributed to the commission or other money, securities, or other property appropriated, given, or bequeathed to the commission, absolutely or in trust, for the purposes for which the commission is created;
2. Distribute the moneys in the fund to entities in accordance with the state plan;
3. Contract as necessary or convenient for the exercise of its powers and functions;
4. Make bylaws for the management and regulations of its affairs;
5. Receive and accept aid, grants, contributions, and cooperation of any kind from any source for the purposes of this Act subject to the conditions, acceptable to the commission, upon which the aid, grants, contributions, and cooperation may be made;
6. Invest its funds as permitted by applicable law; and
7. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied, including use of any lawful act necessary or appropriate to recover payments wrongfully made from the fund.

SECTION 4. Affairs and business of commission. The governor or the governor's designee shall administer, manage, and direct the affairs and business of the commission in

accordance with this Act, subject to the commission's control. The commission may use technical experts and other employees on a temporary basis as it may require. The actual expenses incurred in the performance of these duties must be paid from the fund.

SECTION 5. Youth prevention fund.

1. The state youth smoking prevention fund is a special fund in the state treasury. The fund consists of moneys received by the state under the master settlement agreement for the purpose of the prevention of youth smoking and all other moneys, including appropriation, gifts, grants, or other funds, designated for the fund. All interest derived from the deposit and investment of moneys in the fund must be credited to the fund.
2. All moneys in the fund are subject to legislative appropriation for the purposes described in this Act.
3. Moneys from the fund may not be used to engage in political activity or lobbying including support of or opposition to candidates, ballot questions, referenda, or similar activities.

SECTION 6. State plan for youth smoking prevention.

1. Before August 1, 2001, the commission shall propose a state plan for youth smoking prevention. The commission shall publish its proposed state plan and submit its proposed state plan to the governor, the department of human services, the department of health, and the attorney general. The public, the governor, the named departments, and the attorney general may submit comments to the commission on the proposed state plan before November 1, 2001. Before January 15, 2002, the commission shall adopt and publish a final state plan. For subsequent years, the commission shall set the deadlines for the submission of proposed amendments to the state plan, the submission of comments to the proposed amendments, and the adoption of amendments and publication of the amended state plan; provided, however, that grant award announcements must be made before March first as provided in section 8 of this Act.
2. The commission shall establish and implement a tobacco use prevention and dependence treatment plan that is a sustainable, long-term, comprehensive program that integrates science-based, comprehensive, and effective programs

including countermarketing and public education programs, community-based programs, chronic disease programs, treatment of tobacco dependence, school-based programs, enforcement programs, and statewide programs and which includes a mechanism for ongoing monitoring and evaluation of the program.

The state plan must build on and may not duplicate current programs. The state plan must set out the criteria by which grant proposals are considered by the commission and must include components of the centers for disease control and prevention's best practices for comprehensive tobacco control programs. The plan must also describe the types of youth smoking prevention programs that are eligible for consideration for grants from the fund. The eligible programs must include:

- a. Media campaigns directed to youth to prevent underage consumption of cigarettes;
- b. School-based youth programs involving youth smoking;
- c. Community-based youth programs involving youth smoking prevention through general youth development; and
- d. Enforcement and administration of the state law related to the prevention of cigarette sales to minors, related retailer education, and compliance efforts.

3. The state plan must provide that no less than fifty percent of the dollar value of the grants award in each year is dedicated to programs described in subdivisions b and c of subsection 2.

4. The state plan must provide for an annual statewide school-based survey to measure cigarette use and behaviors toward cigarette use by individuals in grades seven through twelve. This survey must:

- a. Involve a statistically valid sample of the individuals in each grade from seventh through twelfth;
- b. Not include any individual who is eighteen years of age or older; and
- c. Be made available to the public, along with the resulting data, excluding respondent identities and respondent-identifiable data, before September first of each year.

5. The state plan may use data from the United States center for disease control's annual survey of students to gather this data or a comparable survey.

6. The state plan must provide that no more than five percent of the fund may be expended on the administrative costs of the commission.

SECTION 7. Grants for youth smoking prevention programs.

1. The commission shall meet to review applications for grants for youth smoking prevention programs. A grant may not be awarded without the approval of the vote of a majority of the commission. To the extent practicable and consistent with the criteria for qualified applicants set forth in the state plan, the commission shall make awards equal to the total amount of funds appropriated for qualified youth smoking prevention programs less the administrative costs of the commission.

2. An applicant for a grant for a qualified youth smoking prevention program must file an application with the commission no later than April 1, 2002, for the initial year of the program and for subsequent years, no later than November first of the year preceding the fiscal year for which the grant is requested.

3. An applicant that requests funding to initiate, continue, or expand a youth smoking prevention program must demonstrate, by means of application, letters of recommendation, and other means as the commission may designate, that the proposed youth smoking prevention program for which it seeks funds meets the criteria set forth in the state plan. Previous grant recipients shall include recent evaluations of their programs with their applications. The commission may not award a grant unless it makes a specific finding, as to each applicant, that the program proposed to be funded meets the criteria set forth in the state plan.

4. In addition to evaluating the funding request pursuant to the criteria set out in the state plan, the commission shall consider:

- a. In the case of applications to fund media campaigns directed to youth to prevent underage consumption of cigarettes, whether the campaign provides for sound management and periodic evaluation of the campaign's relevance to the intended audience, including audience awareness of the campaign and recollection of the main message.

b. In the case of applications to fund school-based education programs to prevent youth smoking, whether there is credible evidence that the program is effective in reducing youth smoking.

c. In the case of applications to fund community-based youth programs involving youth smoking prevention through general youth development, whether the program:

(1) Has a comprehensive strategy with a clear mission and goals;

(2) Has committed, caring, and professional leadership;

(3) Offers a diverse array of youth-centered activities in youth-accessible facilities;

(4) Is culturally sensitive, inclusive, and diverse;

(5) Involves youth in the planning, delivery, and evaluation of services that affect them; and

(6) Offers a positive focus including all youth.

5. In the case of applications to fund enforcement and administration of state law related to the prevention of cigarette sales to minors, related retailer education and compliance efforts, whether those activities and efforts can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of eighteen.

6. State and local government departments and agencies are eligible for grants provided pursuant to this Act.

SECTION 8. Grants award announcements. Before May 15, 2002, and before March first of each subsequent year, the commission shall announce the award of grants for the next fiscal year. Any funds appropriated for qualified youth smoking prevention programs not expended in the biennium must be retained in the fund and available for qualified youth smoking prevention programs in the following biennium without further legislative appropriation.

SECTION 9. Commission accounts and records.

1. The accounts and records of the commission showing the receipt and disbursement of funds from whatever source derived must be in the form as the office of management and budget prescribes.

2. The director of the office of management and budget or the director's designee shall audit the commission annually. Copies of the annual audit must be distributed to the governor and to the budget section of the legislative council.

SECTION 10. Reports.

1. As a condition for the receipt of funds under this chapter, a grantee shall agree to file a report with the commission, before September first, after the end of the fiscal year for which the grant was awarded, as to:
 - a. Amount received as a grant and the expenditures made with the proceeds of the grant;
 - b. A description of the program offered and the number of youth who participated in the program; and
 - c. Specific elements of the program meeting the criteria set forth in the state plan.
2. A grantee failing to timely file the report required under this section is subject to the jurisdiction of the attorney general for repayment of the full amounts of the grants expended.
3. The commission shall review and evaluate the reports of grantees required under this section and file a written report with the budget section of the legislative council before December fifteenth of each year on the status of the fund and the activities of the fund for the fiscal year most recently ended. The report must include a copy of the annual audit, the name of each grantee, and the amount of each grant made, the criteria used to award each grant, and whether the program implemented by each grantee met the criteria. The report is public immediately upon its filing.

SECTION 11. APPROPRIATION. There is appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$5,200,000, or so much of the sum as may be necessary, to the state department of health for the purpose of defraying the costs of the youth smoking prevention commission and for providing grants for qualified youth smoking prevention programs, for the period beginning on the effective date of this Act, and ending June 30, 2003.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.