

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2380

Introduced by

Senators Holmberg, Heitkamp, Schobinger

Representatives Delmore, Devlin, Price

1 A BILL for an Act to establish a tobacco prevention advisory committee; to amend and reenact
2 subsection 1 of section 54-27-25 of the North Dakota Century Code, relating to the tobacco
3 settlement trust fund; to provide an appropriation; and to declare an emergency.

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

5 **SECTION 1. Definitions.** As used in sections 1 through 9 of this Act, unless the
6 context otherwise requires:

- 7 1. "Committee" means the tobacco prevention advisory committee.
8 2. "Grantee" means a public entity or private nonprofit entity approved by the
9 committee to receive moneys from the fund for qualified tobacco prevention
10 programs.
11 3. "Master settlement agreement" means the settlement agreement and related
12 documents entered on December 28, 1998, by the state and leading United States
13 tobacco product manufacturers.
14 4. "Qualified tobacco prevention program" means a program that meets the criteria
15 as set forth in the state plan.
16 5. "State plan" means the state plan for tobacco prevention adopted pursuant to
17 section 6 of this Act.

18 **SECTION 2. Tobacco prevention advisory committee.**

- 19 1. The tobacco prevention advisory committee is established in the office of the
20 governor to advise and assist the state health officer in the implementation of a
21 statewide, comprehensive tobacco control program. The membership of the
22 committee is:
23 a. The governor or the governor's designee.
24 b. Two legislative members appointed by the chairman of the legislative council.

- 1 c. The attorney general or the attorney general's designee.
- 2 d. One individual who represents American Indians, appointed by the governor
- 3 from a list consisting of a nominee provided by each of the tribal councils in
- 4 the state.
- 5 e. One individual who is under age eighteen at the time of nomination,
- 6 appointed by the governor.
- 7 f. One individual who represents nongovernmental, voluntary, tobacco control
- 8 organizations, appointed by the governor.
- 9 g. One individual who represents the local public health community, appointed
- 10 by the governor from a list provided by the North Dakota public health
- 11 association.
- 12 h. The superintendent of public instruction or the superintendent's designee.
- 13 i. The state health officer or the state health officer's designee, who may be the
- 14 state tobacco prevention control coordinator employed by the state
- 15 department of health.
- 16 j. An academic researcher with expertise in tobacco control and health
- 17 promotion intervention, appointed by the dean of the university of North
- 18 Dakota medical school.
- 19 k. One physician, appointed by the governor.
- 20 2. The appointed members serve for a term of two years and until a successor is
- 21 appointed. A vacancy on the committee must be filled in the same manner as the
- 22 original appointment for the remainder of the unexpired term. All members must
- 23 be residents of the state.
- 24 3. The governor shall convene the committee's first meeting before May 15, 2001.
- 25 4. Members of the committee are entitled to be compensated at a rate of sixty-two
- 26 dollars and fifty cents per day and are allowed the mileage and expenses as
- 27 provided by law for members of state officers and employees.

28 **SECTION 3. Affairs and business of committee.** The governor or the governor's
29 designee shall administer, manage, and direct the affairs and business of the committee in
30 accordance with sections 1 through 9 of this Act. The committee may use technical experts

1 and other employees on a temporary basis as it may require. The actual expenses incurred in
2 the performance of these duties must be paid from the fund.

3 **SECTION 4. State health officer powers.** The state health officer may:

- 4 1. Accept, hold, and administer any moneys appropriated or distributed to the
5 committee or other money, securities, or other property appropriated, given, or
6 bequeathed to the committee, absolutely or in trust, for the purposes for which the
7 committee is created;
- 8 2. Distribute the moneys in the fund to entities in accordance with the state plan;
- 9 3. Contract as necessary or convenient for the exercise of its powers and functions;
- 10 4. Make bylaws for the management and regulations of its affairs;
- 11 5. Receive and accept aid, grants, contributions, and cooperation of any kind from
12 any source for the purposes of sections 1 through 9 of this Act subject to the
13 conditions, acceptable to the committee, upon which the aid, grants, contributions,
14 and cooperation may be made;
- 15 6. Invest its funds as permitted by applicable law; and
- 16 7. Do any lawful act necessary or appropriate to carry out the powers granted or
17 reasonably implied, including use of any lawful act necessary or appropriate to
18 recover payments wrongfully made from the fund.

19 **SECTION 5. Tobacco prevention fund.**

- 20 1. The state tobacco prevention fund is a special fund in the state treasury. The fund
21 consists of moneys received by the state under the master settlement agreement
22 pursuant to section 54-27-25 and all other moneys, including appropriation, gifts,
23 grants, or other funds, designated for the fund. All interest derived from the
24 deposit and investment of moneys in the fund must be credited to the fund.
- 25 2. All moneys in the fund are subject to legislative appropriation for the purposes
26 described in sections 1 through 9 of this Act.
- 27 3. Moneys from the fund may not be used to engage in political activity or lobbying
28 including support of or opposition to candidates, ballot questions, referenda, or
29 similar activities.

30 **SECTION 6. State plan for tobacco prevention and dependency treatment.**

- 1 1. Before August 1, 2001, the committee shall propose a state plan for tobacco
2 prevention and dependency treatment. The committee shall publish its proposed
3 state plan and submit its proposed state plan to the governor, the department of
4 human services, the state department of health, and the attorney general. The
5 public, the governor, the named departments, and the attorney general may submit
6 comments to the committee on the proposed state plan before November 1, 2001.
7 Before January 15, 2002, the committee shall adopt and publish a final state plan.
8 For subsequent years, the committee shall set the deadlines for the submission of
9 proposed amendments to the state plan, the submission of comments to the
10 proposed amendments, and the adoption of amendments and publication of the
11 amended state plan; provided, however, that grant award announcements must be
12 made before March first as provided in section 8 of this Act.
- 13 2. The committee shall establish and implement a tobacco use prevention and
14 dependence treatment plan that is a sustainable, long-term, comprehensive
15 program that integrates science-based, comprehensive, and effective programs
16 including countermarketing and public education programs, community-based
17 programs, chronic disease programs, treatment of tobacco dependence,
18 school-based programs, enforcement programs, and statewide programs and
19 which includes a mechanism for ongoing monitoring and evaluation of the
20 program. The state plan must build on and may not duplicate current programs.
21 The state plan must set out the criteria by which grant proposals are considered by
22 the committee and must include components of the centers for disease control and
23 prevention's best practices for comprehensive tobacco control programs. The plan
24 must also describe the types of tobacco prevention programs that are eligible for
25 consideration for grants from the fund. The committee shall give priority to
26 programs that:
- 27 a. Are research-based or based on proven effective strategies;
28 b. Are designed to coordinate with other activities and education messages
29 related to other health activities;
30 c. Utilize and enhance existing prevention and treatment activities and
31 resources; or

- 1 d. Involve innovative approaches for the prevention of tobacco use.
- 2 3. The state plan must provide for an annual statewide assessment of
3 tobacco-related behaviors and attitudes among youth to establish a baseline to
4 measure statewide effects of tobacco use prevention and treatment activities. To
5 the extent feasible, the assessment must be conducted so that the results may be
6 compared to nationwide data. The assessment must be made available to the
7 public, along with the resulting data, excluding respondent identities and
8 respondent-identifiable data, before September first of each year.
- 9 4. The state plan must provide that no more than five percent of the fund may be
10 expended on the administrative costs of the committee.

11 **SECTION 7. Grants for tobacco prevention programs.**

- 12 1. The committee shall meet to review applications for grants for tobacco prevention
13 programs. A grant may not be awarded without the approval of the vote of a
14 majority of the committee. To the extent practicable and consistent with the criteria
15 for qualified applicants set forth in the state plan, the committee shall make awards
16 equal to the total amount of funds appropriated for qualified tobacco prevention
17 programs less the administrative costs of the committee.
- 18 2. An applicant for a grant for a qualified tobacco prevention program must file an
19 application with the committee no later than April 1, 2002, for the initial year of the
20 program and for subsequent years, no later than November first of the year
21 preceding the fiscal year for which the grant is requested.
- 22 3. An applicant that requests funding to initiate, continue, or expand a tobacco
23 prevention program must demonstrate, by means of application, letters of
24 recommendation, and other means as the committee may designate, that the
25 proposed tobacco prevention program for which it seeks funds meets the criteria
26 set forth in the state plan. Previous grant recipients shall include recent
27 evaluations of their programs with their applications. The committee may not
28 award a grant unless it makes a specific finding, as to each applicant, that the
29 program proposed to be funded meets the criteria set forth in the state plan.
- 30 4. State and local government departments and agencies are eligible for grants
31 provided pursuant to sections 1 through 9 of this Act.

1 **SECTION 8. Grants award announcements.** Before May 15, 2002, and before
2 March first of each subsequent year, the committee shall announce the award of grants for the
3 next fiscal year. Any funds appropriated for qualified tobacco prevention and dependency
4 treatment programs not expended in the biennium must be retained in the fund and available
5 for qualified programs in the following biennium without further legislative appropriation.

6 **SECTION 9. Reports.**

- 7 1. As a condition for the receipt of funds under sections 1 through 9 of this Act, a
8 grantee shall agree to file a report with the committee, before September first, after
9 the end of the fiscal year for which the grant was awarded, as to:
- 10 a. The amount received as a grant and the expenditures made with the
11 proceeds of the grant;
- 12 b. A description of the program offered and the number of individuals who
13 participated in the program; and
- 14 c. Specific elements of the program meeting the criteria set forth in the state
15 plan.
- 16 2. A grantee failing to timely file the report required under this section is subject to the
17 jurisdiction of the attorney general for repayment of the full amounts of the grants
18 expended.
- 19 3. The committee shall review and evaluate the reports of grantees required under
20 this section and file a written report with the budget section of the legislative
21 council before December fifteenth of each year on the status of the fund and the
22 activities of the fund for the fiscal year most recently ended. The report must
23 include a copy of the annual audit, the name of each grantee, and the amount of
24 each grant made, the criteria used to award each grant, and whether the program
25 implemented by each grantee met the criteria. The report is public immediately
26 upon its filing.

27 **SECTION 10. AMENDMENT.** Subsection 1 of section 54-27-25 of the 1999
28 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 29 1. Transfers to a community health trust fund to be administered by the state
30 department of health. ~~The state department of health may use funds as~~
31 ~~appropriated for community-based public health programs and other public health~~

1 ~~programs, including programs with emphasis on preventing or reducing tobacco~~
2 ~~usage in this state.~~ Transfers under this subsection must equal ten percent of total
3 annual transfers from the tobacco settlement trust fund. Of the funds appropriated
4 to the state department of health from the community health trust fund:

5 a. The first one million dollars must be used by the department for public health
6 emergencies and to provide funding for the grant programs established under
7 this subsection, if necessary, based upon the anticipated timing of transfers to
8 be received from the tobacco settlement trust fund.

9 b. One million dollars must be used to provide state aid to local public health
10 units.

11 c. An amount not to exceed two million dollars must be used to fund a healthy
12 schools grant program that provides grants to schools for preventive health
13 programs.

14 d. An amount not to exceed two million dollars must be used to fund a healthy
15 communities grant program. The eligibility criteria for the program must
16 include a one hundred percent matching funds requirement and must provide
17 that grant eligibility is based upon a community's effectiveness in enforcing
18 state and local tobacco seller and use laws and ordinances.

19 e. An amount not to exceed seven hundred fifty thousand dollars must be used
20 to fund a statewide tobacco countermarketing media program.

21 f. An amount not to exceed two hundred fifty thousand dollars must be used to
22 provide antitobacco materials and resources to the public.

23 g. Five hundred thousand dollars must be used to fund programs of the Fargo
24 community health center.

25 **SECTION 11. APPROPRIATION.** There is appropriated out of any moneys in the
26 community health trust fund, not otherwise appropriated, and from special funds derived from
27 federal funds and from other income, the sum of \$7,600,000, or so much of the sum as may be
28 necessary, to the state department of health for the purpose of defraying the costs of
29 implementing this Act, for the period beginning on the effective date of this Act, and ending
30 June 30, 2003.

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