

## Potential Fiscal Impact of Initiated Measure Relating to a Statewide Tobacco Prevention and Control Plan

This initiated measure, if adopted, creates seven new sections to the North Dakota Century Code and amends section 54-27-25. The measure creates a tobacco prevention and control advisory committee and an executive committee, provides for the development of a statewide tobacco prevention and control plan, and creates a tobacco prevention and control trust fund.

Potential fiscal impacts resulting from this measure relate to:

- **Reduced funding for community health, common schools, and water development trust funds** - Moneys received by the state under Section IX(c)(2) of the Master Settlement Agreement, referred to as strategic contribution fund moneys, under current law would be allocated to the community health trust fund, the common schools trust fund, and the water development trust fund. Pursuant to this initiated measure, all strategic contribution fund moneys received by the state from 2009 through 2017 would be deposited in the tobacco prevention and control trust fund.
- **Limitation of use of moneys in the community health trust fund** – The measure requires that a minimum of 80 percent of the moneys deposited into the community health trust fund be used for tobacco prevention and control.
- **Advisory Committee and Executive Committee compensation** - The measure calls for the creation of a Tobacco Prevention and Control Advisory Committee and an Executive Committee, members of which would be entitled to compensation and expense reimbursement.
- **Funding of the statewide tobacco prevention and control program** - The measure provides that the Advisory Committee must develop a comprehensive statewide tobacco prevention and control program funded at a level equal to or greater than the Centers for Disease and Control (CDC) recommended funding level.
- **Staff and other expenses of the Executive Committee** - The measure provides that the Executive Committee may “employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this Act.”
- **Potential reduced funding to the water development trust fund to offset shortfall** – The measure provides that if the tobacco prevention and control trust fund does not have adequate money to fund a comprehensive statewide tobacco prevention and control program, money will be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the Executive Committee.
- **Potential health care savings** - Reduced Medicaid and other health costs may result from a decline in tobacco usage.

- **Potential reduction in state tobacco tax revenue** - Reduced state tobacco tax collections may result from a decline in tobacco usage.

### **Reduced Funding for Community Health, Common Schools, and Water Development Trust Funds**

The state is expected to receive strategic contribution fund moneys from April 2008 through April 2017. North Dakota received its first strategic contribution fund payment on April 16, 2008, in the amount of \$13,797,729. Although future payments may vary, for budgeting purposes, the Office of Management and Budget assumes payments will continue at this amount through 2017. Under current law, this amount would be allocated in the same manner as other tobacco settlement proceeds – 45 percent to the common schools trust fund, 45 percent to the water development trust fund, and 10 percent to the community health trust fund. Based on continued payments of approximately \$13.8 million per year, annual allocations would be \$6.2 million per year to the common schools trust fund, \$6.2 million to the water development trust fund, and \$1.4 million to the community health trust fund. The fiscal impact of this measure in relation to those funds would be a reduction in annual allocations totaling \$13.8 million per year, along with the related interest or investment return.

If this measure is approved by the voters in November 2008, it would take effect prior to the state's receipt of anticipated April 2009 tobacco settlement payments. Not considering interest or investment returns, the total reduction to the related funds during the remaining nine year duration of strategic contribution fund payments would be \$55.8 million to the common schools trust fund, \$55.8 million to the water development trust fund, and \$12.6 million to the community health trust fund.

### **Limitation of Use of Moneys in the Community Health Trust Fund**

Tobacco settlement payments anticipated to be received by the state annually from 2008 through 2017, including moneys received from the strategic contribution fund, total \$36.8 million per year, of which 10 percent, or \$3.7 million, is allocated under current law to the community health trust fund. Under this measure, only moneys other than the strategic contribution fund moneys would continue to be subject to the current allocation formula. Consequently, only \$23.0 million (\$36.8 million total tobacco settlement proceeds less \$13.8 million strategic contribution fund moneys) would be subject to allocation, and 10 percent, or \$2.3 million, would be allocated annually to the community health trust fund.

This measure would require that at least 80 percent of the moneys in the community health trust fund be used for tobacco prevention and control, or at least \$1.8 million per year, based on current projections and assuming passage of this measure. The Health Department has indicated that it currently spends approximately \$3.0 million per year from the community health trust fund for tobacco prevention and control programs. In addition to tobacco prevention and control programs, the legislature has appropriated moneys from the community health trust fund for dental loans, dental new practice grants, physician loan programs, cancer screening, EMS training grants, and other programs.

It is not possible to determine how passage of this measure would affect the tobacco prevention and control programs currently funded from the community health trust fund or other health related programs that also receive moneys from the fund.

### **Advisory Committee and Executive Committee Compensation**

The Tobacco Prevention and Control Advisory Committee consist of nine persons appointed by the Governor. The Executive Committee is a three member committee selected by the Advisory Committee. One of the charges of the Advisory Committee is to determine the level of compensation of the Advisory Committee and the Executive Committee at a rate not to exceed compensation allowed members of the Legislative Assembly. Beginning July 1, 2009, legislators are paid \$135 per day for attending meetings of the Legislative Council or legislative interim committees, pursuant to NDCC Section 54-35-10. In addition, the measure provides that members of the Advisory and Executive Committees are entitled to receive reimbursement for mileage and expenses at the rate provided for state officers. Because it is impossible to determine the frequency of meetings of the Advisory Committee or the Executive Committee, it is impossible to determine the compensation and expenses that might be paid.

### **Funding of the Statewide Tobacco Prevention and Control Program**

The measure provides that the Advisory Committee must develop a plan for a comprehensive statewide tobacco prevention and control program and the program must be funded at a level equal to or greater than the CDC recommended funding level. *Best Practices for Comprehensive Tobacco Control Programs*, published by the CDC in October 2007, indicates that the CDC recommended annual funding level for North Dakota is \$9.3 million, stated in 2007 dollars. Moody's Economy.com, the state's economic forecasting consultant, reports that the consumer price index (CPI) changed 2.9 percent during 2007 and projects CPI of 3.6 percent in 2008, then approximately 2.0 percent annually through their forecast horizon of 2012. Assuming a 2.0 percent inflationary adjustment continues beyond 2012, the \$9.3 million recommended funding level would be adjusted as shown below:

<b>CDC Recommended Annual Funding Adjusted for Inflation</b>			
<b>Year</b>	<b>CDC Recommendation</b>	<b>Estimated CPI</b>	<b>CDC Recommendation Adjusted for Inflation</b>
2007	\$9.3	2.9%	\$9.6
2008	\$9.3	3.6%	\$9.9
2009	\$9.3	2.0%	\$10.1
2010	\$9.3	2.0%	\$10.3
2011	\$9.3	2.0%	\$10.5
2012	\$9.3	2.0%	\$10.7
2013	\$9.3	2.0%	\$10.9
2014	\$9.3	2.0%	\$11.2
2015	\$9.3	2.0%	\$11.4
2016	\$9.3	2.0%	\$11.6
2017	\$9.3	2.0%	\$11.8
2018	\$9.3	2.0%	\$12.1
2019	\$9.3	2.0%	\$12.3
2020	\$9.3	2.0%	\$12.6

### **Staff and Other Expenses of the Executive Committee**

The measure provides that the Executive Committee may "employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this Act." It is not possible to estimate the number, type, or compensation of staff persons who might be employed by the Executive Committee. In addition, loans or grants made by the Executive Committee, along with property leases or other activities allowed under this measure, could also result in expenditures that are not possible to estimate at this time.

### **Potential Reduced Funding to the Water Development Trust Fund to Offset Shortfall**

The measure provides that if the tobacco prevention and control trust fund does not have adequate money to fund a comprehensive statewide tobacco prevention and control program, money will be transferred from the water development trust fund to the tobacco prevention and control trust fund in an amount determined necessary by the Executive Committee.

As previously indicated, it is not possible to estimate the compensation or expense reimbursement that might be provided to members of the Executive or Advisory Committees or the administrative and staffing costs that might be incurred by the Executive committee. Consequently, it is not possible to estimate what, if any, shortfall may occur which could result in a transfer from the water development trust fund. However, the strategic contribution fund moneys that would be used to fund the provisions of this measure are anticipated to be received for only nine years after the potential enactment of this measure. The comprehensive tobacco prevention and control program created by this measure would be an ongoing, permanent program of the state. Consequently, it seems likely that at some point moneys in the tobacco prevention and control trust fund would be depleted and a transfer from the water development trust fund would be required.

### **Potential Health Care Savings**

If the efforts of the Executive Committee are effective in reducing tobacco usage in North Dakota, it is likely that some reduction in Medicaid and other health care costs would result. However, it is impossible to determine what, if any, savings the state may realize from such a reduction in tobacco usage.

### **Potential Reduction in State Tobacco Tax Revenue**

If the efforts of the Executive Committee are effective in reducing tobacco usage in North Dakota, it is likely that the state would realize some reduction in state tobacco tax collections. The state currently receives approximately \$22.0 million annually in tobacco tax collections. It is impossible to determine what, if any, reduction in revenue the state may realize from such a reduction in tobacco usage.