

Tobacco Prevention and Control Executive Committee
Budget No. 305
Senate Bill No. 2063, House Bill No. 1015

	FTE Positions	General Fund	Other Funds	Total
2009-11 executive budget (bills as introduced)	0.00	\$0	\$18,600,000	\$18,600,000
2009-11 legislative appropriations	4.00	0	12,882,000	12,882,000
Legislative increase (decrease) to executive budget	4.00	\$0	(\$5,718,000)	(\$5,718,000)
Legislative increase (decrease) to 2007-09 appropriations	4.00	\$0	\$12,819,597 ¹	\$12,819,597 ¹

¹This amount reflects a legislative appropriation of \$62,403 from other funds for the 2007-09 biennium provided in Section 36 of House Bill No. 1015 to defray the expenses of the committee for the period January 1, 2009, through June 30, 2009.

SUMMARY OF LEGISLATIVE CHANGES TO THE EXECUTIVE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the Tobacco Prevention and Control Executive Committee is in accordance with legislative salary and fringe benefits guidelines as contained in House Bill No. 1015.

	Major Items			
	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Defeated Senate Bill No. 2063, the appropriation bill for the Tobacco Prevention and Control Executive Committee			(\$18,600,000)	(\$18,600,000)
Provided funding from the tobacco prevention and control trust fund and 4 FTE positions in House Bill No. 1015 for the Tobacco Prevention and Control Executive Committee (see Comprehensive Tobacco Prevention and Control section below)	4.00		12,882,000	12,882,000
Total	<u>4.00</u>	<u>\$0</u>	<u>(\$5,718,000)</u>	<u>(\$5,718,000)</u>

FTE Changes

The 2009-11 biennium appropriation includes funding for 4 FTE positions, four more than the executive recommendation.

Tobacco Prevention and Control Executive Committee

North Dakota voters approved initiated measure No. 3 in the November 2008 general election. The measure added seven new sections to the North Dakota Century Code (NDCC) and amended Section 54-27-25 to establish the **Tobacco Prevention and Control Advisory Committee** and an executive committee, develop and fund a comprehensive statewide tobacco prevention and control plan, and create a tobacco prevention and control trust fund to receive tobacco settlement dollars to be administered by the executive committee. The measure provides for the advisory committee, appointed by the Governor, to develop the initial comprehensive plan and select an executive committee responsible for the implementation and administration of the comprehensive plan. The initiated measure became effective 30 days after the election (December 4, 2008).

Tobacco settlement payments received by the state under the Master Settlement Agreement are derived from two subsections of the Master Settlement Agreement. Subsection IX(c)(1) of the Master Settlement Agreement provides payments on April 15, 2000, and on April 15 of each year thereafter in perpetuity, while subsection IX(c)(2) of the Master Settlement Agreement provides for additional strategic contribution payments that begin on April 15, 2008, and continue each April 15 thereafter through 2017. North Dakota Century Code Section 54-27-25, created by 1999 House Bill No. 1475, did not distinguish between payments received under the separate subsections of the Master Settlement Agreement and provided for the deposit of all tobacco settlement money received by the state into the tobacco settlement trust fund. Money in the fund, including interest, is transferred within 30 days of deposit in the fund as follows:

- Ten percent to the community health trust fund.
- Forty-five percent to the common schools trust fund.
- Forty-five percent to the water development trust fund.

The measure provides for a portion of tobacco settlement dollars received by the state to be deposited in the newly created tobacco prevention and control trust fund rather than the entire amount in the tobacco settlement trust fund. Tobacco settlement money received under subsection IX(c)(1) of the Master Settlement Agreement continues to be deposited in the tobacco settlement trust fund and allocated 10 percent to the community health trust fund (with 80 percent used for tobacco prevention and control), 45 percent to the common schools trust fund, and 45 percent to the water development trust fund. Tobacco settlement money received under subsection IX(c)(2) of the Master Settlement Agreement is deposited into the tobacco prevention and control trust fund. Interest earned on the balance in this fund is deposited in the fund. The fund is administered by the executive committee created by the measure for the purpose of creating and implementing the comprehensive plan.

The measure also provides that if in any biennium the tobacco prevention and control trust fund does not have adequate funding for the comprehensive plan, money may 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 to adequately provide for the comprehensive plan. The 2009 Legislative Assembly, in Section 39 of House Bill No. 1015, provided that any money deposited in the water development trust fund under NDCC Section 54-27-25 may only be spent pursuant to legislative appropriation.

The tobacco settlement payment received by the state in April 2008 was the first payment that included funds relating to subsection IX(c)(2) of the agreement. This payment was received prior to the approval of the measure and was deposited in the tobacco settlement trust fund and disbursed as provided for in NDCC Section 54-27-25 prior to amendment by the measure. Beginning in 2009 tobacco settlement payments are deposited in the tobacco settlement trust fund and the tobacco prevention and control trust fund pursuant to Section 54-27-25 as amended by the measure. The 2009 payment was received in April 2009 and resulted in \$14,138,011 being deposited in the Tobacco Prevention and Control Trust Fund.

Comprehensive Tobacco Prevention and Control

The Tobacco Prevention and Control Advisory Committee is responsible for developing a comprehensive statewide tobacco prevention and control program that is consistent with the Centers for Disease Control and Prevention *Best Practices for Comprehensive Tobacco Prevention and Control Programs*. The Centers for Disease Control and Prevention recommended annual investment for the state of North Dakota is \$9.3 million, or \$18.6 million for the biennium. The Tobacco Prevention and Control Executive Committee anticipates certain tobacco-related programs currently provided through the State Department of Health qualify as best practices as outlined by the Centers for Disease Control and Prevention. As a result, the Legislative Assembly adjusted funding for the Tobacco Prevention and Control Executive Committee accordingly. Funding for the comprehensive statewide tobacco prevention and control program is summarized as follows:

2009-11 Biennium	Community Health Trust Fund	Tobacco Prevention and Control Trust Fund	Federal Funds	Total
State Department of Health (SB 2004)				
Tobacco prevention and control	\$2,302,098		\$2,677,556	\$4,979,654
Tobacco Quitline	1,069,000			1,069,000
Tobacco prevention coordinator (1 FTE and operation)	139,397			139,397
Total funding - State Department of Health	\$3,510,495		\$2,677,556	\$6,188,051 ¹
Tobacco Prevention and Control Executive Committee (HB 1015)				
Tobacco prevention and control		\$12,882,000		12,882,000
Total 2009-11 biennium funding	\$3,510,495	\$12,882,000	\$2,677,556	\$19,070,051 ²

¹Senate Bill No. 2004 provides a total tobacco prevention appropriation of \$9,079,685. The spending authority in excess of the \$6,188,051 allows the State Department of Health to accept and spend any funding received from the Tobacco Prevention and Control Executive Committee for State Department of Health programs that qualify as Centers for Disease Control and Prevention best practices.

²According to the Centers for Disease Control and Prevention, the best practices recommended level of funding for tobacco prevention and control in North Dakota is \$9.3 million per year, or \$18.6 million for the biennium.

Other Sections in House Bill No. 1015

Deficiency appropriation - Section 36 provides \$62,403 from the tobacco prevention and control trust fund for the purpose of defraying the expenses of the committee; developing, implementing, and administering the comprehensive tobacco control and prevention plan; and contracting with a consultant to facilitate the development of the comprehensive plan for the period January 1, 2009, through June 30, 2009.

Legislative intent - Section 37 provides any act of the Tobacco Prevention and Control Executive Committee or its employees is an act of the state of North Dakota functioning in its sovereign and governmental capacity and as a state entity and the committee is subject to accountability requirements, including laws relating to state audits, fiscal management, records retention, and procurement. Employees of the committee are part of the state classified system.

Reports to Budget Section - Section 38 provides the Tobacco Prevention and Control Executive Committee report to the Budget Section quarterly during the 2009-10 interim on the implementation of the comprehensive tobacco prevention and control plan and outcomes achieved.

Water development trust fund expenditures - Section 39 provides any money deposited in the water development trust fund under NDCC Section 54-27-25 may be spent only pursuant to legislative appropriations.

Biennial budget requirement - Section 40 requires the Tobacco Prevention and Control Executive Committee prepare and submit a biennial budget to the Office of Management and Budget as required by NDCC Section 54-44.1-04.