

**Tobacco Prevention and Control Executive Committee
Budget No. 305
House Bill No. 1025**

	FTE Positions	General Fund	Other Funds	Total
2011-13 executive budget (bills as introduced)	4.00	\$0	\$12,922,614	\$12,922,614
2011-13 legislative appropriations	5.00	0	12,922,614	12,922,614
Legislative increase (decrease) to executive budget	1.00	\$0	\$0	\$0
Legislative increase (decrease) to 2009-11 appropriations	1.00	\$0	\$40,614	\$40,614

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 Senate Bill No. 2015.

	Major Items			
	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Reclassified 1 temporary position, to be determined by the Tobacco Prevention and Control Executive Committee, to an FTE position.	1.00			
Total	1.00	\$0	\$0	\$0

FTE Changes

The Legislative Assembly authorized 5 FTE positions for the 2011-13 biennium, an increase of 1 FTE position from the 2009-11 biennium authorized level of 4 FTE positions. The Legislative Assembly reclassified 1 temporary position included in the executive recommendation to an FTE position. The Tobacco Prevention and Control Executive Committee may determine the temporary position to reclassify to an FTE position.

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 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 provided 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. Section 54-27-25, created by House Bill No. 1475 (1999), 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 provided for a portion of tobacco settlement dollars received by the state to be deposited in the 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 provided 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 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 Master Settlement 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 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 measure results in the following actual and estimated payments deposited in the tobacco prevention and control trust fund:

	Actual and Estimated Payments Under Master Settlement Agreement Subsection IX(c)(2) Deposited in the Tobacco Prevention and Control Trust Fund
Actual payment April 2008	N/A
Actual payment April 2009	\$14.1 million
Actual payments 2009-11 biennium	23.5 million
Estimated 2011-13 biennium	24.5 million
Estimated 2013-15 biennium	27.6 million
Estimated 2015-17 biennium	27.6 million
Total	\$117.3 million

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 funding for the Tobacco Prevention and Control Executive Committee is adjusted accordingly. Funding for the comprehensive statewide tobacco prevention and control program is summarized as follows:

2011-13 Biennium	Community Health Trust Fund	Tobacco Prevention and Control Trust Fund	Federal Funds	Total
State Department of Health (HB 1004) Tobacco prevention and control	\$3,510,496		\$2,651,900	\$6,162,396
Tobacco Prevention and Control Executive Committee (HB 1025) Tobacco prevention and control		\$12,922,614		12,922,614
Total 2011-13 biennium funding	\$3,510,496	\$12,922,614	\$2,651,900	\$19,085,010 ¹

¹According 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 Bill

Reports to Budget Section - Section 2 requires the Tobacco Prevention and Control Executive Committee provide quarterly written reports to the Budget Section during the 2011-12 interim. The reports must include detailed information on expenditures for contract services, professional fees and services, and grants.

Related Legislation

Tobacco prevention and control - House Bill No. 1004 provides tobacco prevention and control funding of \$6,162,396, of which \$3,510,496 is from the community health trust fund and \$2,651,900 is from federal funds. Funding from the community health trust fund provides for community health tobacco programs, the Tobacco Quitline, and a tobacco prevention coordinator.