

1999 HOUSE APPROPRIATIONS

HB 1436

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1436

House Appropriations Committee

Conference Committee

Hearing Date January 25, 1999

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | x | | 0-43.3 |
| | | | |
| Committee Clerk Signature <i>Kathleen Jones</i> | | | |

Minutes:

A BILL for an act to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to the establishment of the North Dakota health and education trust; and to provide for a continuing appropriation.

CHAIRMAN DALRYMPLE called the hearing for HB 1436 to order with all members present.

1A: 1.8 REP. MERLE BOUCHER testified in support of the bill. (See attached testimony.)

1A: 5.9 REP. POOLMAN asked what kind of increase the education programs would get from this bill. Rep. Boucher referred to Murry Sagsveen who said he didn't have the specific numbers with him. He offered to prepare a summary of the information for the committee.

1A: 15.4 REP. DELZER noted the terminology "continuing basis appropriation" in the bill, and asked how they could justify taking that authority, versus giving the authority to future sessions of the legislature. Rep. Boucher said that ultimately the Appropriations committee and the legislature as a whole will have the final say. Jim Smith, Legislative Council, responded that if the legislature did not take action, the money would continue to be appropriated each session.

1A: 17.5 REP. BERNSTEIN asked Mr. Smith about the constitutionality of continuing appropriations. Mr. Smith said that precedents have been set.

1A: 18.8 REP. TIMM asked how the trust would be protected. Rep. Boucher said that a constitutional resolution will be introduced which would protect the trust.

1A: 20.8 REP. BYERLY asked if the term "Health and Education programs" implies that the committee could direct the money to education programs with no ties to health. Rep. Boucher responded that this was correct.

1A: 23.5 REP. GERALD SVEEN testified in support of the bill. (See attached testimony.)

1A: 25.5 LINDA KOHLS, Program Director of the American Cancer Society, testified in support of the bill. (See attached testimony.)

1A: 28.5 ROSELLEN SAND testified on behalf of Attorney General Heidi Heitkamp in support of the bill. (See attached testimony.)

CHAIRMAN DALRYMPLE adjourned the hearing for HB 1436.

General Discussion

House Appropriations - House Bill 1436 & 1475

| | | | |
|---|--------|--------|---------|
| Date: January 27, 1999 | | | |
| Tape Number | Side A | B Side | Meter # |
| FOUR | X | | 0.-14.5 |
| Committee Clerk Signature <i>Kathleen Jones</i> | | | |

Minutes: **BILLS REGARDING THE SETTLEMENT OF TOBACCO FUNDS.**

Chairman Dalrymple called for discussion on HB 1436 and HB 1475.

1A:0.0 Rep. Delzer suggested setting up a trust fund with very few restrictions and let the next Legislative Assembly deal with the appropriations of dollars received.

1A:1.7 Rep. Carlisle commented that the common school trust fund which is a constitutional trust may be the safest for the funds if received.

1A: 4.3 Rep. Aarsvold expressed his feeling as to the obligation to use part of the trust fund dollars in health and education, especially tobacco abuse. Several members of the committee expressed their views. Allan Knudson, Legislative Council, stated he was of the opinion that all the tobacco settlement dollars could be used for the wishes of the Legislative Assembly. These funds are currently unrestricted. Discussion continued regarding if the unrestricted funds would continue in the future.

1A:9.8 Rep. Svedjan asked if the common school fund could serve as a repository and if the settlement funds would be commingled with other funds. Also, would there be any restrictions of the common school fund as to the future appropriations of the settlement funds? Allan Knudson, Legislative Council, stated that the funds would be commingled and each Legislative Assembly could appropriate the funds - interest only - as they deemed. Only the interest on principle maybe appropriated from the common school fund.

1A: 11.2 Rep. Byerly believe the responsibility of the committee is deposit a percentage of the funds in the common school fund, perhaps 60%, and the remaining funds could be used for other needs.

1A: 12.9 Rep. Aarsvold asked if the Legislative Council could provide figures on the impact of the common school trust fund. The Legislative Council will provide these figures.

Chairman Dalrymple asked for continuing input from the members of the committee and adjourned the discussion until a later date.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

| | | | |
|---|--------|--------|-----------|
| Date February 11, 1999 | | | |
| Tape Number | Side A | B Side | Meter # |
| 1 | x | | 41.9-44.4 |
| Committee Clerk Signature <i>Paulette Cassman</i> | | | |

Minutes:

A Bill for an Act to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to the establishment of the North Dakota health and education trust; and to provide for a continuing appropriation.

41.9 Chairman Dalrymple opened committee work on HB 1436.

42.7 Rep. Poolman moves for a do not pass, 2nd by Rep. Timm.

43.1 Rep. Aarsvold resists the do not pass.

43.6 The vote for the do not pass on HB 1436 was 15 yes, 5 no, 0 absent. Rep. Monson will carry the bill to the house floor.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB1436 Amendment to: _____

Requested by Legislative Council Date of Request: 1-20-99

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

This bill requires all tobacco settlement funds to be deposited into a health education trust fund. During the first biennium 20% of these funds will be used to administer health and education programs. There will be no additional FTE's added to the State Department of Health. Funds will be granted to local communities to provide direct services. The other 80% will remain in the health education trust fund. During the second biennium the State Department of Health will receive 10% of the payment funds and the interest payments received from the prior biennium and the other 90% of the payment funds will remain in the health education trust fund. This bill continues to allocate a portion of the interest payment for the third, fourth, fifth, sixth and seventh bienniums and the balance remains in the health education trust fund.

See attached for projection of revenue from tobacco settlement.

- State** fiscal effect in dollar amounts:

| | 1997-99 Biennium | | 1999-2001 Biennium | | 2001-03 Biennium | |
|---------------|------------------|---------------|--------------------|------------------|------------------|-------------------|
| | General Fund | Special Funds | General Fund | Special Funds | General Fund | Special Funds |
| Revenues: | | NA | | 57.6 million est | | 61.1 million est. |
| Expenditures: | | NA | | Unknown | | Unknown |

- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: NA
- For the 1999-2001 biennium: 11.5 million
- For the 2001-03 biennium: 12.2 million

- County, City, and School District** fiscal effect in dollar amounts:

| 1997-99 Biennium | | | 1999-2001 Biennium | | | 2001-03 Biennium | | |
|------------------|--------|------------------|--------------------|--------|------------------|------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | Unknown | | | Unknown | | | Unknown |

If additional space is needed, attach a supplemental sheet.

Signed 

Typed Name Robert A. Barnett

Department State Department of Health

Phone Number 328-2392

Date Prepared: 1-25-99

Fiscal Note HB 1436
Tobacco Settlement Funds

The Master Settlement Agreement (signed in November) contemplates the following payments to ND:

- 1998 ~ \$8,784,331
- 1999 ~ \$0
- 2000 ~ \$23,467,889
- 2001 ~ \$25,341,550
- 2002 ~ \$30,427,805
- 2003 ~ \$30,715,772
- 2004 - 2007 ~ \$25,635,606
- 2008 - 2017 ~ \$26,144,365
- 2009 - 2025 ~ \$29,295,744

During the 1999 - 2001 biennium, payments totaling \$57.6 million should be paid into an escrow account and should be available to ND (according to Laurie Loveland).

- On or before 6/30/00 ~ three payments totaling \$32.2 million
- On or before 1/10/01 ~ one payment totaling \$9.3 million
- On or before 4/15/01 ~ one payment totaling \$16.1 million

Date: 2/11/99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1436

House Appropriations Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Poolman Seconded By Timm

| Representatives | Yes | No | Representatives | Yes | No |
|----------------------|-----|----|-----------------|-----|----|
| Chairman Dalrymple | X | | Nichols | | X |
| Vice-Chairman Byerly | X | | Poolman | X | |
| Aarsvold | | X | Svedjan | X | |
| Bernstein | X | | Timm | X | |
| Boehm | X | | Tollefson | X | |
| Carlson | X | | Wentz | X | |
| Carlisle | X | | | | |
| Delzer | X | | | | |
| Gulleson | | X | | | |
| Hoffner | | X | | | |
| Huether | X | | | | |
| Kerzman | | X | | | |
| Lloyd | X | | | | |
| Monson | X | | | | |

Total (Yes) 15 No 5

Absent 0

Floor Assignment Monson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 9:04 a.m.

Module No: HR-28-2661
Carrier: Monson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1436: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **DO NOT PASS** (15 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1436 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1436



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Judiciary
Transportation

Representative Gerald O. Sveen
District 6
411 East Fifth Street
Bottineau, ND 58318

TESTIMONY
REP. GERALD O. SVEEN

TO: HOUSE APPROPRIATIONS COMMITTEE
JANUARY 25, 1999

CHAIRMAN DALRYMPLE
MEMBERS OF THE COMMITTEE

I AM TESTIFYING IN SUPPORT OF HB 1436 AS I BELIEVE THAT THE MONIES DERIVED FROM THE TOBACCO SETTLEMENT SHOULD BE UTILIZED IN THE FIELD OF HEALTH CARE AND THE PROBLEMS ASSOCIATED WITH SUCH CARE.

IT SEEMS ONLY RIGHT THAT IF THE USE OF TOBACCO CAUSED HEALTH PROBLEMS...THEN IT WOULD BE LOGICAL THAT OUR FOCUS BE PLACED ON THE FINANCIAL NEEDS IN THE TREATMENT OF OUR CITIZENS HEALTH.

I WOULD ESPECIALLY LIKE TO SEE A PORTION OF THE MONEY USED IN THE PREVENTION AND TREATMENT OF TOBACCO, ALCOHOL AND DRUG ADDICTION. CONCERNING DRUG ADDICTION, I AGREE WITH GOVERNOR SCHAFER'S RECOMMENDATION THAT WE FIND OTHER METHODS RATHER THAN INCARCERATION FOR THIS SO CALLED WHITE COLLAR CRIME.

I BELIEVE THAT THIS TOBACCO MONEY SHOULD BE PUT TO GOOD USE AND...AT THIS TIME...HB 1436 IS A GOOD CHOICE.


GERALD O. SVEEN

Testimony to Chairman Dalrimple and members of the Appropriations Committee:

I'm Linda Kohls, program director for the American Cancer Society, and I'm speaking in favor of this Bill as long as money will be set aside specifically for tobacco control. I represent organizations and citizens fighting to reduce the devastating toll tobacco takes on people's lives. We urge the legislature to appropriate a significant portion of the state's tobacco settlement funds for effective tobacco control efforts. In 1997 \$24 million was the total cigarette and tobacco tax revenue collected in ND, of that the state of North Dakota spent absolutely nothing for tobacco prevention.

In North Dakota, more than 1,000 citizens die prematurely every year because of tobacco addiction. Nearly forty percent of children in ND currently smoke cigarettes and will become tomorrow's victims of tobacco. \$180 million is spent annually in North Dakota in direct relation to tobacco use.

By investing a significant portion of the tobacco settlement monies in tobacco prevention programs, North Dakota has a historic opportunity to prevent children from beginning a lifelong addiction to tobacco products, and to help teen and adult smokers who want to quit. By doing so, we can also prevent the disease and death caused by tobacco, and reduce the amount taxpayers are forced to pay to cover the public health costs of tobacco.

Research shows that public education, counter advertisements, enforcement of tobacco control laws, community-based prevention and treatment services, and evaluation research are effective in reducing tobacco addiction. We urge that the original purposes of the tobacco lawsuits be kept in mind as decisions on how to spend tobacco settlement money are made. This is truly a historic opportunity to limit the extensive damage caused by tobacco use in North Dakota and keep it from killing another generation of our youth, as well as reduce what taxpayers are already paying to subsidize the cost of tobacco-caused illness.

The intent of this settlement money is to remedy the wrong tobacco has caused in North Dakota. To use it any other way is like using a car loan to take a vacation, it is irresponsible and doesn't solve your problem of needing transportation. We need to use this money to work on the problem- tobacco control, education, and cessation programs.

I simply ask that you refrain from making any allocations before a comprehensive strategy for a tobacco control, prevention and cessation program is in place and that you make sure the money isn't spent until a researched program is intact.

Linda M. Kohls
Program Director
Lobbyist #480
American Cancer Society
523 East Bismarck Expressway
Bismarck, ND 58504
701-222-2657
701-250-9145
email: lkohls@cancer.org

1436

TESTIMONY FOR HOUSE BILL 1436
Prepared by Representative Merle Boucher
Monday, January 25, 1999

Chairman Dalrymple and members of the House Appropriations, for the record I am Merle Boucher, a member of the House of Representatives from District 9.

My testimony today is in support of HB 1436. House Bill 1436 creates a mechanism for the investment of anticipated tobacco payment moneys.

As committee members you can see this bill establishes a long term strategy for the investment of these funds, and also a mechanism for the pay out of principal funds received and interest earned. Though HB 1436 makes reference to a specific trust fund, the process could be applied to any trust that this legislative body would choose to use, or establish.

The tobacco payment money is a windfall to the state. I feel that it is our responsibility to use this money wisely, which includes the investment of a major portion. We have an opportunity to develop a very large pool of money that would have the ability to generate a significant return that could be used in many ways and for many purposes.

Members of the House Appropriation's Committee, we have this important matter to discuss in regards to the appropriate use of tobacco payments. House bill 1436 recommends a structured and responsible way of handling these windfall dollars. You will have several suggestions presented to you, I urge that you consider HB 1436 a sound business wise approach and recommend a Due Pass.



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CAMPAIGN TO PROTECT STATE TOBACCO SETTLEMENT FUNDS COMMENCES. Texas State Representative Robert Junell joined a bipartisan group of U.S. Senators, governors and attorneys general at a Jan. 21 press conference in a call to "keep all tobacco settlement funds in the states". Representative Junell urged U.S. Senators Kay Bailey Hutchison (R-Texas), Bob Graham (D-Florida), George Voinovich (R-Ohio), Evan Bayh (D-Indiana) and Mitch McConnell (R-Kentucky) "to expeditiously enact your soon-to-be-introduced legislation that will prohibit the federal government from recouping a portion of state tobacco settlement funds." Similar legislation failed to pass during the 105th Congress. However, this year's efforts will not be burdened with being part of a ponderous, and ultimately divisive, comprehensive federal tobacco settlement bill. While there remain some members of Congress and the White House wanting to dictate the terms of how states spend settlement funds, Representative Junell insisted that federal recoupment prohibition legislation protect the integrity of the tobacco settlement by "giving tobacco funds to states to spend as the people see fit." (NCSL staff contacts: Michael Bird, Joy Johnson Wilson, Steve Lewis)

RECOUPMENT PROHIBITION BILL INTRODUCED IN HOUSE. On January 19, 1999, Representative Michael Billirakis (R-Florida) introduced H.R. 351, legislation explicitly prohibiting the federal government from seizing any state tobacco settlement funds. This legislation is the same bill he introduced last year that attracted bipartisan support and fell just short of being enacted.

H.R. 351 completely corresponds to NCSL's position that states must have absolute assurances that the federal government cannot "recoup" any tobacco settlement funds from the 50 states, territories or the District of Columbia. In a Jan. 19, 1999 letter to the President and the congressional leadership, NCSL's major officers wrote that "states are carrying out the directives of the settlement agreements and cannot tolerate any uncertainty as to the status of settlement funds or any other related matter." (Copies of these letters are available from Alysoun McLaughlin at (202) 624-3580.) H.R. 351 would eliminate the cloud of uncertainty that persists regarding the Health Care Financing Administration's suspended efforts to recoup a portion of these funds. The President's FY 2000 budget will not assume any recoupment for next year, but is expected to assume \$20 billion in recoupment for FY 2001-05. The administration appears willing to see if this issue can be resolved during the first year of the 106th Congress, but is inclined to compel states to use a part of their funds for specific federally-outlined purposes.

State legislators should contact their House members and urge them to cosponsor H.R. 351. It would also be advantageous to pass resolutions or memorials calling for enactment of "clean" federal legislation prohibiting recoupment. NCSL, governors, attorneys general and organizations representing county and city officials are united in passing legislation like H.R. 351. (NCSL staff contacts: Michael Bird, Joy Johnson Wilson, Steve Lewis)

COURT STRIKES DOWN BALLOT INITIATIVE LAW. The U.S. Supreme Court, on Jan. 12, 1999, found three provisions of Colorado's initiative-petition law to be unconstitutional. Colorado, like many Western states, allows citizens to make laws directly through initiatives placed on the ballot by citizens signing petitions. In response to alleged abuses in the petition circulation process, the Colorado Legislature required that (1) petition circulators be registered voters; (2) circulators wear an identification badge bearing their name; and (3) proponents of an initiative report the names and addresses of all paid petition circulators as well as the amount paid to each circulator. The Court, in a narrowly crafted opinion in *Buckley vs. American Constitutional Law Foundation*, found that these three provisions violate the First Amendment. At the same time, the Court emphasized that states have considerable leeway to regulate the ballot initiative process. (NCSL staff contact: Bill Waren)

STATES TO LOSE ADMINISTRATIVE FUNDS. Last year's agricultural research bill, P.L. 105-185, was funded with a promised reduction in federal funding for state food stamps administrative costs. Over the next five years, states will lose \$1.1 billion through new administrative cost allocation determinations, and states may want to appeal. These cost allocations may not comport with state data. State-by-state totals from Federal Funds Information for States are available at www.ffis.org/misc/sum.htm. Letters from the U.S. Department of Health and Human Services explaining individual state reductions are available from Whitney Mueller at (202) 624-8690. Similar reductions for Medicaid, totalling \$1.5 billion over 5 years, are expected to be included in the president's FY 2000 budget and Republican budget assumptions. (NCSL staff contacts: Sheri Stelsel, Joy Johnson Wilson)

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