

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

707D0550

SENATE BILL NO. 137

Introduced by: Senator Moore and Representative Brooks

1 FOR AN ACT ENTITLED, An Act to create a youth smoking prevention fund to receive
2 moneys paid to the state under the master settlement agreement with certain tobacco
3 manufacturers and to provide for grants for qualified youth smoking prevention programs.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. Terms used in this Act mean:

6 (1) "Department", the Department of Health;

7 (2) "Fund," the youth smoking prevention fund established pursuant to this Act;

8 (3) "Master settlement agreement," the tobacco litigation settlement agreement entered
9 into by this state and certain other states, U.S. territories and possessions, and
10 participating tobacco manufacturers, dated November 23, 1998;

11 (4) "State plan," the state plan for youth smoking prevention adopted pursuant to this
12 Act;

13 (5) "Grantee," any public entity or private nonprofit entity approved by the Department
14 of Health to receive moneys from the fund for qualified youth smoking prevention
15 programs;

16 (6) "Qualified youth smoking prevention program," a program that meets the criteria set
17 forth in the state plan for youth smoking prevention.

1 Section 2. There is established in the state treasury a youth smoking prevention fund. The
2 fund shall consist of twenty-five percent of all moneys received by the state under the master
3 settlement agreement, and all other moneys, including gifts, grants, or other funds, designated
4 for the fund. All interest derived from the deposit and investment of moneys in the fund shall be
5 credited to the fund. The fund shall be administered by the Department of Health pursuant to this
6 Act.

7 Section 3. All moneys in the fund shall be subject to annual appropriations by the Legislature
8 for such purposes as are authorized by this Act and shall be available for the award of grants for
9 qualified youth smoking prevention programs and related administrative costs of the department.

10 Section 4. No moneys from the fund may be used to engage in any political activities or
11 lobbying, including support of or opposition to candidates, ballot initiatives, referenda, or other
12 similar activities.

13 Section 5. On or before January 1, 2001, the department shall propose a state plan for youth
14 smoking prevention. On or before September first of each subsequent year, the department may
15 propose amendments to the plan. The department shall submit its proposed state plan or any
16 proposed amendments thereto to the Legislature. The Legislature may submit comments to the
17 department on the proposed amendments to the plan on or before March first of each subsequent
18 year. On or before July first, the department shall adopt a final state plan and shall make such
19 plan public.

20 Section 6. The state plan shall set out the criteria by which grant proposals are considered
21 by the department. Such plan shall also describe the types of youth smoking prevention programs
22 that shall be eligible for consideration for grants. Such eligible programs shall include:

- 23 (1) Media campaigns directed to youth to prevent underage consumption of cigarettes;
- 24 (2) School-based education programs to prevent youth smoking;
- 25 (3) Community-based youth programs involving youth smoking prevention through

1 general youth development; and

2 (4) Enforcement and administration of chapter 34-46 related to the prevention of
3 cigarette sales to minors and related retailer education and compliance efforts.

4 Section 7. The state plan shall provide that no less than twenty-five percent of the dollar
5 value of the grants awarded in each year shall be dedicated to programs described in subdivisions
6 (2) and (3) of section 6 of this Act.

7 Section 8. The state plan shall provide for a grant for an annual statewide school-based
8 survey to measure cigarette use and behaviors towards cigarette use by individuals in grades 6-
9 12. Such survey shall involve a statistically valid sample of the individuals in each grade 6-12 and
10 be made available to the public, along with the resulting data, excluding respondent identities and
11 respondent-identifiable data, prior to January first of each year. The survey sample may not
12 include any person who is eighteen years of age or older.

13 Section 9. The state plan shall provide that no more than two percent of the fund shall be
14 expended on the administrative costs of the department.

15 Section 10. On or before January first of each year, beginning in 2001, the department shall
16 award grants to qualified applicants for the next fiscal year. To the extent practicable and
17 consistent with the criteria for qualified applicants set forth in the state plan, the department shall
18 make recommendations for the expenditure of the total amount of funds appropriated in each
19 fiscal year for qualified youth smoking prevention programs.

20 Section 11. An applicant for a grant for a qualified youth smoking prevention program shall
21 file an application with the department no later than July first of the year preceding the fiscal year
22 for which the grant is requested.

23 Section 12. An applicant that requests funding to initiate, continue, or expand a youth
24 smoking prevention program shall demonstrate, by means of application, letters of
25 recommendation, and such other means as the department may designate, that the proposed

1 youth smoking prevention program for which it seeks funds meets the criteria set forth in the
2 state plan. Previous grant recipients shall include recent evaluations of their programs with their
3 applications. The department may not recommend the award of a grant unless it makes a specific
4 finding, as to each applicant, that the program proposed to be funded meets the criteria set forth
5 in the state plan.

6 Section 13. In addition to evaluating the funding request pursuant to the criteria set out in
7 the state plan, the department shall consider:

8 (1) In the case of applications to fund media campaigns directed to youth to prevent
9 underage consumption of cigarettes, whether the campaign provides for sound
10 management and periodic evaluation of the campaign's relevance to the intended
11 audience, including audience awareness of the campaign and recollection of the main
12 message;

13 (2) In the case of applications to fund school-based education programs to prevent youth
14 smoking, whether there is credible evidence that the program is effective in reducing
15 youth smoking;

16 (3) In the case of applications to fund community-based youth programs involving youth
17 smoking prevention through general youth development, whether the program:

18 (a) Has a comprehensive strategy with a clear mission and goals;

19 (b) Has committed, caring, and professional leadership;

20 (c) Offers a diverse array of youth-centered activities in youth-accessible facilities;

21 (d) Is culturally sensitive, inclusive, and diverse;

22 (e) Involves youth in the planning, delivery, and evaluation of services that affect
23 them; and

24 (f) Offers a positive focus including all youth;

25 (4) In the case of applications to fund enforcement and administration of chapter 34-46

1 related to the prevention of cigarette sales to minors and related retailer education and
2 compliance efforts, whether the activities and efforts can reasonably be expected to
3 reduce the extent to which tobacco products are available to individuals under the age
4 of eighteen.

5 Section 14. State government and local governments shall be eligible for grants provided
6 pursuant to this Act.

7 Section 15. On or before July first of each year, the department shall announce the award of
8 grants for the next fiscal year. Any funds appropriated for qualified youth smoking prevention
9 programs not expended in any fiscal year shall be retained in the fund and available for qualified
10 youth smoking prevention programs in any following year.

11 Section 16. As a condition to a receipt of funds under this Act, a grantee shall agree to file
12 a report with the department on or before July first as to the following:

- 13 (1) The amount received as a grant and the expenditures made with the proceeds of the
14 grant;
- 15 (2) A description of the program offered and the number of youths who participated in
16 the program; and
- 17 (3) The specific elements of the program meeting the criteria set forth in the state plan.

18 Section 17. Any grantee failing to timely file the report required under this Act shall be
19 responsible for the repayment of the full amount of the grant expended.

20 Section 18. The department shall review and evaluate the reports of grantees required under
21 this section and shall file a written report with the Executive Board of the Legislative Research
22 Council on or before July first of each year on the status of the fund and the activities of the fund
23 for the fiscal year most recently ended. The report shall include the beginning and ending balance
24 of the fund for each fiscal year, payments or gifts received by the fund, income earned, and
25 expenditures made, the name of each grantee and the amount of each grant made, the criteria

- 1 used to award each grant, and whether the program implemented by each grantee met the
- 2 criteria. The report shall be publicly available immediately upon its filing.