

**Repealed and Amended Indiana Code 4-12-4 regarding the Indiana Tobacco Use
Prevention and Cessation Trust Fund and Executive Board
Effective 7/1/2011**

IC 4-12-4

Chapter 4. Indiana Tobacco Use Prevention and Cessation Trust Fund

IC 4-12-4-1

"Executive board" defined

Sec. 1. As used in this chapter, "executive board" refers to the Indiana tobacco use prevention and cessation executive board created by section 4 of this chapter.

As added by P.L.21-2000, SEC.2;

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-2

"Fund" defined

Sec. 2. As used in this chapter, "fund" refers to the Indiana tobacco use prevention and cessation trust fund created by this chapter.

As added by P.L.21-2000, SEC.2.

IC 4-12-4-3

"Master settlement agreement" defined

Sec. 3. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

As added by P.L.21-2000, SEC.2.

IC 4-12-4-4

Creation of executive board; members

Sec. 4. (a) The Indiana tobacco use prevention and cessation executive board is created.

(b) The executive board is an agency of the state.

(c) The executive board consists of the following:

(1) The following five (5) ex officio members:

(A) The executive director employed under section 6 of this chapter.

(B) The state superintendent of public instruction, or the state superintendent's designee.

(C) The attorney general, or the attorney general's designee.

(D) The commissioner of the state department of health, or the commissioner's designee.

(E) The secretary of the family and social services administration, or the secretary's designee.

(2) Eleven (11) members who are appointed by the governor and have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.

(3) Six (6) members who are appointed by the governor who represent the following organizations:

(A) The American Cancer Society.

(B) The American Heart Association, Indiana Affiliate.

(C) The American Lung Association of Indiana.

(D) The Indiana Hospital and Health Association.

(E) The Indiana State Medical Association.

(F) The Indiana Council of Community Mental Health Centers.

The executive director serves as a nonvoting member and all other members serve as voting members.

(d) During a member's term of service on the executive board, an appointed member of the executive board may not be an official or employee of the state.

(e) Not more than six (6) members of the executive board appointed under subsection (c)(2) may belong to the same political party.

(f) A member appointed under subsection (c)(2) serves a four (4) year term and shall hold over after the expiration of the member's term until the member's successor is appointed and qualified. A member appointed under subsection (c)(3) serves until the member resigns or is removed from the executive board by the governor.

(g) The governor may reappoint an appointed member of the executive board.

(h) A vacancy with respect to a member appointed under subsection (c)(2) shall be filled for the balance of an unexpired term in the same manner as the original appointment. A vacancy with respect to a member appointed under subsection (c)(3) shall be filled in the same manner as the original appointment.

(i) The governor shall designate a member to serve as chairperson of the executive board. The executive board shall annually elect one (1) of its ex officio members as vice chairperson and may elect any other officer that the executive board desires.

(j) The governor may remove a member appointed under subsection (c)(2) for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing, unless the member expressly waives the notice and hearing in writing.

As added by P.L.21-2000, SEC.2.

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-5

Expenses of executive board members

Sec. 5. (a) An appointed member of the executive board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each appointed member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. (b) An ex officio member of the executive board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

As added by P.L.21-2000, SEC.2.

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-6

Powers of executive board

Sec. 6. (a) The executive board may:

(1) employ an executive director; and

(2) delegate necessary and appropriate functions and authority to the executive director.

(b) Subject to the approval of the executive board, the executive director may do the following:

(1) Employ staff necessary to advise and assist the executive board as required by this chapter.

(2) Fix compensation of staff according to the policies currently enforced by the budget agency and the state personnel department.

(3) Engage experts and consultants to assist the executive board.

(4) Expend funds made available to the staff according to the policies established by the budget agency.

(5) Establish policies, procedures, standards, and criteria necessary to carry out the duties of the staff of the executive board.

As added by P.L.21-2000, SEC.2.

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-7

Quorum; voting; meetings

Sec. 7. (a) Eleven (11) voting members of the executive board constitute a quorum for:

(1) the transaction of business at a meeting of the executive board; or

(2) the exercise of a power or function of the executive board.

(b) The affirmative vote of a majority of all the voting members of the executive board is necessary for the executive board to take action. A vacancy in the membership of the executive board does not impair the right of a quorum to exercise all the rights and perform all the duties of the executive board.

(c) The executive board shall meet at least quarterly and at the call of the chairperson.

As added by P.L.21-2000, SEC.2.

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-8

Executive board as public agency and governing body

Sec. 8. (a) The executive board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(b) The executive board is a governing body for purposes of IC 5-14-1.5.

As added by P.L.21-2000, SEC.2.

REPEALED P.L. 229-2011, SEC.268, 7/1/2011

IC 4-12-4-9

Additional powers of executive board

Sec. 9. In addition to any other power granted by this chapter, the executive board may:

(1) adopt an official seal and alter the seal at its pleasure;

(2) adopt rules, under IC 4-22-2, for the regulation of its affairs and the conduct of its business and prescribe policies in connection with the performance of its functions and duties;

(3) accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to that aid;

(4) make, execute, and effectuate any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this chapter, including contracts for the provision of all or any portion of the services the executive board considers necessary for the management and operations of the executive board;

(5) recommend legislation to the governor and general assembly; and

(6) do any and all acts and things necessary, proper, or convenient to carry out this article.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 197-2011, SEC.4, 7/1/2011

SECTION 45. IC 4-12-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) **The Indiana tobacco use prevention and cessation executive board is abolished July 1, 2011. On July 1, 2011:**

(1) all assets, obligations, powers, and duties of the executive board are transferred to the state department of health; and

(2) all appropriations made to the Indiana tobacco use prevention and cessation executive board are transferred to the state department of health and are considered appropriations made to the state department of health.

(b) In addition to any other power granted by this chapter, the executive board state department of health may:

~~(1)~~ **adopt an official seal and alter the seal at its pleasure;**

~~(2)~~ **(1) adopt rules under IC 4-22-2 for the regulation of its affairs and the conduct of its business and prescribe policies in connection with the performance of its functions and duties; to carry out this chapter;**

~~(3)~~ **(2) accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to that aid;**

~~(4)~~ **(3) make, execute, and effectuate any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this chapter, including contracts for the provision of all or any portion of the services the executive board state department of health considers necessary; for the management and operations of the executive board;**

~~(5)~~ **(4) recommend legislation to the governor and general assembly; and**

~~(6)~~ **(5) do any and all acts and things necessary, proper, or convenient to carry out this article: chapter.**

IC 4-12-4-10

Establishment of fund; contents; administration

Sec. 10. (a) The Indiana tobacco use prevention and cessation trust fund is established. The executive board may expend money from the fund and make grants from the fund to implement the long range state plan established under this chapter. General operating and administrative expenses of the executive board are also payable from the fund.

(b) The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(c) The fund shall be administered by the executive board. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the expenses incurred under those contracts from the fund. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) All income and assets of the executive board deposited in the fund are for the use of the executive board without appropriation.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.46, 7/1/2011

SECTION 46. IC 4-12-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) The Indiana tobacco use prevention and cessation trust fund is established. The ~~executive board~~ **state department of health** may expend money from the fund and make grants from the fund to implement the long range state plan established under this chapter. ~~General operating and~~ Administrative expenses of ~~the executive board~~ **necessary to carry out this chapter** are also payable from the fund.

(b) The fund consists of:

- (1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;
- (2) appropriations to the fund from other sources;
- (3) grants, gifts, and donations intended for deposit in the fund; and
- (4) interest that accrues from money in the fund.

(c) The fund shall be administered by the ~~executive board~~ **state department of health**. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the expenses incurred under those contracts from the fund. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) All income and assets of the executive board deposited in the fund are for the use of the ~~executive board~~ **without state department of health after** appropriation.

IC 4-12-4-11

Mission statement; long range state plan

Sec. 11. (a) The executive board shall develop:

(1) a mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana, including:

- (A) emphasis on prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including seriously and emotionally disturbed youth;
- (B) encouragement of smoking cessation;
- (C) production and distribution of information concerning the dangers of tobacco use and tobacco related diseases;
- (D) providing research on issues related to reduction of tobacco use;
- (E) enforcement of laws concerning sales of tobacco to youth and use of tobacco by youth; and
- (F) other activities that the executive board considers necessary and appropriate for inclusion in the mission statement; and

(2) a long range state plan, based on Best Practices for Tobacco Control Programs as published by the Centers for Disease Control and Prevention, for:

- (A) the provision of services by the executive board, public or private entities, and individuals to implement the executive board's mission statement; and

(B) the coordination of state efforts to reduce usage of tobacco and tobacco products.
The executive board shall update the mission statement and long range state plan as necessary to carry out the purposes of this chapter.

(b) The long range state plan described in subsection (a) must:

- (1) cover a period of at least five (5) years;
- (2) include base line data concerning tobacco usage;
- (3) set forth specific goals for prevention and reduction of tobacco usage in Indiana; and
- (4) be made available to the governor, the general assembly, and any other appropriate state or federal agency.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.47, 7/1/2011

SECTION 47. IC 4-12-4-11, AS AMENDED BY P.L.99-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The ~~executive board~~ **state department of health shall develop:**

(1) a mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana, including:

(A) emphasis on prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including youth with serious and emotional disturbances;

(B) encouragement of smoking cessation;

(C) production and distribution of information concerning the dangers of tobacco use and tobacco related diseases;

(D) providing research on issues related to reduction of tobacco use;

(E) enforcement of laws concerning sales of tobacco to youth and use of tobacco by youth; and

(F) other activities that the ~~executive board~~ **state department of health** considers necessary and appropriate for inclusion in the mission statement; and

(2) a long range state plan, based on Best Practices for Tobacco Control Programs as published by the Centers for Disease Control and Prevention, for:

(A) the provision of services by the ~~executive board~~, **state department of health**, public or private entities, and individuals to implement the ~~executive board's~~ **state department of health's** mission statement; and

(B) the coordination of state efforts to reduce usage of tobacco and tobacco products.

The ~~executive board~~ **state department of health** shall update the mission statement and long range state plan as necessary to carry out the purposes of this chapter.

(b) The long range state plan described in subsection (a) must:

(1) cover a period of at least five (5) years;

(2) include base line data concerning tobacco usage;

(3) set forth specific goals for prevention and reduction of tobacco usage in Indiana; and

(4) be made available to the governor, the general assembly, and any other appropriate state or federal agency.

IC 4-12-4-12

Applications for grants

Sec. 12. A public or private entity or an individual may submit an application to the executive board for a grant from the fund. Each application must be in writing and contain the following information:

- (1) A clear objective to be achieved with the grant.
- (2) A plan for implementation of the specific program.
- (3) A statement of the manner in which the proposed program will further the goals of the executive board's mission statement and long range state plan.
- (4) The amount of the grant requested.
- (5) An evaluation and assessment component to determine the program's performance.
- (6) Any other information required by the executive board.

The executive board may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.48, 7/1/2011

SECTION 48. IC 4-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. A public or private entity or an individual may submit an application to the ~~executive board~~ **state department of health** for a grant from the fund. Each application must be in writing and contain the following information:

- (1) A clear objective to be achieved with the grant.
- (2) A plan for implementation of the specific program.
- (3) A statement of the manner in which the proposed program will further the goals of the ~~executive board's~~ **state department of health's** mission statement and long range state plan.
- (4) The amount of the grant requested.
- (5) An evaluation and assessment component to determine the program's performance.
- (6) Any other information required by the ~~executive board.~~ **state department of health.**

The ~~executive board~~ **state department of health** may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

IC 4-12-4-13

Executive board approval of expenditures

Sec. 13. The expenditure of state funds (other than a grant awarded under this chapter) for a program concerning prevention or reduction of tobacco usage that is operated by a state agency or a public or private entity is subject to the approval of the executive board. The state agency or public or private entity shall submit a description of the proposed expenditure to the executive board for the executive board's review and approval. The description submitted under this section must include the following:

- (1) The objective to be achieved through the expenditure.
- (2) The plan for implementation of the expenditure.
- (3) The extent to which the expenditure will supplement or duplicate existing expenditures of other state agencies, public or private entities, or the executive board.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.49, 7/1/2011

SECTION 49. IC 4-12-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. The expenditure of state funds (other than a grant awarded under this chapter) for a program concerning prevention or reduction of tobacco usage that is operated by a state agency or a public or private entity is subject to the approval of the ~~executive board.~~ **state department of health.** The state agency or public or private entity shall submit a description of the proposed expenditure to the ~~executive board~~ **state department of health** for the ~~executive board's~~ **state department of health's** review and approval. The description submitted under this section must include the following:

(1) The objective to be achieved through the expenditure.

(2) The plan for implementation of the expenditure.

(3) The extent to which the expenditure will supplement or duplicate existing expenditures of other state agencies, public or private entities, or the ~~executive board.~~ **state department of health.**

IC 4-12-4-14

Annual reports of executive board

Sec. 14. The executive board shall prepare an annual financial report and an annual report concerning the executive board's activities under this chapter and promptly transmit the annual reports to the governor and the legislative council. The executive board shall make the annual reports available to the public upon request.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.50, 7/1/2011

SECTION 50. IC 4-12-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. The ~~executive board~~ **state department of health** shall prepare an annual financial report and an annual report concerning the ~~executive board's~~ **state department of health's** activities under this chapter and promptly transmit the annual reports to the governor and, in an electronic format under IC 5-14-6, to the legislative council. The ~~executive board~~ **state department of health** shall make the annual reports available to the public upon request.

IC 4-12-4-15

Annual audit of executive board

Sec. 15. The funds, accounts, management, and operations of the executive board are subject to annual audit by the state board of accounts.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.51, 7/1/2011

SECTION 51. IC 4-12-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 15. The funds, accounts, management, and operations of the ~~executive board~~ **state department of health under this chapter** are subject to annual audit by the state board of accounts.

IC 4-12-4-16

Advisory board

Sec. 16. (a) The Indiana tobacco use prevention and cessation advisory board is established. The board consists of:

- (1) the executive director employed under section 6 of this chapter, who shall serve as the chairperson of the advisory board; and
 - (2) other members appointed by the governor who have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.
- (b) The advisory committee shall meet at least quarterly and at the call of the chairperson.
- (c) The advisory committee shall, as considered necessary by the advisory committee or as requested by the executive board, make recommendations to the executive committee concerning:
- (1) the development and implementation of the mission statement and long range state plan under section 11 of this chapter;
 - (2) the criteria to be used for the evaluation of grant applications under this chapter;
 - (3) the coordination of public and private efforts concerning reduction and prevention of tobacco usage; and
 - (4) any other matters for which the executive board requests recommendations from the advisory committee.
- (d) Members of the advisory committee are not entitled to a salary per diem or reimbursement of expenses for service on the advisory committee.
- (e) The advisory committee may establish subcommittees as necessary to carry out its duties under this section.

As added by P.L.21-2000, SEC.2.

AMENDED by P.L. 229-2011, SEC.52, 7/1/2011

SECTION 52. IC 4-12-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) The Indiana tobacco use prevention and cessation advisory board is established. The board consists of:

(1) ~~the executive director employed under section 6 of this chapter,~~ **commissioner of the state department of health, or the commissioner's designee**, who shall serve as the chairperson of the advisory board; and

(2) other members appointed by the governor who have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.

(b) The advisory committee shall meet at least quarterly and at the call of the chairperson.

(c) The advisory committee shall, as considered necessary by the advisory committee or as requested by the ~~executive board~~ **state department of health**, make recommendations to the ~~executive committee~~ **state department of health** concerning:

(1) the development and implementation of the mission statement and long range state plan under section 11 of this chapter;

(2) the criteria to be used for the evaluation of grant applications under this chapter;