

Fifty-ninth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2004**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state  
2 department of health; to amend and reenact subsection 1 of section 19-02.1-24, section  
3 19-08-04, subsections 5 and 8 of section 23-09-01, and sections 23-09-16, 23-09-24,  
4 23-09.1-02.2, and 23-10-03 of the North Dakota Century Code, relating to licensure of food  
5 vending machines, beverage sales, food and lodging establishments, assisted living facilities,  
6 pushcarts, mobile food units, salvaged food distributors, bed and breakfasts, mobile home  
7 parks, trailer parks, and campgrounds; to repeal sections 19-08-05, 23-09-17, 23-09.1-03, and  
8 23-10-05 of the North Dakota Century Code, relating to license fee amounts for beverage  
9 sales, food and lodging establishments, mobile food units, pushcarts, bed and breakfasts,  
10 mobile home parks, trailer parks, and campgrounds; and to provide for a legislative council  
11 study.

12 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

13 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this  
14 section represent the base level funding component appropriated to the state department of  
15 health in section 3 of this Act as follows:

16 Salaries and wages	\$29,972,929
17 Operating expenses	24,151,257
18 Capital assets	3,204,837
19 Grants	36,690,628
20 Tobacco prevention and control	7,783,097
21 WIC food payments	17,680,000
22 Community health advisory	<u>100,000</u>
23 Total all funds - Base level	\$119,582,748

1	Less estimated income - Base level	<u>106,481,656</u>
2	Total general fund - Base level	\$13,101,092

3           **SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The  
4 amounts identified in this section represent the funding adjustments or enhancements to the  
5 base funding level for the state department of health which are included in the appropriation in  
6 section 3 of this Act as follows:

7	Salaries and wages	\$2,712,149
8	Operating expenses	1,288,653
9	Capital assets	(1,690,368)
10	Grants	5,901,038
11	Tobacco prevention and control	903,645
12	WIC food payments	(1,930,000)
13	Community health advisory	<u>(100,000)</u>
14	Total all funds - Adjustments/enhancements	\$7,085,117
15	Less estimated income - Adjustments/enhancements	<u>6,826,931</u>
16	Total general fund - Adjustments/enhancements	\$258,186

17           **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the  
18 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
19 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
20 other income, to the state department of health for the purpose of defraying the expenses of  
21 that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

22	Salaries and wages	\$32,685,078
23	Operating expenses	25,439,910
24	Capital assets	1,514,469
25	Grants	42,591,666
26	Tobacco prevention and control	8,686,742
27	WIC food payments	<u>15,750,000</u>
28	Total all funds	\$126,667,865
29	Less estimated income	<u>113,308,587</u>
30	Total general fund appropriation	\$13,359,278

1           **SECTION 4. ABANDONED MOTOR VEHICLE DISPOSAL FUND.** The estimated  
2 income line item included in section 3 of this Act includes \$250,000, or so much of the sum as  
3 may be necessary, to be made available to the state department of health from the abandoned  
4 motor vehicle disposal fund, under section 39-26-11, for the biennium beginning July 1, 2005,  
5 and ending June 30, 2007.

6           **SECTION 5. ENVIRONMENT AND RANGELAND PROTECTION FUND.** The  
7 estimated income line item included in section 3 of this Act includes \$252,808, or so much of  
8 the sum as may be necessary, to be made available to the state department of health from the  
9 environment and rangeland protection fund, for the biennium beginning July 1, 2005, and  
10 ending June 30, 2007. This amount includes \$50,000 for a grant to the North Dakota  
11 stockmen's association environmental services program.

12           **SECTION 6. DOMESTIC VIOLENCE PREVENTION FUND.** The estimated income  
13 line item included in section 3 of this Act includes \$280,000, or so much of the sum as may be  
14 necessary, to be made available to the state department of health from the domestic violence  
15 prevention fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

16           **SECTION 7. ENVIRONMENTAL HEALTH PRACTITIONER LICENSURE FEE**  
17 **ADMINISTRATIVE FUND.** The estimated income line item included in section 3 of this Act  
18 includes \$1,000, or so much of the sum as may be necessary, to be made available to the state  
19 department of health from the environmental health practitioner licensure fee administrative  
20 fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

21           **SECTION 8. WASTEWATER OPERATORS CERTIFICATION FUND.** The estimated  
22 income line item included in section 3 of this Act includes \$21,214, or so much of the sum as  
23 may be necessary, to be made available to the state department of health from the wastewater  
24 operators certification fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

25           **SECTION 9. COMMUNITY HEALTH TRUST FUND.** The estimated income line item  
26 included in section 3 of this Act includes \$6,610,000, or so much of the sum as may be  
27 necessary, to be made available to the state department of health from the community health  
28 trust fund, for the biennium beginning July 1, 2005, and ending June 30, 2007.

29           **SECTION 10. INTENT - INDIRECT COST RECOVERIES.** Notwithstanding section  
30 54-44.1-14, the state department of health may deposit indirect cost recoveries in its operating  
31 account.

1           **SECTION 11. AMENDMENT.** Subsection 1 of section 19-02.1-24 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           1. ~~No~~ An establishment may not sell any type of prepackaged food from a food  
4 vending machine without first obtaining a license from the department. ~~A license~~  
5 ~~may be issued upon payment of a fee of fifteen dollars annually.~~ The license  
6 expires on June thirtieth of each year. The department may adopt rules  
7 establishing the amount and the procedures for the collection of license fees.  
8 License fees collected pursuant to this section must be deposited in the  
9 department's operating fund in the state treasury and any expenditure from the  
10 fund is subject to appropriation by the legislative assembly.

11           **SECTION 12. AMENDMENT.** Section 19-08-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **19-08-04. License required.** The department may, ~~in its discretion,~~ require  
14 manufacturers, importers, jobbers, or other retailers to furnish suitable samples to the  
15 department for inspection and chemical analysis. If any beverage does not meet all  
16 requirements of law, the department shall refuse to license it the beverage and shall prevent its  
17 sale of the beverage. The license fee must be paid annually during the month of December or  
18 ~~prior to~~ before placing the beverage on the market. The license expires December thirty-first  
19 next following its issuance. If the manufacturer or jobber secures a license for a product,  
20 subsequent sellers, including retailers and dispensers, need not again secure a license for the  
21 same product, and no dispenser may be required to secure a license for a product prepared for  
22 the dispenser's own use from a product already licensed. The department may adopt rules  
23 establishing the amount and the procedures for the collection of annual license fees. License  
24 fees collected pursuant to this section must be deposited in the department's operating fund in  
25 the state treasury and any expenditure from the fund is subject to appropriation by the  
26 legislative assembly.

27           **SECTION 13. AMENDMENT.** Subsections 5 and 8 of section 23-09-01 of the North  
28 Dakota Century Code are amended and reenacted as follows:

29           5. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop,  
30 cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda  
31 fountain, tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat

1 market, food processing plant, school, child care, or similar place in which food or  
2 drink is prepared for sale or service to the public on the premises or elsewhere  
3 with or without charge.

4 8. "Lodging establishment" includes every building or structure, or any part thereof,  
5 which is kept, used, maintained, or held out to the public as a place where sleeping  
6 accommodations are furnished for pay to ~~four or more~~ transient guests. The term  
7 does not include a facility providing personal care services directly or through  
8 contract services as defined in section 23-09.3-01 or 50-32-01.

9 **SECTION 14. AMENDMENT.** Section 23-09-16 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **23-09-16. License - Application.** Before any food establishment, lodging  
12 establishment, pushcart, mobile food unit, or assisted living facility may be operated in this  
13 state, it must be licensed by the department. The department shall waive the license  
14 requirement for any food establishment, lodging establishment, or assisted living facility  
15 licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection  
16 rules are approved by the department. Application for license must be made to the department  
17 during December of every year, or before the operating of the food establishment, lodging  
18 establishment, pushcart, mobile food unit, or assisted living facility, as the case may be. The  
19 application must be in writing on forms furnished by the department and must be accompanied  
20 by the required fee. An additional amount of fifty percent of the license fee must be imposed  
21 upon renewal if the license was not renewed before February first following the expiration date.  
22 A reduced license fee in the amount of one-half the applicable license fee must be charged for  
23 a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living  
24 facility beginning operations after July first of each year and for changes in ownership and  
25 location of such existing establishments after July first of each year. The department may  
26 adopt rules establishing the amount and the procedures for the collection of annual license  
27 fees. The fees must be based on the cost of reviewing construction plans, conducting routine  
28 and complaint inspections, and necessary enforcement action. License fees collected pursuant  
29 to this section must be deposited in the department's operating fund in the state treasury and  
30 any expenditure from the fund is subject to appropriation by the legislative assembly.

1           **SECTION 15. AMENDMENT.** Section 23-09-24 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **23-09-24. Salvaged food - License required.** It is unlawful for a person to claim to be  
4 a salvaged food distributor or to engage in the activity of selling, distributing, or otherwise  
5 trafficking in distressed or salvaged food, or both, at wholesale, without a license issued under  
6 ~~section 23-09-17~~ this chapter authorizing that person to operate as a salvaged food distributor.  
7 A salvaged food distributor license may not be issued absent compliance with this section and  
8 any rules adopted to implement this section. The department may adopt rules establishing the  
9 amount and the procedures for the collection of annual license fees under this section. License  
10 fees collected under this section must be deposited in the department's operating fund in the  
11 state treasury and any expenditure from the fund is subject to appropriation by the legislative  
12 assembly.

13           **SECTION 16. AMENDMENT.** Section 23-09.1-02.2 of the North Dakota Century Code  
14 is amended and reenacted as follows:

15           **23-09.1-02.2. License required - Application - Issuance.** Before any bed and  
16 breakfast facility may operate in this state ~~it~~, the facility must be licensed by the department.  
17 Licenses expire on December thirty-first following the date of issuance unless canceled by  
18 failure to comply with this chapter or with any of the rules adopted ~~under~~ to implement this  
19 chapter. Renewal application for license must be made to the department during December of  
20 every year. A license must be issued upon compliance by the applicant with provisions of this  
21 chapter and any rules adopted ~~under~~ to implement this chapter. The application must be in  
22 writing on forms furnished by the department and must be accompanied by the required fee.  
23 Licenses issued by the department are not transferable nor applicable to any premises other  
24 than those for which the license was issued. The department may adopt rules establishing the  
25 amount of and the procedures for the collection of annual license fees. License fees collected  
26 pursuant to this section must be deposited in the department's operating fund in the state  
27 treasury and any expenditure from the fund is subject to appropriation by the legislative  
28 assembly.

29           **SECTION 17. AMENDMENT.** Section 23-10-03 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **23-10-03. License required - Application.** ~~No~~ A person may not establish, maintain,  
2 or enlarge a mobile home park, trailer park, or campground in this state without first obtaining a  
3 license from the department. The application for the license must be made in writing to the  
4 department and must state the location and type of the mobile home park, trailer park, or  
5 campground, the proposed water supply, the proposed method of sewerage and garbage  
6 disposal, and such other information as may be required by the department. Application forms  
7 must be prepared by the department and distributed upon request. The department shall waive  
8 the license fee for any mobile home park, trailer park, or campground owned by the state, a  
9 municipality, or a nonprofit organization. The department shall waive all or a portion of the  
10 license fee for any mobile home park, trailer park, or campground that is subject to local  
11 sanitation, safety, and inspection requirements accepted by the department under section  
12 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, trailer  
13 parks, and campgrounds. The department may adopt rules establishing the amount and the  
14 procedures for the collection of annual license fees. License fees collected pursuant to this  
15 section must be deposited in the department's operating fund in the state treasury and any  
16 expenditure from the fund is subject to appropriation by the legislative assembly.

17           **SECTION 18. REPEAL.** Sections 19-08-05, 23-09-17, 23-09.1-03, and 23-10-05 of the  
18 North Dakota Century Code are repealed.

19           **SECTION 19. LEGISLATIVE COUNCIL STUDY - HEALTHY NORTH DAKOTA**  
20 **PROGRAM.** The legislative council shall consider studying, during the 2005-06 interim, the  
21 costs and benefits of adopting a comprehensive healthy North Dakota and workplace wellness  
22 program funded by grants, fees, and increases in tobacco taxes in collaboration with the state  
23 department of health, health insurers and other third-party payers, workforce safety and  
24 insurance, interested nonprofit health-related agencies, and others who have an interest in  
25 establishing accident and disease prevention programs. The legislative council shall report its  
26 findings and recommendations, together with any legislation required to implement the  
27 recommendations, to the sixtieth legislative assembly.