

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2004

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the state department
 2 of health; to amend and reenact ~~section~~sections 23-01-02, 54-27-25, 61-02.1-02.1, and
 3 61-02.1-04 of the North Dakota Century Code and section 510 of House Bill No. 1247, as
 4 approved by the sixty-seventh legislative assembly, relating to compensation of members of the
 5 health council, the tobacco settlement trust fund, statewide water development project funding,
 6 bonds payable, and the transfer of appropriation authority to the department of health and
 7 human services; to repeal sections 54-27-25.1 and 61-02.1-05 of the North Dakota Century
 8 Code, relating to water development trust fund expenditures and the water development trust
 9 fund; to provide for a transfer; to provide a statement of legislative intent; to provide for a report;
 10 ~~and~~ to provide for a legislative management study; and to declare an emergency.

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

12 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
 13 as may be necessary, are appropriated out of any moneys in the general fund in the state
 14 treasury, not otherwise appropriated, and from special funds derived from federal funds and
 15 other income, to the state department of health for the purpose of defraying the expenses of the
 16 state department of health, for the biennium beginning July 1, 2021, and ending June 30, 2023,
 17 as follows:

| | Base Level | Adjustments or Enhancements | Appropriation |
|----|-------------------------------|--------------------------------|-------------------------|
| 18 | | | |
| 19 | | | |
| 20 | Salaries and wages | \$37,719,574 | \$41,243,222 |
| 21 | Operating expenses | (2,063,983) | 30,334,543 |
| 22 | Capital assets | 481,580 | 2,646,393 |
| 23 | Grants | 1,991,853 | 55,249,145 |
| 24 | Tobacco prevention | 508,177 | 13,410,241 |

Sixty-seventh
Legislative Assembly

| | | | | |
|----|--|--------------------------|--------------------------|--------------------------|
| 1 | Women, infants, and children food | 19,780,000 | 120,000 | 19,900,000 |
| 2 | —payments | | | |
| 3 | COVID-19 | 0 | 106,813,177 | 106,813,177 |
| 4 | Total all funds | \$158,222,269 | \$111,374,452 | \$269,596,721 |
| 5 | Less estimated income | 121,951,679 | 103,577,792 | 225,529,471 |
| 6 | Total general fund | \$36,270,590 | \$7,796,660 | \$44,067,250 |
| 7 | Full-time equivalent positions | 204.00 | 8.50 | 212.50 |
| 8 | Salaries and wages | \$37,719,574 | \$3,643,394 | \$41,362,968 |
| 9 | Operating expenses | 32,398,526 | (820,983) | 31,577,543 |
| 10 | Capital assets | 2,164,813 | 481,580 | 2,646,393 |
| 11 | Grants | 53,257,292 | 1,991,853 | 55,249,145 |
| 12 | Tobacco prevention | 12,902,064 | 507,958 | 13,410,022 |
| 13 | Women, infants, and children food | 19,780,000 | 120,000 | 19,900,000 |
| 14 | —payments | | | |
| 15 | Statewide health strategies | 0 | 3,000,000 | 3,000,000 |
| 16 | COVID-19 | 0 | 13,722,107 | 13,722,107 |
| 17 | Total all funds | \$158,222,269 | \$22,645,909 | \$180,868,178 |
| 18 | Less estimated income | 121,951,679 | 15,094,783 | 137,046,462 |
| 19 | Total general fund | \$36,270,590 | \$7,551,126 | \$43,821,716 |
| 20 | Full-time equivalent positions | 204.00 | 6.50 | 210.50 |

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 biennium one-time funding items included in the appropriation in section 1 of this Act:

| 25 | <u>One-Time Funding Description</u> | <u>2019-21</u> | <u>2021-23</u> |
|----|--|----------------|-----------------------|
| 26 | Microbiology laboratory capital improvements | \$1,220,000 | \$0 |
| 27 | Microbiology laboratory technology upgrades | 483,000 | 0 |
| 28 | Women, infants, and children system upgrade | 354,554 | 0 |
| 29 | COVID-19 response | 0 | 84,232,061 |
| 30 | COVID-19 increased effort | 0 | 11,644,708 |
| 31 | Vital records system technology updates | 0 | 275,000 |

| | | | |
|---|--|-------------|--------------|
| 1 | Statewide health strategies initiative | 0 | 3,000,000 |
| 2 | COVID-19 response | 0 | 9,262,341 |
| 3 | Forensic examiner upgrades | 0 | 910,000 |
| 4 | Total all funds | \$2,057,554 | \$96,786,769 |
| 5 | Less estimated income | 1,967,554 | 91,129,724 |
| 6 | Total general fund | \$90,000 | \$5,657,045 |
| 7 | Total all funds | \$2,057,554 | \$13,447,341 |
| 8 | Less estimated income | 1,967,554 | 7,919,065 |
| 9 | Total general fund | \$90,000 | \$5,528,276 |

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The state department of health shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

~~**SECTION 3. COVID-19 BORROWING AUTHORITY - APPROPRIATION.** The state department of health, subject to the approval of the emergency commission, may borrow up to \$25,000,000 from the Bank of North Dakota for the purposes of responding to the COVID-19 public health emergency. Any moneys borrowed from the Bank of North Dakota pursuant to this section are appropriated and may be spent by the state department of health for testing, contact tracing, and other costs related to responding and mitigating the COVID-19 public health emergency for the biennium beginning July 1, 2021, and ending June 30, 2023. If the state department of health does not have sufficient funds to repay the Bank of North Dakota, the department shall request a deficiency appropriation from the sixty-eighth legislative assembly sufficient for repayment of the amount borrowed plus interest. The funding in this section is considered one-time funding.~~

SECTION 3. CONTINGENT FUNDING - STATEWIDE HEALTH STRATEGIES. One-time funding of \$1,500,000 appropriated from the community health trust fund for statewide health strategies in section 1 of this Act is contingent on the state department of health securing dollar-for-dollar matching funds.

SECTION 4. TRANSFER OF APPROPRIATION AUTHORITY. Section 1 of this Act includes appropriation authority for the state department of health for the biennium beginning July 1, 2021, and ending June 30, 2023. On September 1, 2022, in accordance with provisions

1 of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, the office of
2 management and budget shall transfer remaining appropriation authority contained in section 1
3 of this Act, and any remaining appropriation authority for the state department of health in other
4 bills approved by the sixty-seventh legislative assembly, to the department of health and human
5 services. The appropriation authority in section 1 of this Act and appropriation authority for the
6 state department of health from any other bill that is transferred to the department of health and
7 human services must be maintained and reported separately from other appropriation authority
8 transferred to the department of health and human services.

9 **SECTION 5. ESTIMATED INCOME - INSURANCE TAX DISTRIBUTION FUND.** The
10 estimated income line item in section 1 of this Act includes the sum of \$1,125,000 from the
11 insurance tax distribution fund for rural emergency medical services grants.

12 **SECTION 6. ESTIMATED INCOME - COMMUNITY HEALTH TRUST FUND.** The estimated
13 income line item in section 1 of this Act includes the sum of ~~\$18,337,620~~\$20,837,620 from the
14 community health trust fund for the following programs:

| | |
|---|-------------------------|
| 15 Behavioral risk factor survey | \$200,000 |
| 16 Behavioral health loan repayment | 234,500 |
| 17 Domestic violence prevention | 300,000 |
| 18 Women's way | 329,500 |
| 19 Dentists' loan repayment | 360,000 |
| 20 Local public health state aid | 525,000 |
| 21 Cancer programs | 580,324 |
| 22 <u>Forensic examiner contract</u> | <u>1,000,000</u> |
| 23 <u>Statewide health strategies initiative</u> | <u>1,500,000</u> |
| 24 Local public health pandemic response grants | 4,515,296 |
| 25 Tobacco prevention and control | 5,043,000 |
| 26 Tobacco prevention and control grants to local public health units | <u>6,250,000</u> |
| 27 Total community health trust fund | \$18,337,620 |
| 28 <u>Total community health trust fund</u> | <u>\$20,837,620</u> |

29 **SECTION 7. TRANSFER TOBACCO PREVENTION AND CONTROL TRUST FUND TO**
30 **COMMUNITY HEALTH TRUST FUND.** The office of management and budget shall transfer any

1 moneys remaining in the tobacco prevention and control trust fund to the community health trust
2 fund on July 1, 2021.

3 **SECTION 8. AMENDMENT.** Section 23-01-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **23-01-02. Health council - Members, terms of office, vacancies, compensation,**
6 **officers, meetings.**

7 The health council consists of nine members appointed by the governor including four
8 persons from the health care field, and five persons representing consumer interests. The
9 governor may select members to the council from recommendations submitted by trade,
10 professional, and consumer organizations. On the expiration of the term of any member, the
11 governor, in the manner provided by this section, shall appoint for a term of three years,
12 persons to take the place of members whose terms on the council are about to expire. The
13 officers of the council must be elected annually. Any state agency may serve in an advisory
14 capacity to the health council at the discretion of the council. The council shall meet at least
15 twice each year and at other times as the council or its chairman may direct. The health council
16 shall have as standing committees any committees the council may find necessary. The
17 chairman of the council shall select the members of these committees. The members of the
18 council are entitled to receive ~~sixty-two dollars and fifty cents~~ as compensation ~~per day~~ at the
19 rate set for a member of the legislative assembly under subsection 1 of section 54-03-20 and
20 their necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09
21 while attending council meetings or in the performance of any special duties as the council may
22 direct. The per diem and expenses must be audited and paid in the manner in which the
23 expenses of state officers are audited and paid. The compensation provided for in this section
24 may not be paid to any member of the council who received salary or other compensation as a
25 regular employee of the state, or any of its political subdivisions, or any institution or industry
26 operated by the state.

27 **SECTION 9. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

30 ~~1.~~ There is created in the state treasury a tobacco settlement trust fund. The fund
31 consists of the tobacco settlement dollars obtained by the state under subsection IX(c)

1 (1) of the master settlement agreement and consent agreement adopted by the east
2 central judicial district court in its judgment entered December 28, 1998 [Civil
3 No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.
4 Except as provided in subsection 2, moneys received by the state under
5 subsection IX(c)(1) must be deposited in the fund. Moneys in the fund must be
6 transferred within thirty days of receipt by the state to a community health trust fund.
7 Moneys in the fund may be appropriated for community-based public health programs
8 and other public health programs, including programs with emphasis on preventing or
9 reducing tobacco usage in this state.

10 ~~2. There is created in the state treasury a tobacco prevention and control trust fund. The~~
11 ~~fund consists of the tobacco settlement dollars obtained by the state under~~
12 ~~section IX(c)(2) of the agreement adopted by the east central judicial district court in its~~
13 ~~judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota,~~
14 ~~ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be~~
15 ~~credited to the fund and deposited in the fund. Moneys received into the fund are to be~~
16 ~~used as appropriated by the legislative assembly.~~

17 **SECTION 10. AMENDMENT.** Section 61-02.1-02.1 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-02.1-02.1. Funding - Statewide water development projects - Bond issuance**
20 **amount.**

21 1. The priorities for the statewide water development program include municipal, rural,
22 and industrial projects; irrigation projects; general water management projects,
23 including rural flood control, snagging and clearing, channel improvement, recreation,
24 and planning studies; flood control projects; and weather modification projects, which
25 are authorized and declared to be in the public interest. The state water commission
26 may provide the funds necessary to construct these projects from money appropriated
27 to the state water commission from the resources trust fund, ~~the water development~~
28 ~~trust fund,~~ or by issuing bonds in an amount not to exceed sixty million dollars plus the
29 costs of issuance of the bonds, capitalized interest, and reasonably required reserves.
30 The proceeds of any bonds issued under the authority provided in this section are
31 appropriated to the state water commission for the purposes set forth in this section.

- 1 2. If the state water commission determines it is appropriate to do so, it may, in lieu of
2 issuing or in combination with the issuance of bonds pursuant to this section or section
3 61-02.1-01, for all or part of the state's cost share for the projects set forth in those
4 provisions, use funds appropriated to it from the resources trust fund ~~or the water-~~
5 ~~development trust fund.~~

6 **SECTION 11. AMENDMENT.** Section 61-02.1-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **61-02.1-04. Bonds payable from appropriations and other revenues.**

- 9 1. Principal and interest on bonds issued for flood control or reduction projects as
10 provided in this chapter are payable from transfers to be made and appropriated by
11 the legislative assembly from ~~the water development trust fund as provided in-~~
12 ~~section 61-02.1-05, then from transfers to be made and appropriated by the legislative-~~
13 ~~assembly from revenues in~~ the resources trust fund other than revenues from state
14 taxes, then from appropriations of other available revenues in the then current
15 biennium, and then from any other revenues the state water commission makes
16 available during the then current biennium for that purpose, including any federal
17 moneys received by the state for the construction of flood control or reduction projects
18 to pay bonds issued for that project. If sufficient funds from these sources are not
19 available, then from transfers to be made and appropriated by the legislative assembly
20 from the first available current biennial earnings of the Bank of North Dakota not to
21 exceed six million five hundred thousand dollars per biennium prorated with any other
22 bonds payable from transfers to be made and appropriated by the legislative assembly
23 from the available current biennial earnings of the Bank of North Dakota, to be
24 credited by the trustee to the fund established for paying principal and interest on the
25 bonds under a trust indenture.
- 26 2. Principal and interest on bonds issued for continued construction of the southwest
27 pipeline project are payable from ~~transfers to be made and appropriated by the-~~
28 ~~legislative assembly from the water development trust fund as provided in section-~~
29 ~~61-02.1-05, then from transfers to be made and appropriated by the legislative-~~
30 ~~assembly from revenues in~~ the resources trust fund other than revenues from state
31 taxes, then from appropriations of other available revenues in the then current

1 biennium, or from payment from the Perkins County rural water system, and then from
2 any other revenues the state water commission makes available during the then
3 current biennium for that purpose, including any federal moneys received by the state
4 for the construction of the southwest pipeline project to pay bonds issued for the
5 project. If sufficient funds from these sources are not available, then from transfers to
6 be made and appropriated by the legislative assembly from the first available current
7 biennial earnings of the Bank of North Dakota not to exceed six million five hundred
8 thousand dollars per biennium prorated with any other bonds payable from transfers to
9 be made and appropriated by the legislative assembly from the available current
10 biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund
11 established for paying principal and interest on the bonds under a trust indenture.

12 3. Principal and interest on bonds issued under subsection 7 of section 61-02.1-01 are
13 payable from transfers to be made and appropriated by the legislative assembly from
14 the ~~water development trust fund as provided in section 61-02.1-05, then from~~
15 ~~transfers to be made and appropriated by the legislative assembly from revenues in~~
16 ~~the~~ resources trust fund other than revenues from state taxes, then from
17 appropriations of other available revenues in the then current biennium, and then from
18 any other revenues the state water commission makes available during the then
19 current biennium for that purpose, including any federal moneys received by the state
20 for the construction of an outlet to Devils Lake to pay bonds issued for that project, or
21 financing a statewide water development program to pay bonds issued for that project.
22 If sufficient funds from these sources are not available, then from transfers to be made
23 and appropriated by the legislative assembly from the first available current biennial
24 earnings of the Bank of North Dakota not to exceed six million five hundred thousand
25 dollars per biennium prorated with any other bonds payable from transfers to be made
26 and appropriated by the legislative assembly from the available current biennial
27 earnings of the Bank of North Dakota, to be credited by the trustee to the fund
28 established for paying principal and interest on the bonds under a trust indenture.

29 4. Obligations issued as provided in this chapter do not constitute a debt, liability, or
30 obligation of the state of North Dakota or a pledge of the faith and credit of the state of
31 North Dakota, but are payable solely from the sources as described in this chapter.

1 5. The state water commission shall include in its submission to the governor for
2 inclusion by the governor in the biennial executive budget of the state for each year of
3 the respective biennium during the term of any bonds issued as provided in this
4 chapter an amount fully sufficient to pay the principal and interest required to be paid
5 in each year of the biennium, if any, from moneys from non-general fund sources.
6 Provided, that should the governor not include in the executive budget for any reason
7 the amounts required to be included by this section, the state water commission shall
8 request independently that the legislative assembly amend the executive budget
9 appropriation so as to include the amounts.

10 6. Principal and interest on bonds issued for projects authorized pursuant to section
11 61-02.1-02.1 are payable from transfers to be made and appropriated by the
12 legislative assembly from ~~the water development trust fund as provided in section-~~
13 ~~61-02.1-05, then from transfers to be made and appropriated by the legislative~~
14 ~~assembly from revenues in~~ the resources trust fund other than revenues from state
15 taxes, then from appropriations of other available revenues in the then current
16 biennium, and then from any other revenues the state water commission makes
17 available during the then current biennium for that purpose. If sufficient funds from
18 these sources are not available, then from transfers to be made and appropriated by
19 the legislative assembly from the first available current biennial earnings of the Bank of
20 North Dakota not to exceed six million five hundred thousand dollars per biennium
21 prorated with any other bonds payable from transfers to be made and appropriated by
22 the legislative assembly from the available current biennial earnings of the Bank of
23 North Dakota, to be credited by the trustee to the fund established for paying principal
24 and interest on the bonds under a trust indenture.

25 **SECTION 12. AMENDMENT.** Section 510 of House Bill No. 1247, as approved by the
26 sixty-seventh legislative assembly, is amended and reenacted as follows:

27 **SECTION 510. LEGISLATIVE INTENT.** It is the intent of the sixty-seventh legislative
28 assembly that:

29 1. Effective September 1, 2022, the state department of health merge into the
30 department of human services and both agencies be called the department of
31 health and human services;

1 2. Effective September 1, 2022, the state department of health, including the state
2 health officer, fall under the authority of the executive director of the department
3 of human services, now known as the executive director of the department of
4 health and human services;

5 3. During the 2021-23 biennium, the executive director of the former department of
6 human services review and reorganize the structure of the former department of
7 human services to incorporate the former state department of health and to find
8 efficiencies in the newly formed department of health and human services;

9 4. The newly formed department of health and human services is not required to
10 reduce the full-time equivalent positions of the former state department of health
11 and department of human services;

12 5. ~~The office of management and budget transfer the state department of health's~~
13 ~~appropriation into the department of human services appropriation for the period~~
14 ~~beginning September 1, 2022, and ending June 30, 2023;~~

15 ~~6. Section 1 of Senate Bill No. 2004, as approved by the sixty-seventh legislative~~
16 ~~assembly, shall transfer into subdivisions 1 and 2 of section 1 of House Bill No.~~
17 ~~1012, as approved by the sixty-seventh legislative assembly, for the period~~
18 ~~beginning September 1, 2022, and ending June 30, 2023;~~

19 ~~7. The combined budget of the department of human services and state department~~
20 ~~of health be referred to the budget of the department of health and human~~
21 ~~services; and~~

22 8.6. Department of health and human services is to be substituted for, shall take any
23 action previously to be taken by, and shall perform any duties previously to be
24 performed by the state department of health.

25 **SECTION 13. REPEAL.** Sections 54-27-25.1 and 61-02.1-05 of the North Dakota Century
26 Code are repealed.

27 **SECTION 14. LEGISLATIVE INTENT - FUNDING FOR COVID-19 RESPONSE.** It is the
28 intent of the sixty-seventh legislative assembly that the state department of health use federal
29 COVID-19 funds or other available funds for defraying expenses related to local public health
30 pandemic response grants before accessing \$4,515,296 appropriated from the community
31 health trust fund in section 1 of this Act.

1 **SECTION 15. LEGISLATIVE MANAGEMENT STUDY - STATE DEPARTMENT OF**
2 **HEALTH.** During the 2021-22 interim, the legislative management shall consider studying the
3 roles of the state health officer, health council, medical advisory board, and governor as they
4 relate to the administration of the state department of health. The study must include
5 consideration of the role of the health council if the governor seeks to terminate the appointment
6 of the state health officer or to adjust the salary of or take punitive action against the state
7 health officer. Additionally, the study must include whether the orders of the state health officer
8 regarding public health directives have primacy over orders issued by the governor. The
9 legislative management shall report its findings and recommendations, together with any
10 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

11 **SECTION 16. EMERGENCY.** The sum of \$350,000, of which \$221,231 is from the general
12 fund and \$128,769 is from federal funds, appropriated in section 1 of this Act for an electronic
13 medical record system is declared to be an emergency measure.