

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2004  
(Appropriations Committee)

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

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

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$37,719,574	\$3,643,394	\$41,362,968
Operating expenses	32,398,526	(820,983)	31,577,543
Capital assets	2,164,813	481,580	2,646,393
Grants	53,257,292	1,991,853	55,249,145
Tobacco prevention	12,902,064	507,958	13,410,022
Women, infants, and children food payments	19,780,000	120,000	19,900,000
Statewide health strategies	0	3,000,000	3,000,000
COVID-19	0	<u>13,722,107</u>	<u>13,722,107</u>
Total all funds	\$158,222,269	\$22,645,909	\$180,868,178
Less estimated income	<u>121,951,679</u>	<u>15,094,783</u>	<u>137,046,462</u>
Total general fund	\$36,270,590	\$7,551,126	\$43,821,716
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:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Microbiology laboratory capital improvements	\$1,220,000	\$0
Microbiology laboratory technology upgrades	483,000	0
Women, infants, and children system upgrade	354,554	0
Vital records system technology updates	0	275,000
Statewide health strategies initiative	0	3,000,000
COVID-19 response	0	9,262,341
Forensic examiner upgrades	0	<u>910,000</u>
Total all funds	\$2,057,554	\$13,447,341

Less estimated income	<u>1,967,554</u>	<u>7,919,065</u>
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. 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 of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, the office of management and budget shall transfer remaining appropriation authority contained in section 1 of this Act, and any remaining appropriation authority for the state department of health in other bills approved by the sixty-seventh legislative assembly, to the department of health and human services. The appropriation authority in section 1 of this Act and appropriation authority for the state department of health from any other bill that is transferred to the department of health and human services must be maintained and reported separately from other appropriation authority transferred to the department of health and human services.

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

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

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

**SECTION 7. TRANSFER TOBACCO PREVENTION AND CONTROL TRUST FUND TO COMMUNITY HEALTH TRUST FUND.** The office of management and budget shall transfer any moneys remaining in the tobacco prevention and control trust fund to the community health trust fund on July 1, 2021.

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

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

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

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

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

4. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Except as provided in subsection 2, moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Moneys in the fund must be transferred within thirty days of receipt by the state to a community health trust fund. Moneys in the fund may be appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state.
- ~~2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be used as appropriated by the legislative assembly.~~

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

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

1. The priorities for the statewide water development program include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects, which are authorized and declared to be in the public interest. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources

trust fund, ~~the water development trust fund~~, or by issuing bonds in an amount not to exceed sixty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.

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

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

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

1. Principal and interest on bonds issued for flood control or reduction projects as provided in this chapter are payable from transfers to be made and appropriated by the legislative assembly from ~~the water development trust fund as provided in section 61-02.1-05~~, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of flood control or reduction projects to pay bonds issued for that project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.
2. Principal and interest on bonds issued for continued construction of the southwest pipeline project are payable from ~~transfers to be made and appropriated by the legislative assembly from the water development trust fund as provided in section 61-02.1-05~~, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, or from payment from the Perkins County rural water system, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of the southwest pipeline project to pay bonds issued for the project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.
3. Principal and interest on bonds issued under subsection 7 of section 61-02.1-01 are payable from transfers to be made and appropriated by the legislative assembly from ~~the water development trust fund as provided in section 61-02.1-05~~, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose, including any federal moneys received by the state for the construction of an outlet to Devils Lake to pay bonds issued for

that project, or financing a statewide water development program to pay bonds issued for that project. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.

4. Obligations issued as provided in this chapter do not constitute a debt, liability, or obligation of the state of North Dakota or a pledge of the faith and credit of the state of North Dakota, but are payable solely from the sources as described in this chapter.
5. The state water commission shall include in its submission to the governor for inclusion by the governor in the biennial executive budget of the state for each year of the respective biennium during the term of any bonds issued as provided in this chapter an amount fully sufficient to pay the principal and interest required to be paid in each year of the biennium, if any, from moneys from non-general fund sources. Provided, that should the governor not include in the executive budget for any reason the amounts required to be included by this section, the state water commission shall request independently that the legislative assembly amend the executive budget appropriation so as to include the amounts.
6. Principal and interest on bonds issued for projects authorized pursuant to section 61-02.1-02.1 are payable from transfers to be made and appropriated by the legislative assembly from the ~~water development trust fund as provided in section 61-02.1-05, then from transfers to be made and appropriated by the legislative assembly from revenues in the resources trust fund~~ other than revenues from state taxes, then from appropriations of other available revenues in the then current biennium, and then from any other revenues the state water commission makes available during the then current biennium for that purpose. If sufficient funds from these sources are not available, then from transfers to be made and appropriated by the legislative assembly from the first available current biennial earnings of the Bank of North Dakota not to exceed six million five hundred thousand dollars per biennium prorated with any other bonds payable from transfers to be made and appropriated by the legislative assembly from the available current biennial earnings of the Bank of North Dakota, to be credited by the trustee to the fund established for paying principal and interest on the bonds under a trust indenture.

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

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

1. Effective September 1, 2022, the state department of health merge into the department of human services and both agencies be called the department of health and human services;
2. Effective September 1, 2022, the state department of health, including the state health officer, fall under the authority of the executive director of the department of human services, now known as the executive director of the department of health and human services;
3. During the 2021-23 biennium, the executive director of the former department of human services review and reorganize the structure of the former department of human services to incorporate the former state department of health and to find efficiencies in the newly formed department of health and human services;

4. The newly formed department of health and human services is not required to reduce the full time equivalent positions of the former state department of health and department of human services;
5. ~~The office of management and budget transfer the state department of health's appropriation into the department of human services appropriation for the period beginning September 1, 2022, and ending June 30, 2023;~~
6. ~~Section 1 of Senate Bill No. 2004, as approved by the sixty-seventh legislative assembly, shall transfer into subdivisions 1 and 2 of section 1 of House Bill No. 1012, as approved by the sixty-seventh legislative assembly, for the period beginning September 1, 2022, and ending June 30, 2023;~~
7. The combined budget of the department of human services and state department of health be referred to the budget of the department of health and human services; and
- 8.6. Department of health and human services is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the state department of health.

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

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

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

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2004 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 41                      Nays 6                      Absent 0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 76                      Nays 12                      Absent 6

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State