

**State Department of Health  
Budget No. 301  
Senate Bill Nos. 2004 and 2345; House Bill Nos. 1012 and 1395**

	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2021-23 legislative appropriation	210.50	\$44,103,431 <sup>1</sup>	\$239,618,774 <sup>2</sup>	\$283,722,205
2019-21 legislative appropriation	<u>204.00</u>	<u>36,360,590<sup>3</sup></u>	<u>399,025,234<sup>4</sup></u>	<u>435,385,824</u>
2021-23 appropriation increase (decrease) to 2019-21 appropriation	6.50	\$7,742,841	(\$159,406,460)	(\$151,663,619)

<sup>1</sup>This amount includes \$5,528,276 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$38,575,155.

<sup>2</sup>This amount includes \$110,209,662 of one-time funding, including \$102,290,597 of one-time funding related to federal funding for COVID-19 grants. Excluding this amount, the agency's ongoing other funds appropriation is \$129,409,112.

<sup>3</sup>This amount includes \$90,000 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$36,270,590.

<sup>4</sup>This amount includes \$277,073,555 of one-time funding, including \$275,106,001 of one-time funding related to deficiency appropriations for federal funding for COVID-19 grants. Excluding this amount, the agency's ongoing other funds appropriation is \$121,951,679.

**Item Description**

**FTE changes** - The Legislative Assembly approved 210.5 FTE positions for the State Department of Health for the 2021-23 biennium, an increase of 6.5 FTE positions from the 2019-21 biennium. The Legislative Assembly transferred 4 FTE data processing coordinator III positions to the Information Technology Department for the information technology unification initiative and added 10.5 FTE positions related to COVID-19 response.

**One-time funding** - The Legislative Assembly, in Section 2 of Senate Bill No. 2004, identified \$13,447,341 of one-time funding, of which \$5,528,276 is from the general fund. The Legislative Assembly provided \$275,000 from special funds available from fees for vital records system technology updates; \$3,000,000, of which \$1,500,000 is from the community health trust fund and \$1,500,000 is from nonstate matching funds, for a statewide health strategies initiative; \$9,262,341, of which \$4,747,045 is from the general fund and \$4,515,296 is from the community health trust fund, for costs related to COVID-19 response; and \$910,000, of which \$781,231 is from the general fund and \$128,769 is from federal funds, for operating expenses related to forensic examiner updates (\$60,000), forensic examiner equipment (\$500,000), and a forensic electronic records system (\$350,000).

**Status/Result**

The State Department of Health 2021-23 biennium budget request included FTE positions for currently employed temporary staff working on the COVID-19 response the department anticipated would be needed for a longer term. The Legislative Assembly provided 10.5 FTE positions and 7 temporary positions. The budget for the 10.5 FTE positions was \$1,836,301, of which \$354,335 is from the general fund and \$1,481,966 is from federal funds. Most of the positions were filled with existing temporary staff on July 1, 2021. Two data analyst positions were filled in August 2021 and a department operations manager position was filled in December 2021. The existing budget for the 10.5 FTE positions has increased to \$1,863,099, of which \$349,032 is from the general fund and \$1,514,067 is from other funds. The department continues to use temporary employees for COVID-19 response and the 7 temporary positions are not identified.

**Vital records system technology updates** - The updates will be completed by the Information Technology Department and the cost proposals, including a 5 percent variance allowance, total \$275,816.

**Statewide health strategies initiative** - The Legislative Assembly, in Section 3 of Senate Bill No. 2004, provided the funds appropriated from the community health trust fund for statewide health strategies are contingent on the department securing dollar-for-dollar matching funds. The department does not anticipate securing the matching funds and therefore does not anticipate using the funding appropriated from the community health trust fund.

**COVID-19 response** - The Legislative Assembly, in Section 14 of Senate Bill No. 2004, provided legislative intent 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. Through March 31, 2022, the department has been able to leverage federal funds from the Coronavirus Relief Fund (CRF) and Federal Emergency Management Agency (FEMA) for COVID-19 response and has used \$230,446 from the general fund for COVID-19 response activities. The department has not used funding from the community health trust fund. See the **COVID-19 pandemic funding** section below.

**Forensic examiner upgrades** - The State Department of Health has ordered a LODOX full body scan instrument (\$500,000) and anticipates it will be received in summer 2022. The department is currently bidding the electronic records system budgeted for \$410,000, including operating expenses.

Of the \$7,721,000 provided for rural EMS grants, \$846,000 was appropriated for training grants and is distributed based on certification and training. The remaining \$6,875,000 is distributed through the rural EMS grant program. When issuing contracts for the biennium, the State Department of Health distributed rural assistance grants pursuant to the formula in Section 3 of House Bill No. 1493, including a \$60,000 base amount. The bill provided that if the legislative appropriation for state rural assistance for EMS is not sufficient to provide the full grant funding calculated, the department must distribute a prorated share of the calculated grants. Funding available for grants for the 2021-23 biennium totaled \$6,875,000 and eligible grant awards based on the formula totaled \$22,962,441. The department prorated the grants so that EMS providers received approximately 30 percent of their grant calculation, compared to 80 percent of the grant calculation during the 2019-21 biennium. The percentage of eligible grant awards funded decreased due in part to decreases in the average reimbursement per run and changes made to the formula calculation in House Bill No. 1493 which changed the calculation of the cost per run from being based on the "average" to being based on the "median."

House Bill No. 1493 also excluded EMS operations with more than 700 average runs for the 2 most recent fiscal years from being eligible for grant funding. The department reported 16 EMS operations in the state did not receive rural assistance grants because they exceeded the maximum number of average runs for funding. In addition, 9 EMS operations in the state elected not to accept the rural assistance grants.

During the 1<sup>st</sup> year of the biennium, the State Department of Health allocated \$3,125,000, or 50 percent of the \$6,250,000 provided from the community health trust fund, for grants to local public health units for tobacco prevention and control programs. The funding was allocated to the 28 local public health units based in part on 2019 census information and on a tiered system. Through March 31, 2022, reimbursements have totaled \$1,318,510.

**Emergency medical services (EMS)** - The Legislative Assembly provided a total of \$7,721,000, of which \$6,596,000 is from the general fund and \$1,125,000 is from the insurance tax distribution fund, for rural EMS grants, the same level of funding as the 2019-21 biennium. Emergency medical services rural assistance grants total \$6,875,000, of which \$5,750,000 is from the general fund and \$1,125,000 is from the insurance tax distribution fund. Emergency medical services training grants total \$846,000 from the general fund.

The Legislative Assembly, in House Bill No. 1493 (2021), provided for the distribution of annual financial assistance to eligible ambulance service operations.

**Tobacco prevention and control** - The Legislative Assembly, in Senate Bill No. 2024 (2017), repealed North Dakota Century Code Chapter 23-42 related to the tobacco prevention and control program and transferred the responsibility for the statewide tobacco prevention and control plan from the Tobacco Prevention and Control Executive Committee to the State Department of Health. The Legislative Assembly, in Senate Bill No. 2004 (2021) provided \$13,410,022, of which \$75,000 is from the general fund, \$11,293,000 is from the community health trust fund, and \$2,042,022 is from federal funds for tobacco prevention and control, \$507,958 more than the

2019-21 biennium. This level of funding represents a decrease from the general fund of \$1,108,000 and increases from the community health trust fund of \$1,593,000 and federal funds of \$22,958. Funding from the community health trust fund provides \$6,250,000 for grants to local public health units for tobacco prevention and control programs, a decrease of \$250,000 from a total of \$6,500,000 provided for grants during the 2019-21 biennium, and \$5,043,000 for community health tobacco programs and the Tobacco Quitline.

**Local public health units** - The Legislative Assembly provided a total of \$5,250,000, of which \$4,725,000 is from the general fund and \$525,000 is from the community health trust fund, for grants to local public health units. The Legislative Assembly eliminated funding from the tobacco prevention and control trust fund and added \$525,000 from the community health trust fund to provide the same level of funding for grants to local public health units compared to the 2019-21 biennium appropriation of \$4,725,000 from the general fund and \$525,000 from the tobacco prevention and control trust fund.

**Medical Marijuana Division** - In November 2016, voters approved Initiated Statutory Measure No. 5 (North Dakota Compassionate Care Act) relating to medical marijuana and created Chapter 19-24. In Senate Bill No. 2344 (2017), the Legislative Assembly repealed Chapter 19-24 and created and enacted Chapter 19-24.1 to provide for the legalization of medical marijuana. The bill required the State Department of Health to establish and implement a medical marijuana program to allow for the production, processing, and sale of marijuana for medical use. In Section 19-24.1-40, the Legislative Assembly established a medical marijuana fund. The State Department of Health must deposit all fees related to medical marijuana into the fund and must administer the fund. Money in the fund is appropriated to the department on a continuing basis for use in administering the medical marijuana program. Therefore, the Legislative Assembly does not include an appropriation for the Medical Marijuana Division in the State Department of Health's budget. The department presented a budget, funded through the continuing appropriation, totaling \$1,564,793, including 5 FTE positions, for the 2021-23 biennium. The Legislative Assembly approved salary adjustments of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100, and 2 percent on July 1, 2022, totaling \$12,120 and approved House Bill No. 1359 (2021) which included a fiscal impact on expenditures of \$4,000, resulting in estimated expenditures from the medical marijuana fund of \$1,580,913 for the 2021-23 biennium.

**COVID-19 pandemic funding** - The Legislative Assembly, in House Bill Nos. 1394 and 1395 (2021), appropriated a total of \$275,106,001 of federal COVID-19 funding for the 2019-21 biennium, of which \$101,573,769 was from CRF, \$73,000,000 was from estimated FEMA reimbursements, and \$100,532,232 was from other federal COVID-19 grants.

Of the \$5,250,000 provided for grants to local public health units, \$600,000 was identified for environmental state aid and \$4,650,000 was designated for regular state aid. State aid of \$4,650,000 was distributed to provide a \$6,000 base per county with the remainder distributed based on 2019 population estimates. The environmental state aid was distributed to the eight regions (\$590,000) and Bismarck Burleigh Public Health (\$10,000).

During the 2019-21 biennium, deposits in the medical marijuana fund of \$1,874,374, exceeded 2019-21 expenditures of \$1,254,332 by \$620,042, which, along with the 2019-21 biennium beginning balance in the fund of \$614,188, is available to the State Department of Health on a continuing basis to administer the medical marijuana program during the 2021-23 biennium. The department anticipates funding continued from the 2019-21 biennium of \$1,234,230, along with \$1,727,400 of estimated revenue collections during the 2021-23 biennium, will be sufficient to pay the estimated \$1,568,793 of program expenses during the 2021-23 biennium. The department anticipates approximately \$1,400,000 will be available in the medical marijuana fund at the end of the 2021-23 biennium and continued into the 2023-25 biennium.

The State Department of Health continued \$128,117,704 of COVID-19 response authority from the 2019-21 biennium, for a total of \$229,130,408 available for COVID-19 response during the 2021-23 biennium as follows:

In addition, the Legislative Assembly, in Senate Bill No. 2004 and House Bill No. 1395, provided \$101,012,704, of which \$9,206,811 is from the general fund, \$4,515,296 is from the community health trust fund, and \$87,290,597 is from federal funds, for COVID-19 response. In Section 14 of Senate Bill No. 2004, the Legislative Assembly provided legislative intent 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.

Funding Source	Appropriation Authority
Carryover of CRF and FEMA funding	\$35,026,633
Community health trust fund	4,515,296
General fund	9,206,811
FEMA	11,298,013
COVID-19 awards other than FEMA or CRF	169,083,655
Total 2021-23 biennium COVID-19 response authority	\$229,130,408

In 2021 the department provided estimates regarding the potential funding sources for COVID-19 response. Since the close of the 2021 legislation session, FEMA extended the program beyond the initial end date and the department is continuing to identify expenditures eligible for FEMA reimbursement. Several of the other COVID-19 awards extend beyond the 2021-23 biennium and the department anticipates using the funding into the 2023-25 biennium, subject to legislative approval.

The State Department of Health, knowing that some expenditures could potentially qualify for federal reimbursement under CRF, FEMA, and specific federal grants, first fully utilized CRF funding, then identified FEMA eligible expenditures, and finally charged specific COVID-19 grants.

Through March 31, 2022, the department has spent \$74,245,685 from federal funds and \$230,446 from the general fund for COVID-19 response activities. As of March 31, 2022, the State Department of Health has not used funding from the community health trust fund. Funding has been used for:

Health analytics - 0.9%	\$640,463
Outreach / Response / Public health hotline - 4.8%	3,601,078
Department operations costs / Warehouse / PPE - 21.3%	15,897,083
Contact tracing / Case investigation / Vaccine / Surveillance - 16.8%	12,495,826
Fiscal, communications, human resources - 1.0%	763,904
Lab workforce and related costs - 2.9%	2,142,641
Local public health - 10.6%	7,899,714
Testing costs - 41.7%	<u>31,035,422</u>
Total	<u>\$74,476,131</u>

**Legislative intent - State Department of Health and Department of Human Services merger** - The Legislative Assembly, in House Bill No. 1247 (2021), provided for the merger of the State Department of Health and the Department of Human Services to create the Department of Health and Human Services. In House Bill No. 1247, the Legislative Assembly provided legislative intent that, effective September 1, 2022, the State Department of Health merge into the Department of Human Services and both agencies be

Effective April 1, 2022, the Department of Health reorganized to align with the combined objectives of the new Department of Health and Human Services. The reorganization included moving program areas and divisions previously included in Fiscal and Operations to programmatic areas while retaining administrative oversight (leadership, fiscal, communications, human resources, legal and other oversight activities) within Fiscal and Operations. A new section, Health Statistics and Performance, includes Epidemiology, Health Analytics, Systems and

called the Department of Health and Human Services and that, effective September 1, 2022, the State Department of Health, including the State Health Officer, be under the authority of the Executive Director of the Department of Human Services, known as the Executive Director of the Department of Health and Human Services. Legislative intent also provides that 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. The newly formed Department of Health and Human Services is not required to reduce the number of FTE positions of the former State Department of Health and Department of Human Services.

The Legislative Assembly, in Section 4 of Senate Bill No. 2004, provides on September 1, 2022, the Office of Management and Budget transfer remaining appropriation authority contained in Senate Bill No. 2004 and any remaining appropriation authority for the State Department of Health in other bills to the Department of Health and Human Services. The appropriation authority 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.

**Life safety plan review** - The Legislative Assembly, in Senate Bill No. 2241 (2021), allowed the State Department of Health to use a third party to review construction and renovation plans and provides a continuing appropriation to pay the third party from fees charged to the providers.

**Public health laboratory capital project** - The Legislative Assembly, in Senate Bill No. 2345 approved during the November 2021 special legislative session, provided \$15 million of one-time funding from the federal State Fiscal Recovery Fund for a public health laboratory capital project.

Performance, and Vital Records. Laboratory Services now includes Testing and Collection (formerly Outreach and Response). Health Response and Licensure now includes Food and Lodging.

The State Department of Health continues to meet with the Department of Human Services to identify and address tasks needed to be completed in order to provide for the integration of the two agencies. Progress of the State Department of Health and Department of Human Services integration has been reported to the interim Human Services Committee and it is anticipated the merger will be complete on September 1, 2022.

Since July 1, 2021, the Division of Life Safety & Construction (LSC) has completed the review of 42 construction projects and currently has an additional 11 projects in various stages of plan review. During that time, all plan reviews were completed in accordance with the timeline requirements of Senate Bill No. 2241. In addition to initial project reviews, LSC also reviewed and responded to 58 review responses from architects and engineers. All documents met the 14-day timeline requirement set forth in Senate Bill No. 2241 except for one, which took 18 days. The department reports multiple factors led to the 18-day timeline, including a higher than normal number of comments and plan modifications, staffing issues, and LSC staff assuming a large-scale project that was previously being handled by a third-party plan review consultant.

Plan review fees collected from July 1, 2021, through March 31, 2022, totaled \$286,055. During this period, LSC contracted with third-party plan reviewers on two projects for \$280,500. A large portion of the third-party costs will be covered by fees that were collected at the end of fiscal year 2021 for these projects.

The State Department of Health established a steering committee to provide guidance and make decisions related to the process, design, and location of a new or remodeled public health laboratory. The steering committee has contracted for a consultant to assess the various program needs and estimate size and cost of various options for a new building or a remodel of the existing building. The consultant's report is expected in June 2022. After the steering committee reviews the various options available, the projected cost will be presented to the Legislative

Assembly in 2023 as part of the Department of Health and Human Services budget request. Proposals being evaluated include:

- A new state laboratory containing both the State Department of Health and the Department of Environmental Quality;
- A new state laboratory containing only the State Department of Health;
- An addition and renovation of the current state laboratory with both agencies remaining; and
- A renovation of the current state laboratory with the Department of Environmental Quality sharing the space with another state agency.