

**State Department of Health
Budget No. 301
House Bill No. 1004**

	FTE Positions	General Fund	Other Funds	Total
2019-21 legislative appropriation	204.00	\$36,360,590 ¹	\$123,919,233	\$160,279,823
2017-19 legislative appropriation	<u>211.50</u>	<u>32,750,309</u>	<u>118,532,438</u>	<u>151,282,747</u>
2019-21 appropriation increase (decrease) to 2017-19 appropriation	(7.50)	\$3,610,281	\$5,386,795	\$8,997,076

¹This amount includes \$90,000 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$36,270,590.

Item Description

FTE changes - The Legislative Assembly approved 204 FTE positions for the State Department of Health for the 2019-21 biennium, a decrease of 7.5 FTE positions from the 2017-19 biennium. The Legislative Assembly removed 1 FTE office assistant III position related to the medical marijuana program, 1 FTE suicide prevention program position transferred to DHS, and 6.5 FTE positions removed in the department's budget request. The Legislative Assembly added 1 FTE food and lodging environmental health position.

One-time funding - The Legislative Assembly, in Section 2 of House Bill No. 1004, identified \$2,057,554 of one-time funding, of which \$90,000 is from the general fund. The Legislative Assembly provided \$354,554 from federal funds for the continuation of the Women, Infants, and Children (WIC) electronic benefit transfer (EBT) project, \$1,220,000 from the tobacco prevention and control trust fund for microbiology laboratory capital improvements, and \$483,000, of which \$90,000 is from the general fund, \$360,000 is from federal funds, and \$33,000 is from fee revenue, for microbiology laboratory IT upgrades.

Status/Result

The State Department of Health filled the 1 FTE food and lodging environmental health position in August 2019. In addition, the State Department of Health received Emergency Commission and Budget Section approval in December 2019 to add 1 FTE life safety and construction position by converting a temporary part-time position in the Life Safety and Construction Division to full time. The life safety and construction FTE position was filled on April 15, 2020. See the **Life safety plan review** section below.

Women, Infants, and Children program computer project - In 2015 the Legislative Assembly provided one-time funding of \$1,712,110 from federal funds for WIC food payments system replacement. The system was delayed and the funding expired. In 2017 the Legislative Assembly provided one-time funding of \$1,739,220 from federal funds for the WIC program computer project. The department spent \$161,265 on the project during the 2017-19 biennium and received approval to continue \$1,693,865 to the 2019-21 biennium, \$115,910 more than the remaining appropriation at the end of the 2017-19 biennium.

In 2019 the Legislative Assembly approved additional one-time funding of \$354,554 from federal funds for operating expenses related to the WIC program EBT project and in March 2020 the State Department of Health received Emergency Commission and Budget Section approval to increase federal funds spending authority by \$475,000 to provide financial assistance for authorized grocery stores and retailers to upgrade point of sale systems to process WIC EBT transactions. This additional authority provides a total of \$2,523,419 available for the project during the 2019-21 biennium. The \$161,265 spent on the project during the 2017-19 biennium brings the estimated total project cost to \$2,684,684.

Through March 2020, the department has spent \$847,674 on the project, including \$161,265 during the 2017-19 biennium and \$686,409 during the 2019-21 biennium. Due to the COVID-19 pandemic, the department has received a 1-year extension for the project but anticipates pilot readiness to be complete in July 2020, with statewide implementation complete in October 2020.

Microbiology laboratory capital improvements - The microbiology laboratory capital improvements consist of a heating, ventilation, and air conditioning upgrade in the south annex (\$820,000), which is 80 percent complete, and a new roof on the north building (\$400,000), which is 60 percent complete. Through April 2020, the department has spent a total of \$868,545 for microbiology laboratory capital improvements.

Microbiology laboratory IT upgrades - In March 2020, the State Department of Health received Emergency Commission approval to increase federal funds spending authority by \$49,000 to accept and expend federal passthrough funds from DHS and NDHIN to provide an external portal for order entry and retrieval of results which will improve access to public health laboratory tests for small laboratories and clinics. The additional funding brings the total project authorization to \$532,000, of which \$90,000 is from the general fund, \$409,000 is from federal funds, and \$33,000 is from fee revenue. The project was approved in House Bill No. 1004 with an emergency clause. Through April 2020, the department has spent \$265,463 on the project, of which \$217,197 was spent during the 2017-19 biennium and \$48,266 has been spent during the 2019-21 biennium. The project has experienced delays related to the COVID-19 pandemic, but the department anticipates it will be completed by the end of the biennium.

Of the \$7,721,000 provided for rural EMS grants, \$846,000 was appropriated for training grants and distributed based on certification and training. The remaining \$6,875,000 is distributed through the rural EMS grant program. When issuing year one contracts, the State Department of Health distributed rural assistance grants pursuant to the formula in Section 4 of House Bill No. 1268, including a \$60,000 base amount. The bill provided that if legislative appropriations 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 during the 1st year of the biennium totaled \$3,437,500 and eligible grant awards based on the formula totaled \$4,297,853. The department prorated the 1st year grants so that EMS providers received approximately 80 percent of their grant calculation. House Bill No. 1268 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 15 EMS operations in the state did not receive rural assistance grants because they exceeded the maximum number of average runs for funding. In addition, 6 EMS operations in the state elected not to accept the rural assistance grants.

The department anticipates expenditures related to the tobacco prevention and control program will total approximately \$12.7 million, approximately \$227,000 less than budgeted. The department anticipates funding from federal funds will be \$27,000 more than budgeted and funding from the general fund will be \$254,000 less than anticipated.

Emergency medical services - 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 emergency medical services (EMS) grants, the same level of funding as the 2017-19 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. Funding provided from the insurance tax distribution fund was reduced by \$125,000 compared to the 2017-19 biennium and was replaced with funding from the general fund. In House Bill No. 1268 (2019) the Legislative Assembly increased the maximum property tax levy for EMS from 10 to 15 mills, established a formula for the distribution of state financial assistance to eligible EMS operations, and excluded EMS operations with more than 700 average runs for the 2 most recent fiscal years from being eligible for grant funding.

Tobacco prevention and control - The Legislative Assembly, in Senate Bill No. 2024 (2017), repealed 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 House Bill No. 1004, provided \$12,911,676, of which \$1,183,000 is from the general fund, \$9,700,000 is from the community health trust fund,

and \$2,028,676 is from federal funds for tobacco prevention and control, \$735,028 less than the 2017-19 biennium. This level of funding represents a decrease in funding from the tobacco prevention and control trust fund of \$8,453,333 and increases in funding from the general fund of \$1,183,000, the community health trust fund of \$6,500,000, and federal funds of \$35,305. Funding from the community health trust fund provides \$6,500,000 for grants to local public health units for tobacco prevention and control programs and \$3,200,000 for community health tobacco programs, the Tobacco Quitline, and a tobacco prevention coordinator.

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 tobacco prevention and control trust fund, for grants to local public health units. The Legislative Assembly reduced funding from the tobacco prevention and control trust fund and increased funding from the general fund by \$1,475,000 to provide the same level of funding for grants to local public health units compared to the 2017-19 biennium appropriation of \$3,250,000 from the general fund and \$2,000,000 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 removed funding for the Medical Marijuana Division from the State Department of Health's base budget. The department presented a budget, funded through the continuing appropriation, totaling \$1,398,080, including 5 FTE positions.

Life safety plan review - The Legislative Assembly, in Section 6 of House Bill No. 1004, provided legislative intent that the State Department of Health reduce the minimum fee charged for life safety construction or renovation plans review of small projects for facilities from \$750 to \$500. In addition, the Legislative Assembly increased funding for temporary salaries related to life safety construction or renovation plans review to provide a total of \$130,000, of which \$50,000 is from the general fund and \$80,000 is from fee revenue.

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 2018 population estimates. Environmental state aid was distributed to nine regions and counties based on a tiered method agreed to by the local public health units.

During the 2017-19 biennium, funding for the Medical Marijuana Division, including deposits in the medical marijuana fund of \$1,023,300 and \$677,064 from the general fund, exceeded 2017-19 expenditures of \$1,086,176 by \$614,188, which is available to the State Department of Health on a continuing basis to administer the medical marijuana program during the 2019-21 biennium. The department anticipates funding continued from the 2017-19 biennium, along with \$1.6 million of estimated revenue collections during the 2019-21 biennium, will be sufficient to pay the estimated \$1.4 million of program expenses during the 2019-21 biennium. The department anticipates approximately \$800,000 will be available in the medical marijuana fund at the end of the 2019-21 biennium and continued into the 2021-23 biennium.

The State Department of Health revised its fee schedule for life safety construction or renovation plans review of small projects, effective August 1, 2019, to provide for a minimum fee of \$500. In December 2019, the Emergency Commission and the Budget Section approved a State Department of Health request to increase spending authority from special funds available from life safety and construction review fees by \$55,000 in the salaries and wages line item and to add 1 FTE position by converting a temporary part-time position in the Life Safety and Construction Division to full time. The life safety and construction

FTE position was filled on April 15, 2020, and will review construction plans for long-term care facilities and hospitals.

In 2019 the department issued a request for proposal for professionals interested in conducting compliance reviews of construction documents. If a provider chose to work with one of two selected vendors, rather than the department, the provider would enter a contract with the vendor to conduct the plan review. The State Department of Health would be responsible for the project's final approval; however, contracting with an outside vendor provides an alternative for plan review. Two vendors have been selected and contracts will be effective June 1, 2020.

In March 2020, Governor Doug Burgum issued Executive Order 2020-05 which suspended various chapters of Century Code and provisions of Administrative Code related to licensing requirements for hospitals and other health care facilities, effectively suspending the department's plan review authority. As of May 11, 2020, the department has 13 projects under review and an additional 5 projects awaiting review, including 1 project received in November 2019, and 4 projects received since January 2020.

After the transfer of fee revenue to the children's trust fund, the State Department of Health estimates vital records fee revenue available to support the Vital Records Division during the 2019-21 biennium will total \$2.82 million. The department estimates expenditures to be paid from the fee revenue will total \$2.17 million, resulting in an estimated \$650,000 of excess fee revenue. The department anticipates vital records revenue will be adequate to support the Vital Records Division during the 2019-21 biennium and excess fee revenue of approximately \$650,000 may be deposited into the general fund.

Currently, access to birth and death records is limited to people named on the records or their immediate family. If records are made accessible through a kiosk, the State Department of Health must find a way to verify the identity of the requestor to ensure records are not released to individuals who are not eligible to receive them. The department reviewed the Department of Transportation's (DOT) regional kiosks operations. The kiosks are used for motor vehicle registration renewals and the individual must either have a renewal email, mailed registration form, or the old registration card in order to complete a request. The DOT process does not perform identity verification on the individual making the request. The department learned the DOT vendor charges each user a \$3.00 fee for the cost of the kiosk and if the kiosk does not have a minimum of 1,000 requests each month, DOT pays the difference. The department also learned the DOT vendor has not yet worked with state vital records offices.

The State Department of Health anticipates expanding its online vital records system to reach more citizens. Online orders currently make up 51.6 percent of birth and death orders. Mail and walk-in requests (32.5 percent and 15.9 percent of total requests, respectively) have been decreasing each year. The department

Vital records fees - The Legislative Assembly, in Section 5 of House Bill No. 1004, provided statutory changes to increase fees charged for vital records and deposit the fees into the State Department of Health operating account. Vital records fee increases were implemented to support the operations of the Vital Records Division. The changes also require fees collected, in excess of fees appropriated, be transferred to the general fund at the end of the biennium. The department estimated the fiscal impact of the increase in vital records fees would result in an increase in general fund revenues of \$312,000 for the 2019-21 biennium.

Electronic access to vital records - The Legislative Assembly, in Section 7 of House Bill No. 1004, provided legislative intent that the department implement a program of electronic access to vital records through web access or kiosk in cooperation with other state agencies in at least eight locations around the state. In addition, the section requires the department report to the Legislative Management by July 1, 2020, regarding the implementation of electronic access to vital records.

anticipates working with ITD to make online orders more mobile friendly so that anyone with a cell phone can make a request for a record. The department's report to the Legislative Management regarding the implementation of electronic access to vital records has been assigned to the Information Technology Committee.

In December 2019, the State Department of Health received Emergency Commission and Budget Section approval to increase special funds spending authority by \$3.54 million in the operating expenses line item to accept and expend funds from the Helmsley Charitable Trust to replace an estimated 1,733 AEDs for law enforcement personnel in the state and to provide related AED training. The department's appropriation included \$460,000 from the Helmsley Charitable Trust bringing the total cost of the project to \$4 million. The new devices will improve technology and all of law enforcement will be on the same system with standardized data collection.

In the audit report of the State Department of Health for the biennium ended June 30, 2019, the State Auditor identified the following two findings:

- Finding 2019-01 - The State Department of Health did not retain supporting documentation for the population statistics used to calculate funding for EMS grant distribution. In addition, calculation errors occurred making the grant distribution inaccurate. Spreadsheet errors resulted in \$39,995 of funds being improperly distributed to four licensed ambulance operations. This amount should have been distributed to 80 other licensed ambulance operations.
- Finding 2019-02 - The State Department of Health overspent appropriation authority from the environment and rangeland protection fund by \$2,995. Predetermined coding, commonly referred to as "speed charts", is used to code expenditures and quickly allocate expenditures with predetermined numbers entered into PeopleSoft. One speed chart was not closed promptly, which resulted in an expenditure being charged to the special fund when the appropriation was no longer available. Based on information included in the state's accounting software, the State Department of Health overspent the appropriation by \$2,955, \$40 less than the amount reported by the State Auditor.

The State Department of Health agreed with State Auditor recommendations and indicated procedures and additional internal controls have been added to verify information utilized to calculate grant payments, staff communications will be updated emphasizing the importance of maintaining supporting documentation for EMS payments, and processes have been modified to prevent expenditures from being charged to funding sources that have reached their funding limits.

In March 2020 and May 2020, the State Department of Health received Emergency Commission and Budget Section approval for several requests to increase federal funds spending authority by a total of \$11,751,000 for COVID-19 related expenses. In addition, in May 2020, the department received Emergency

Automatic external defibrillator funding - In November 2019, funding from the Helmsley Charitable Trust became available to purchase automatic external defibrillators (AED) for all law enforcement across North Dakota.

Audit report for the 2017-19 biennium - In April 2020, the State Auditor released the audit report of the State Department of Health for the biennium ended June 30, 2019.

COVID-19 pandemic funding - The State Department of Health has been significantly impacted by the COVID-19 pandemic and has received a significant amount of federal funds to carry out surveillance, epidemiology,

laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities.

State Health Officer resignation - On May 27, 2020, Ms. Mylynn Tufte, State Health Officer, submitted her resignation.

Commission and Budget Section approval to use \$85,557,461 of the state's \$1.25 billion allocation from the federal Coronavirus Relief Fund for COVID-19 related expenses, including \$20 million for COVID-19 reimbursement grants to local public health units. The \$20 million made available for local public health units will be allocated to health units through the existing formula and distributed by the department on a reimbursement basis for costs related to planning, contact tracing, sentinel site testing, enhanced inspections related to new guidance, and costs related to N95 mask fit testing. The department will calculate funding available to each local public health unit using the existing formula, but local public health units will only be reimbursed for their actual costs.

On May 27, 2020, Governor Burgum announced Dr. Andrew Stahl, who has served in the Army and North Dakota Army National Guard and previously worked as an internal medicine physician at the Veterans Affairs Medical Center in St. Cloud, MN, will begin serving as Interim State Health Officer on June 1, 2020. Ms. Tufte will serve an advisory role for 3 weeks. Dr. Stahl currently serves in the Guard's Medical Corps and on its COVID-19 Task Force, where he has been providing strategic medical analysis for North Dakota's COVID-19 response. In addition, the Governor created a temporary Chief Health Strategist position which will be filled by Dr. Joshua Wynne, Dean of the UND School of Medicine and Health Sciences.