

July 2005

## PUBLIC HEALTH UNIT AND FOOD AND LODGING INSPECTION STUDY - BACKGROUND MEMORANDUM

Section 21 of 2005 Senate Bill No. 2004 directs a Legislative Council study of the state's public health unit infrastructure and the ability of the public health units to respond to public health issues. The study is to include an assessment of the efficiency of operations, given the personnel and financial resources available, and the effectiveness of services, given the alliance of government authority of the current infrastructure. In addition, this study is to include the efficiency of the food and lodging investigation services provided by the State Department of Health and the public health units and result in a plan maximizing efficiencies through a coordinated system and fee structure. A copy of the section is attached as Appendix A.

### PREVIOUS STUDIES

During the 2003-04 interim, the Legislative Council's Emergency Services Committee studied, pursuant to House Concurrent Resolution No. 3054, the state's public health unit infrastructure and the ability of the public health units to respond to public health issues, including disease and other physical health, environmental, and disaster-related issues. The committee learned that some public health units experience difficulty in obtaining legal counsel; therefore, the committee recommended House Bill No. 1034, which was approved by the 2005 Legislative Assembly, authorizing the Attorney General to provide legal counsel and legal opinions to local boards of health.

During the 1997-98 interim, the Legislative Council's Insurance and Health Care Committee studied the development of a strategic planning process for the future of public health in this state. Because laws regarding public health were spread through various chapters of the North Dakota Century Code and were regarded as being antiquated, the committee recommended and the 1999 Legislative Assembly approved Senate Bill No. 2045, which consolidated the public health law into a new chapter, North Dakota Century Code Chapter 23-35, which unified the powers and duties of local public health units and which requires statewide participation in public health units.

### STATUTORY PROVISIONS RELATING TO PUBLIC HEALTH UNITS

Selected statutory provisions relating to public health units include:

- Section 23-35-02 provides that all land in the state must be in a public health unit by

January 1, 2001. As a result, 28 public health units have been established. The public health units take a variety of forms, including multi-county health districts, single county health units, city and county health departments, city and county health districts, and single county health departments. A map showing the health districts across the state is attached as Appendix B.

- Section 23-35-03 provides that the governing body of a city or county may establish a public health unit by creating and appointing a board of health, which must have at least five members.
- Section 23-35-04 authorizes a governing body to form a multicounty or city-county health district by resolution. A county without a countywide public health unit may contract with a city that has a public health department to provide health services to the county and in the cities throughout the county which do not have a public health unit.
- Section 23-35-07 requires each district board of health to prepare an annual budget. In health districts composed of more than one county, the amount budgeted and approved must be prorated among the various counties in the district according to the taxable valuation of the respective counties in the district. The budget may not exceed the amount that can be raised by a levy of five mills on the taxable valuation.
- Section 23-35-08 provides the powers and duties of a board of health. Included among these is the authority to establish a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established. Authority is also provided to make rules for the protection of public health and safety within the district or city or county.
- Section 23-35-12 provides that a local health officer must be a licensed physician and must serve a term of five years. Among the powers and duties of a local health officer is authorization to make sanitary inspections of any place within the jurisdiction of the board of health in which the local health officer finds a probability of a health-threatening condition existing.

### PUBLIC HEALTH UNIT FUNDING

The Legislative Assembly appropriated \$1.1 million from the general fund for state aid to health districts for the 2005-07 biennium, the same as the amount appropriated for the 2003-05 biennium. The department also is provided funding from federal and special funds, including the community health trust fund, to provide to the health districts. For calendar year 2005, the State Department of Health provided the following funding to the 28 health districts in the state:

General fund	\$550,000
Federal funds	6,802,585
Special funds	2,227,895
Total	\$9,580,480

### **FOOD AND LODGING INVESTIGATION SERVICES Statutory Provisions**

Section 23-09-16 requires any food or lodging establishment to be licensed either by the State Department of Health or by a local health unit if the unit's sanitation, safety, and inspection rules are approved by the department. The State Department of Health may establish the amount and procedures for collecting annual license fees from the establishments licensed by it. These fees are deposited in the department's operating fund and are subject to legislative appropriations.

Section 23-09-11 requires each food or lodging establishment to be inspected by the department at least once every two years.

These and related sections are attached as Appendix C.

### **Program**

The State Department of Health has a separate Food and Lodging Division. The division is responsible for protecting public health through licensing and inspection of restaurants, bars, lodging facilities, mobile home parks, campgrounds, bed and breakfast facilities, retail food stores, meat markets, bakeries, schools, salvage food establishments, small food manufacturers/processors, and assisted living facilities. Inspection procedures are meant to ensure that these licensed facilities meet both sanitation and certain fire and life safety standards before opening to the public and while in operation.

Under an agreement with the Department of Human Services, the division also inspects preschools and day care centers that prepare food. The division also serves as the federal Food and Drug Administration's liaison in the state on issues relating to manufactured food and pesticide residues in food.

The division consists of six full-time equivalent positions—two located in Bismarck and one each in Dickinson, Fargo, Jamestown, and Minot. The division also has agreements with seven local health units. Under these agreements, the local health units provide inspection and licensing functions within their areas.

### **2005 Legislative Action**

Prior to July 1, 2005, annual license fees for food and lodging establishments were set in statute and the collections were deposited in the state general fund. Funding for providing food and lodging inspection services in the State Department of Health was primarily from the general fund. The 2005 Legislative Assembly, in Senate Bill No. 2004, changed the funding source for these services from primarily the general fund to primarily special funds from food and lodging license fee collections deposited in the department's operating fund. Statutory references to food and lodging license fee rates were also removed. The State Department of Health was provided authority to determine the license fees by rule. Based on the funding levels approved by the Legislative Assembly for these services for the 2005-07 biennium of \$748,000, the license revenue will need to increase by approximately \$190,000 for the biennium. The 2005-07 biennium budget for these services is listed below:

Salaries and wages	\$600,634
Operating expenses	147,241
Total	\$747,875
General fund	\$125,000
Federal funds	79,429
Other funds	543,446
Total	\$747,875

### **STUDY PLAN**

The committee may wish to proceed with this study as follows:

1. Review current services provided by public health units.
2. Review funding by funding source and staffing of public health units.
3. Review the governance of public health units.
4. Review food and lodging investigation services provided by the State Department of Health and public health units and fees charged for these services.
5. Receive testimony regarding the appropriate role for the State Department of Health and public health units to meet the public Health needs of North Dakota.
6. Receive testimony regarding the appropriate role of the State Department of Health and public health units to provide food and lodging investigation services and the appropriate fees to charge for these services.
7. Develop a coordinated system and fee structure for providing food and lodging investigation services.

8. Develop committee recommendations and any legislation necessary to implement the recommendations.
9. Prepare the committee's report for the Legislative Council.

ATTACH:3