

**State Department of Health
Budget 301
House Bill Nos. 1004, 1041, 1044, 1266; Senate Bill No. 2276**

	FTE Positions	General Fund	Other Funds	Total
2011-13 legislative appropriation	344.00	\$34,013,780 ¹	\$160,948,753	\$194,962,533
2009-11 legislative appropriation	<u>343.50</u>	<u>27,231,665</u>	<u>178,028,531</u>	<u>205,260,196</u>
2011-13 appropriation increase (decrease) to 2009-11 appropriation	.50	\$6,782,115	(\$17,079,778)	(\$10,297,663)

¹This amount includes \$1.1 million of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$32,913,780.

Item Description

FTE position changes - The Legislative Assembly authorized 344 FTE positions for the 2011-13 biennium, an increase of a .5 FTE position from the 2009-11 biennium authorized level of 343.5. The Legislative Assembly removed 1 FTE injury prevention position included in the executive recommendation and authorized the State Department of Health to transfer 1 FTE position from tobacco prevention into the position. The Legislative Assembly also added 1.5 FTE nurse aide registry positions.

ST-elevated myocardial infarction (STEMI) response program grant - In Section 2 of 2011 House Bill No. 1004, the Legislative Assembly identified \$600,000 of one-time funding from the general fund to provide matching funds for a STEMI response program grant.

Litigation and administrative proceedings - In Section 5 of 2011 House Bill No. 1004, the Legislative Assembly provided, as an emergency measure, a \$500,000 contingent appropriation from the general fund and authorization for a \$500,000 line of credit with the Bank of North Dakota to provide funding for costs associated with litigation and other administrative proceedings involving the United States Environmental Protection Agency (EPA) which is considered to be one-time funding. The State Department of Health may spend the general fund money and access the line of credit only upon approval by the Attorney General and must report quarterly to the Budget Section during the 2011-12 interim regarding the status of any litigation or other administrative proceedings.

Status/Result

The State Department of Health transferred 1 FTE position from tobacco prevention to injury prevention in July 2011. In addition, the 1.5 FTE nurse aide registry positions were added in August 2011. See the **Nurse aide registry** section below for additional information.

The State Department of Health anticipates using the funding for grants to purchase 12 lead EKG monitor/defibrillators for ambulance services during the 2011-13 biennium.

The State Department of Health is working with the Attorney General's office and Moye White, LLP, Denver, to address legal challenges including the:

- Sulfur dioxide one-hour standard relating to the state's challenge of an EPA proposition that requires states to utilize air quality models to determine compliance to established standards. The state presented oral arguments in this case on May 3, 2012, in the District of Columbia Circuit Court. A ruling by the three judge panel is anticipated in two months or three months
- Best available control technology relating to the federal Department of Justice and EPA challenge of the state's determination that selective noncatalytic reduction is the most appropriate control technology for Minnkota Power Cooperative, Inc., to control nitrogen oxide air emissions. On December 21, 2011, the federal District Court in Bismarck in the case *USA et al v. Minnkota Power Cooperative Inc, et al*, in its opinion "denied the United States motions, finding that North Dakota's determination that selective non-catalytic reduction is the best available control technology for the Milton R. Young Station is not unreasonable, arbitrary or capricious."

- Regional haze state implementation plan relating to the EPA challenge of 25 percent of the state's proposed implementation plan to comply with requirements of the regional haze rule. On March 2, 2012, the EPA provided a final decision on the proposed regional haze state implementation plan. The EPA's final decision differs significantly from its September 2011 proposal to disapprove major aspects of the state's plan and impose a federal plan in its place. The EPA has instead approved most of the state's plan. In its decision, the EPA agreed with the state that selective noncatalytic reduction nitrogen oxide control technology was the appropriate technology to be installed on the Minnkota and Leland Olds power generation facilities. However, there are still areas of disagreement between the EPA and the state. The EPA's final decision also would require the installation of appropriate combustion controls at the Antelope Valley Station, and selective noncatalytic reduction at the Great River Energy Coal Creek Station. The final decision also did not agree with the state's visibility modeling methodology. The State Department of Health, with legal counsel, is reviewing this most recent development to determine if further action by the State Department of Health is warranted.

Total expenses through April 20, 2012, are \$391,636, and there are additional obligations of approximately \$60,000. The State Department of Health is in the process of establishing the Bank of North Dakota line of credit, and anticipates all the funds appropriated will be spent.

Federal fiscal stimulus funding available during the 2011-13 biennium for individual grants varies from the original appropriation due to differences in the 2009-11 expenditures from the amounts budgeted. Funding for the immunization program and the primary care grant may continue into the 2013-15 biennium. Federal fiscal stimulus funds available during the 2011-13 biennium and expenditures through February 2012 are as follows:

	Federal Fiscal Stimulus Funds Available for the 2011-13 Biennium	Expenditures Through February 2012
Immunization programs	\$546,844	\$63,875
Health care-associated infections	74,378	70,955
Healthy communities	146,063	123,613
Arsenic trioxide	1,937,629	1,168,161
Water quality 604(b)	56,929	48,979
Clean water state revolving loan fund	324,636	228,085
Drinking water state revolving loan fund	185,594	185,594
Primary care	220,155	15,010
Total	\$3,492,228	\$1,904,272

Federal fiscal stimulus funds - The Legislative Assembly in Section 2 of 2011 House Bill No. 1004, identified \$3,492,228 of one-time funding from federal fiscal stimulus funds for the following programs:

Immunization programs	\$528,207
Health care-associated infections	80,328
Healthy communities	113,166
Arsenic trioxide	2,000,000
Water quality 604(b)	50,000
Clean water state revolving loan fund	360,156
Drinking water state revolving loan fund	318,101
Primary care	42,270
Total	\$3,492,228

Safe Havens supervised visitation and exchange program - The Legislative Assembly provided \$425,000 from the general fund for grants to continue the Safe Havens supervised visitation and exchange program. In addition, in Section 4 of 2011 House Bill No. 1004, the Legislative Assembly provided the State Department of Health use the funding for centers meeting eligibility standards in effect during the 2009-11 biennium.

Public water system operator certification and training program - The Legislative Assembly provided \$180,000 from the general fund for a public water system operator certification and training program and to reimburse operators of eligible public water systems in communities with a population of 3,300 or less for certification and training expenses.

Suicide prevention program - In Section 7 of 2011 House Bill No. 1004, the Legislative Assembly provided legislative intent that the State Department of Health work in conjunction with the Indian Affairs Commission to develop, implement, and coordinate a suicide prevention program, including outreach, education, and administration of grants for suicide prevention activities. In addition, in 2011 House Bill No. 1005, the Legislative Assembly provided \$75,000 to the Indian Affairs Commission for a suicide prevention program directed at Native American tribes. Section 3 of House Bill No. 1005 provided legislative intent that the Indian Affairs Commission work in conjunction with the department to develop a suicide prevention program, including outreach, education, administration, and implementation of grants for suicide prevention activities.

Regional public health network pilot project study - The Legislative Assembly, in Section 8 of 2011 House Bill No. 1004, provides for a Legislative Management study of the regional public health network pilot project conducted during the 2009-11 biennium, including services provided, effects of the project on participating local public health units, efficiencies achieved in providing services, cost-savings to state and local governments, and possible improvements to the program.

The State Department of Health has awarded the funding to seven supervised visitation programs. Amounts awarded were based on a combination of base amounts and percentages of visitation hours and exchanges. Five of the agencies received funding as an amendment to their existing domestic violence state general fund contract and the remaining two received separate contracts.

The State Department of Health has provided reimbursements totaling \$90,000 for the certification and training of approximately 800 operators through March 2012. The department anticipates all of the funding will be spent during the 2011-13 biennium.

The State Department of Health has met regularly with the Executive Director of the Indian Affairs Commission and, with the assistance of the commission, developed a statewide survey last fall. The department is also working with the commission to establish an applied suicide intervention skills training program on the tribal college campuses. Applied suicide intervention skills training is a gatekeeper training program that is regularly used in suicide prevention. The training will be marketed to the Native American population and will have two Native American trainers delivering training free to 20 participants at each of the five tribal colleges. The department has attended quarterly Children's Sacred bundle gathering meetings and has met with suicide prevention workers on the reservations to gain first-hand knowledge of suicide prevention systems in place and Native American concerns. Hospitals in the state, including Indian Health Services hospitals, will be offered free online suicide specifically for emergency room nurses and doctors. Free suicide prevention training will also be offered to high schools, including Bureau of Indian Education schools. The department has received a request from a tribal organization for a mini grant and is awaiting its application for a community awareness and cultural event. Native American veterans have a relatively high suicide rate. The department is cooperating with the Indian Affairs Commission to request that the federal Veterans Administration increase suicide prevention activities especially among Native Americans. The department has discussed the need for data collection and how it could be obtained and used for suicide prevention. The department has also discussed the use of texting technology to reach the Native American population.

The regional public health network pilot project is currently being studied by the Legislative Management's interim Health Services Committee. The committee in consultation with public health stakeholders is considering a bill draft to amend North Dakota Century Code Chapter 23-35.1 relating to regional public health networks and provide \$4 million from the general fund to the State Department of Health to establish, administer, and operate regional public health networks in the state.

Family Health Division performance audit - In Section 9 of 2011 House Bill No. 1004, the Legislative Assembly required the State Auditor to contract for a performance audit of the Family Health Division of the State Department of Health during the 2011-13 biennium. The State Auditor may bill the State Department of Health for costs associated with the performance audit. The Legislative Assembly provided \$100,000 from special or federal funds for the performance audit. The results of the performance audit must be presented to the Legislative Audit and Fiscal Review Committee and filed with the Appropriations Committees of the 63rd Legislative Assembly.

Nurse aide registry - In 2011 House Bill No. 1041, the Legislative Assembly directed the State Department of Health to establish and administer a nurse aide registry for the registration and regulation of certified nurse aides, home health aides, medication assistants, and nurse aides. The bill provides one-time funding from the health care trust fund to establish a nurse aide registry (\$155,000) and funding from the department operating fund (\$130,000) and 1.5 FTE positions to maintain the nurse aide registry.

Emergency medical services - The Legislative Assembly, in 2011 House Bill No. 1044, repealed the law enacted in 2007 which provided for emergency medical services allocations, for a state strategic plan that included an integrated emergency medical services program, and a comprehensive statewide emergency medical services system. House Bill No. 1044 creates an Emergency Medical Services Advisory Council to advise the State Department of Health on the state plan for integrated emergency medical services, development of emergency medical services funding areas, development of the emergency medical services funding areas application process and budget criteria, and other issues relating to emergency medical services; directs the department to establish and update a plan for integrated emergency medical services in this state which includes designation of emergency medical services funding areas; provides emergency medical services operations that request financial assistance from the state must provide requested fiscal information to the department for use in financial assistance determinations; and directs the department to distribute state financial assistance for emergency medical services. The bill appropriates \$3 million from the general fund to the department for state assistance grants to emergency medical services operations and related administrative costs.

The State Auditor awarded the contract to conduct the performance audit of the Family Health Division of the State Department of Health to the firm of CliftonLarsonAllen LLP in February 2012. The contract amount was \$39,050 and work began on February 14, 2012. Interviews were completed between March 5 and March 16, 2012, and the auditors returned the week of May 7, 2012, for detailed testing. A draft report is anticipated by the end of May 2012. The final report will be presented to the Legislative Audit and Fiscal Review Committee.

Effective July 1, 2011, nurse aides, home health aides, and medication assistants I and II were transferred from the Board of Nursing Unlicensed Assistive Personnel Registry to the State Department of Health Nurse Aide Registry. The State Department of Health has hired the 1.5 FTE positions to implement and maintain the nurse aide registry, including review of training programs and investigation of complaints. The Accounting Division implemented a process to accept payment for registration and the State Department of Health worked with the Information Technology Department to develop the online registry, including the ability to pay for renewals by credit card. The State Department of Health collected \$43,625 in registration fees through March 2012. Nurse aide registry rules became final January 1, 2012. In March 2012, initial applications and renewal applications were developed for the medication assistant I and II programs. Registry expenditures through March 2012 have totaled \$127,812 from the health care trust fund. The State Department of Health anticipates the remaining appropriations from the health care trust fund and the operating fund will be spent during the 2011-13 biennium.

The Emergency Medical Services Advisory Council was named in July 2011 and has met on a monthly basis to determine funding areas, eligibility criteria, and distribute funding for ambulance funding areas in North Dakota. The funding areas have been established and recommended to the State Department of Health. The eligibility criteria will be finalized in April 2012, and recommendations will be made to the department for approval. Emergency Medical Services Advisory Council recommendations relating to funding areas and eligibility criteria will be incorporated into the state assistance grant program. Expenditures through March 2012 totaled \$11,633. The department anticipates all remaining funding will be expended for state assistance grants to emergency medical services operations and related administrative costs.

Comprehensive state trauma system - In 2011 House Bill No. 1266, the Legislative Assembly authorized the State Health Officer to appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The bill appropriates \$100,000 from the general fund to the State Department of Health for the support of the comprehensive state trauma system as follows:

Advanced trauma life support training	\$20,000
Trauma designation site visits	30,000
Contracted emergency medical services and trauma medical director	50,000
Total	\$100,000

Abortion information and reporting - In 2011 House Bill No. 1297, the Legislative Assembly expanded the abortion-related information that must be included in the printed materials that are provided by the State Department of Health and requires reports to the Legislative Management on the status and outcome of the creation of the inventory and the practices report. Section 16 of the bill limited the cost to the department of producing printed information related to abortion data to \$50,000.

Umbilical cord blood donation information - The Legislative Assembly, in 2011 Senate Bill No. 2215, directs the State Department of Health to prepare a pamphlet that includes information regarding collection of umbilical cord blood.

The State Department of Health is continuing to provide the advanced trauma life support training and trauma designation site visits. In addition, \$50,000 was provided for a contracted emergency medical service and trauma medical director. Dr. Randal Szlabick has been retained as the part-time medical director and will be paid as time is accumulated. Expenditures through March 2012 total \$15,582. The department anticipates all of the funding will be spent during the 2011-13 biennium.

The State Department of Health reported to the Health Services Committee in October 2011 and January 2012 regarding the department's inventory of material relating to abortions and outlining the department's practice of gathering the inventory items pursuant to 2011 House Bill No. 1297. The department has previously produced and distributed the information related to public and private services available and the characteristics of the unborn child. The department has determined it would be more efficient to combine the materials related to the characteristics of the unborn child, the support obligations of the father, and the various methods of abortion and their effects into one publication. Due to the volume of information related to available public and private services, this information will be produced in a separate document and referenced in the combined publication. In January 2012 the department reported the booklet related to the characteristics of the unborn child, the support obligations of the father, and the various methods of abortion, and the publication related to the various public and private agencies available to assist during pregnancy are both in second draft form and will be distributed together. The cost of producing these documents through March 2012 totaled \$24,480. The department has not yet received bids for the printing of either publication.

The State Department of Health reported to the Health Services Committee that, pursuant to Section 14-02.1-02.2, an abortion compliance report and an abortion data report must be filed for each abortion that takes place in the state. The department redesigned the existing data report to include adverse event data collection and implemented the new compliance report. The department began using both forms on August 1, 2011; however, a lawsuit has been filed objecting to the adverse event data collection and to several questions on the compliance report. The plaintiff in the lawsuit has continued to submit the reports but has not provided the information that is subject to the lawsuit.

The State Department of Health placed information based on a national pamphlet that met the requirements of the legislation regarding the distribution of information related to the collection of umbilical cord blood on its website in December 2011.

Provider Choice immunization program - In 2011 Senate Bill No. 2276, the Legislative Assembly directed the State Department of Health to implement a provider choice system that allows health care providers that participate in the state's Vaccines for Children program to select any licensed vaccine and the department is to establish a program through which the department purchases vaccines through the federal vaccine purchasing contract to supply public health units with the purchased vaccines. The bill appropriates \$1.5 million from the general fund to the State Department of Health to purchase vaccines through the federal vaccine purchasing contract during the 2011-13 biennium.

Beginning July 1, 2011, the State Department of Health began offering brand choice for all vaccines supplied through the department. Of the 28 local public health units, 22 transitioned to universal vaccination on October 1, 2011. Six health units opted out of the universal vaccination program; however, starting in April 2012, one of the six health units that originally opted out has decided to transition to universal. From October 1, 2011, through March 31, 2012, the Centers for Disease Control and Prevention (CDC) reports \$35,141 in state funds was used to support vaccination of insured children at public health units in North Dakota. The department has not yet reimbursed CDC for this amount. North Dakota is using federal 317 vaccine to support this effort. Beginning October 1, 2012, the CDC will no longer allow states to use federal 317 vaccine for insured individuals. As federal 317 vaccine will be used to vaccinate insured children at local public health units for the period of October 2011 through September 2012, preliminary projections indicate that the \$1.5 million appropriated for vaccines will be adequate for the 2011-13 biennium. However, the loss of federal 317 vaccine for insured children vaccinated at local public health units during the 2013-15 biennium will result in the need for an estimated \$2 million in additional state funding to support universal vaccination during the 2013-15 biennium.