

Introduced by

Senators Lee, Dever, Hogan

Representatives Porter, M. Ruby

1 A BILL for an Act to amend and reenact section 23-01-05 of the North Dakota Century Code,
2 relating to the qualifications, term, and duties of the state health officer.

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

4 **SECTION 1. AMENDMENT.** Section 23-01-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-01-05. Health officer - Qualifications, salary, term, duties.**

7 1. The governor shall appoint ~~the~~ state health officer ~~who at the time of appointment~~
8 ~~must be a physician with substantive private or public administrative experience and~~
9 ~~public health experience. The state health officer is entitled to receive a salary~~
10 ~~commensurate with that individual's training and experience~~ who has:

11 a. Education or training in public health; or

12 b. Private or public administrative experience.

13 2. The governor shall set the salary of the state health officer within the limits of
14 legislative appropriations to the department.

15 2.3. The state health officer is entitled to receive all necessary traveling expenses incurred
16 in the performance of official business.

17 3.4. The state health officer ~~may not engage in any other occupation or business that may~~
18 ~~conflict with the statutory duties of the state health officer and holds office for a term of~~
19 ~~four years~~ serves at the pleasure of the governor.

20 4. ~~If the office of the state health officer is filled temporarily, the governor shall appoint at~~
21 ~~least three licensed physicians recommended by the state medical association to~~
22 ~~serve as an advisory committee to the state health officer. Each member of the~~
23 ~~advisory committee is entitled to receive reimbursement of expenses in performing~~
24 ~~official duties in amounts provided by law for other state officers. The term of the~~

1 ~~advisory committee coincides with the term of the state health officer. A committee-~~
2 ~~member serves at the pleasure of the governor.~~

3 5. The duties of the state health officer are as follows:

- 4 a. Provide strategy and policy advice to improve health and wellness.
5 b. Serve in an advisory capacity for local public health and local health officers.
6 c. Promote the development of local health services and recommend the allocation
7 of health funds to local jurisdictions.
8 d. Issue a written order relating to a disease control measure necessary to prevent
9 the spread of a communicable disease. A disease control measure may include a
10 special immunization activity and decontamination measure.

11 (1) The state health officer shall limit a written order issued under this section to
12 the geographical area affected by the communicable disease. The state
13 health officer may not issue a statewide order under this section unless the
14 governor has declared a statewide disaster or emergency under chapter
15 37-17.1 and the governor consents to the order. The statewide order is
16 limited in duration to the duration of the declared disaster or emergency
17 unless terminated earlier pursuant to chapter 37-17.1.

18 (2) A written order issued under this section has the same effect as a
19 physician's standing medical order.

20 (3) The state health officer shall apply to the district court in a judicial district in
21 which a communicable disease is present for an injunction canceling a
22 public event or closing a place of business. On application of the state
23 health officer showing the necessity of the cancellation, the court may issue
24 an ex parte preliminary injunction, pending a full hearing.

25 (4) Notwithstanding any other provision of law, an order issued pursuant to this
26 subsection may not:

27 (a) Substantially burden a person's exercise of religion unless the order is
28 in furtherance of a compelling governmental interest and is the least
29 restrictive means of furthering that compelling governmental interest;

30 (b) Treat religious conduct more restrictively than any secular conduct of
31 reasonably comparable risk, unless the government demonstrates

- 1 through clear and convincing scientific evidence that a particular
2 religious activity poses an extraordinary health risk; or
3 (c) Treat religious conduct more restrictively than comparable secular
4 conduct because of alleged economic need or benefit.
5 (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert
6 that violation as a claim or defense in a judicial proceeding and obtain
7 appropriate relief, including costs and reasonable attorney's fees.
8 e. Perform all duties required or provided by law.