

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

1123

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Danna Hall  
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10/2/03  
Date

2003 HOUSE HUMAN SERVICES

HB 1123

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Deanna Holladay  
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10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

House Human Services Committee

☐ Conference Committee

Hearing Date January 8, 2003

Tape Number	Side A	Side B	Meter #
1	x		18.7 - 28.1
Committee Clerk Signature <i>Sharon Bengtson</i>			

Minutes:

Terry Dwelle, the State Health Officer of the ND Dept. of Health appeared with written testimony in favor of bill stating that this bill will allow the State Health Officer to appoint a Deputy State Health Officer to act on his or her behalf in the event of the absence or disability of the State Health Officer.

Questions and discussion on who was currently acting now and if they were asking for adding an FTE, changing their budget or increased compensation for this person, but just giving statutory authority to a Deputy State Health Officer. They are not asking for appropriations to fund this position.

Rep. Weisz and Rep. Devlin had concerns of who gives authority to appoint a State Health Officer or Deputy. Answer was given as the Governor would. Also concerns of the committee that if the State Health Officer would resign, the Deputy would be acting as the State Health

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House Human Services Committee  
Bill/Resolution Number HB 1123  
Hearing Date January 8, 2003

Officer. Answer was given as the Governor would have to appoint an acting State Health Officer if there was a search being made.

Rep. Porter noted that in the case of Mr. Sagsveen when he was the Health Officer, there has to be a physician oversight committee that is in place, beings he was not a doctor. Is there a standing committee in place that would be there for the medical expertise if the deputy would not be a physician?

Answer: Some part-time doctors and some full time doctors are there for support.

Questions and concerns as to who would be choosing that person, where it was noted that they have a health council that is contacted and consulted on matters of this in the Health Department.

End of Hearing.

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Dan Hall  
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10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

House Human Services Committee

☐ Conference Committee

Hearing Date February 10, 2003

Tape Number	Side A	Side B	Meter #
1	x		28.5 - 37.0
Committee Clerk Signature <i>Sharon Rogers</i>			

Minutes: Committee Work

Rep. Devlin presented amendment stating that if we don't have a deputy state health officer what either has public health or medical type degree then just having an administrative type person, would really be concerned if the local public health agency or somebody called the Dept. and needed some help and the medical officer was out of the state and they would get someone with no medical background and all of a sudden was the deputy, feels this would create real problems with the State of ND. I wanted to do with the amendment was tighten it up, and the Governor can now appoint a Health Officer now if the current Health Officer is gone, but I feel we need to make sure that whoever they have in there for a Deputy is more than just for an administrative type person.

Rep. Devlin moved the amendments, second by Rep. Pollert.

Rep. Potter: Do we know if the new person identified as the Deputy Health Officer has any medical background and if any ramifications: Answer: by Rep. Price as there may be some

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*Dorinda H. H. H.*  
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*10/2/03*  
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House Human Services Committee

Bill/Resolution Number HB 1123

Hearing Date February 10, 2003

discussion when it hits the Senate side as to maybe we should be specifying the duties of the Deputy different or something like that. I think it would it up for a whole new discussion. If in fact the medical back up is there, we have no certainty of how that person makes those types of decisions for isolation or quarantine. Is there a requirement that they call on such and such for an agreement with the medical. What procedures would that deputy go through?

Vote on amendment: 11-1-1 Rep. Weisz was gone.

Rep. Devlin moved a DO PASS as AMENDED, second by Rep. Kreidt.

11-1-1, Rep. Sandvig to carry.

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Deanna Bell  
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10/2/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
03/26/2003

Amendment to: HB 1123

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1123 allows the state health officer to appoint a deputy state health officer who may act as state health officer during his or her absence or disability. An administratively assigned deputy is included in the 2001-03 and 2003-05 budget. The position also functions as Administrative Support Section Chief.

This amendment adds the requirement that if the deputy state health officer does not hold a health-related degree they may not issue an order regarding an individual's health care unless cosigned by a physician employed by the Department or the state epidemiologist.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathy J. Albin	Agency:	Health Department
Phone Number:	328.4542	Date Prepared:	03/26/2003

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**FISCAL NOTE**  
Requested by Legislative Council  
02/11/2003

Amendment to: HB 1123

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

Engrossed HB 1123 allows the state health officer to appoint a deputy state health officer who may act as state health officer during his or her absence or disability. An administratively assigned deputy is included in the 2001-03 and 2003-05 budget. The position also functions as Administrative Support Section Chief.

The amendment to this bill adds the requirement that the deputy state health officer must hold at a minimum a baccalaureate degree in a health-related field, such as epidemiology or public health.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathy J. Albin	Agency:	Health
Phone Number:	328.4542	Date Prepared:	01/11/2003

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*Doreen Baller*  
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**FISCAL NOTE**  
Requested by Legislative Council  
01/03/2003

Bill/Resolution No.: HB 1123

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1123 allows the state health officer to appoint a deputy state health officer who may act as state health officer during his or her absence or disability. An administratively assigned deputy is included in the 2001-03 and 2003-05 budget. The position also functions as Administrative Support Section Chief.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathy J. Albin	Agency:	Health
Phone Number:	328.4542	Date Prepared:	01/06/2003

*Doreen Hall*  
Operator's Signature

10/2/03  
Date

38154.0101  
Title.0200

Adopted by the Human Services Committee  
February 10, 2003

VR  
2/10/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1123 HS 2-10-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-01-08 of the North Dakota Century Code, relating to authority of the state health officer to appoint a deputy state health officer.

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

**SECTION 1. AMENDMENT.** Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

**23-01-08. Directors of divisions - Deputy - Appointment, salary, duties.**  
The state health officer shall appoint directors of the various divisions of the department and shall determine the salary, within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director must be those prescribed by the state health officer. The state health officer may appoint a deputy state health officer. The deputy state health officer must hold, at a minimum, a baccalaureate degree in a health-related field, such as epidemiology or public health. The deputy state health officer serves at the pleasure of the state health officer.

Renumber accordingly

Date: 2-10-03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1123

House \_\_\_\_\_ HUMAN SERVICES \_\_\_\_\_ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep Devlin Seconded By Rep Kreidt

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig	✓	
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman	✓	
Rep. Robin Weisz A.			Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter		✓			
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep Sandvig

If the vote is on an amendment, briefly indicate intent:

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Danna Hall  
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10/2/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 10, 2003 3:09 p.m.

Module No: HR-25-2167  
Carrier: Sandvig  
Insert LC: 38154.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

HB 1123: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1123 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-01-08 of the North Dakota Century Code, relating to authority of the state health officer to appoint a deputy state health officer.

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

**SECTION 1. AMENDMENT.** Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

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Renumber accordingly

2003 SENATE APPROPRIATIONS

HB 1123

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Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-26-03

Tape Number	Side A	Side B	Meter #
1		X	29.4 - end
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: Chairman Holmberg called the meeting to order. Authority of the state health officer to appoint a deputy state health officer is the issue.

**Testimony in Support of HB 1123**

Terry Dwelle - State Health Officer of the North Dakota Department of Health. (meter 29.5)

Introduced the Bill. Read Testimony - Exhibit #1

Sen. Mathern asked (meter 35) what specific law does not give you the ability to delegate authority. He responded that certain statutory committees that say the "State Health Officer" does not have the authority and in accordance of the Attorney General's office the four listed items are undelegatable by the State Health Officer to a Deputy State Officer.

Sen Kilzer discussed (meter 36) as an appointee of the Governor can you not recommend that he do these things as a possibility.

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*Dawn Holmberg*  
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Date

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Senate Appropriations Committee  
Bill/Resolution Number HB 1123  
Hearing Date 02/26/03

Sen. Krauter questioned the intent of the amendment. The concern that a college degree person alone vs a decision that is not made by this one person alone but by the collateral works of experts in many fields.

Sen. Kilzer discussed fiscal (meter 37.6) implications? None How does this person get paid?  
The position/person already exists.

Sen. Andrist discussed why the bill ended up here (meter 37)

Sen. Christmann discussed how the deputy in place needs permission for authority Discussion on how to amend would best work. (meter 38.9) Education Vs job experience discussed.  
Discussion of a Statutory Deputy.

Arby Smith - Deputy State Health Officer (meter 41) I am an administrative assigned deputy. I do not have Statutory authority; and in accordance to the Attorney Generals office, only minor duties may be delegated by the Health Officer. By definition, the deputy-in law, allows the individual to perform any of the functions, in the absence of the State Health officer.

Howard Snortland - Represent the Association of Former Public Employee. (meter 42.5)  
Discussed the PURSE Board. We discussed increasing the board to include the State Health Officer onto the board. This allows a member to be on our board from the State Health Department.

Discussion of Amendment and people of expertise in different fields complementing each other.  
Discussion of a person's capability of making a decision without any proper background to do so (meter 48). This is why I as a Doctor, need to consult with an Engineer on matters I am not an expert on to make me one. While I understand your argument you need to appreciate where I am

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Senate Appropriations Committee  
Bill/Resolution Number HB 1123  
Hearing Date 02/26/03

coming from. The importance of collaboration; of more than one entity, is what any one person in this position has to do to reflect the vastness of this job.

**Testimony in Opposition of HB 1123**

None

Discussion to eliminate house amendment or to amend bill. Is this bill policy or budget. (meter 54) There is a need in this department to use experts in many fields but does this bill do this or should it go to a policy committee.

Sen Holmberg discussed (meter 56.5) how this bill should be reassigned to an appropriate study subcommittee looking into the Department of Health to meet this afternoon with; Sen. Andrist Sen. Kilzer and Sen. Matheren. All were in agreement.

**Senator Ray Holmberg, Chairman closed the hearing.**

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2003 SENATE HUMAN SERVICES

HB 1123

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1123

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 10, 2003

Tape Number	Side A	Side B	Meter #
1		X	1669 - end
2	X		0 - 2260
Committee Clerk Signature <i>Donna Kramer, Clerk</i>			

Minutes:

SENATOR JUDY LEE opened the public hearing for HB 1123 relating to the authority of the state health officer to appoint a deputy state health officer.

TERRY DWELLE, State Health Officer of the North Dakota Department of Health, testified in support of the bill. ... Referred to bioterrorism events ... Passage of the bill would allow the state health officer to delegate certain administrative duties to the deputy which would enhance the efficiency and responsiveness of the department. In addition, this bill would provide the department with the flexibility to employ a state health officer and a deputy health officer who have a complimentary set of expertise, skills and knowledge. ... Requested removing sentence in Engrossed HB 1123 regarding the educational requirements. ... (Written testimony) (Meter # 1669 - 2029)

SENATOR LEE: In looking at list of administrative actions, she asked if there were any administrative rules in place about how you or a deputy would make decisions about quarantine

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*10/2/03*  
Date

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Senate Human Services Committee

Bill/Resolution Number HB 1123

Hearing Date March 10, 2003

and isolation, bioterrorism attacks and some of those things that are a little more staff in nature.

(Meter # 2029 - 2080)

TERRY DWELLE: There are not a lot of administrative rules in place ... latitude to bring in experts. (Meter # 2082 - 2182)

SENATOR LEE: Asked about job description ... Concern about procedure. Continued discussion with Mr. Dwelle and committee regarding possibilities for new directions - administrative rules could be explored, handling of infectious diseases .... (Meter # 2183 - 2903)

SENATOR FAIRFIELD: Referred to list - currently do not have authority to delegate? Who's accountable for making decisions?

TERRY DWELLE: Bill allows authority to delegate. "Buck stops" with the state health officer. ... Responsibilities have exploded ... (Meter # 2929 - 3322)

SENATOR FAIRFIELD: Because of increased level of responsibility, curious about desire to remove educational requirement for deputy? Education requirements for state health officer? Remove education requirement for deputy, is giving decision making appropriate to give to somebody ... (Meter # 3338 - 3420)

TERRY DWELLE: Complimentary skills needed ... Deputy at this time brings a separate set of needed skills ... Management important ... No educational requirements now ... (Meter # 3420 - 3733)

SENATOR FAIRFIELD: What are the educational requirements?

TERRY DWELLE: There are none.

SENATOR LEE: It is not a requirement that the state health officer be a physician. (Meter # 3734 - 3790)

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Senate Human Services Committee  
Bill/Resolution Number HB 1123  
Hearing Date March 10, 2003

SENATOR FAIRFIELD: Goes back to accountability. Does this mean delegating? (Meter #3818 - 3912)

TERRY DWELLE: Not sure that there are ways of delegating. ... State health officer responsibility - ultimate ... (Meter # 3925 - 4105)

SENATOR FISCHER: Collaborative department?

TERRY DWELLE: True (Meter # 4106 - 4228 )

SENATOR LEE: Accountability taken seriously ... Concerns about unusual circumstances ... Can we work on together that will provide a "comfort level"? ... Continued discussion regarding areas of expertise ... element of flexibility ... (Meter # 4250 - 4790)

SENATOR LEE: Co-chairs ... deputy only? ... Flow chart? ... Job descriptions - not comfortable ... (Meter #4800 - 5000)

TERRY DWELLE: Not asking for co-chairs ... functions going at same, deputy to augment in place of state health officer ... Continued discussion with committee regarding official order issue - deputy could sign ... should be a health background ... duplicate skills? ... capability concern ... (Meter #5047 - 5984)

SENATOR FAIRFIELD: System in place now. What process exists? Where is the governor in this? (Meter # 6060 - 6200)

TERRY DWELLE: Don't know about governor ... Critical in selecting individuals ... Educational requirements don't necessarily translate into competency ... (Tape 1, Side B, Meter 6200 - end and Tape 2, Side A, Meter # 0 - 64)

SENATOR LEE: Board in place? (Meter # 90)

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Date

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Senate Human Services Committee

Bill/Resolution Number HB 1123

Hearing Date March 10, 2003

TERRY DWELLE: Changes ... Board did dissolve ... Reorganization structure of the Health Department - we now have 7 physicians - what are called State Medical Officers ... moved into place to provide expertise ... (Meter #115 - 225)

SENATOR LEE: Do you consult with physicians now?

TERRY DWELLE: Yes, we have an informal way.

SENATOR POLOVITZ: Do you have a job description? (Meter # 265)

TERRY DWELLE: Yes. (Meter # 300)

SENATOR POLOVITZ: Can you delegate?

TERRY DWELLE: Some things cannot delegate because of statutory requirements.

SENATOR POLOVITZ : Do you have a deputy now?

TERRY DWELLE: Not a statutory one. ... Ultimate decision rests with state health officer. ... Certain decisions made need to be made ... (Meter # 301 - 670)

SENATOR BROWN: How is this bill going to help you with your delegation?

Continued discussion with committee members regarding delegating responsibilities to a deputy ... not only in absence but in simultaneous work ... voting capabilities, also ... (Meter # 672 - 900)

SENATOR LEE: Concern is that medical decisions in acute situations might be made by a non-medical person who might be the deputy director ... consultations being made ... rules made ... (Meter #901 - 1010)

TERRY DWELLE: Wording could be addressed. ...

SENATOR FISCHER: Add on end amendment. ... (Meter # 1050)

SENATOR LEE: Asked for job description of both and flow charts. ... (Meter # 1061 - 1120)

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Hearing Date March 10, 2003

HOWARD SNORTLAND, representative of Association of Former Public Employees, testified in favor. Opened a "Pandora's box". Gave background on PERS board - originally 5 people.

Wanted 7 members. PERS agreed to the State Health Officer become a member of the board. ...

Problem right now is that the deputy cannot vote ... she cannot be an active member of the board.

... (Meter # 1128 - 1340)

TOM TUPA, with the Association of Former Public Employees, testified in favor of the bill.

Thinks there is some amendatory language applicable. Suggested amendment - Lines 10 - 13. ...

Our concern is having somebody on the PERS board - individual who has expertise and voting authority ... (Meter #1360 - 1564)

SENATOR LEE: It doesn't matter to the PERS board if the member is a MD?

TOM TUPA: That is correct. Further discussion with SENATOR LEE regarding membership requirements with PERS board. ... (Meter # 1565 - 1687)

ARNOLD THOMAS, President of ND Healthcare, testified in a neutral position. ND Healthcare Association is the entity that brought this particular section of the code to the legislature and requested a change in the qualifications of the State Health Officer. Legislature acted upon our recommendation and removed the restrictions placed upon the employment of the State Health Officer and limited those to being a physician. It was our vision back then and still continues that this a management responsibility first and foremost. We should not limit our resources in terms of where we buy that particular type of expertise that the Governor believes necessary for the department at the time in which the Governor makes the appointment for the Health Officer. It also should follow that the Health Officer should have the necessary expertise that he or she

Page 6  
Senate Human Services Committee  
Bill/Resolution Number HB 1123  
Hearing Date March 10, 2003

needs to manage all of the functions and activities of the department. .... Suggest language ...

(Meter # 1700 - 2000)

SENATOR LEE: Do you know if current statute requires this medical advisory board if the state health officer is not a MD?

ARNOLD THOMAS: The statute says if the Governor does not appoint a State Health Officer, a physician licensed in the state, the Governor shall appoint at least 3 licensed physicians that are recommended by the State Medical Association to serve as their advisory committee to the State Health Officer. ... Interestingly, the primary qualification for the State Health Officer ... must have ... management of people. ... (Meter 2001 - 2129)

SENATOR LEE: Public hearing closed. No committee action at this time. (Meter # 2260)

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Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 25, 2003

Tape Number	Side A	Side B	Meter #
1	X		6205 - end
		X	0 - 485
Committee Clerk Signature <i>Donna Kramer, Clerk</i>			

Minutes:

SENATOR JUDY LEE opened the committee discussion on HB 1123 relating to the authority of the state health officer. The amendment was referred ... regarding whether the deputy health officer should have a health-related degree. ... A physician would be involved in the decision about an individual's health care.

SENATOR FISCHER made a MOTION TO MOVE AMENDMENT.

SENATOR BROWN seconded the motion.

Roll call was read. 6 yeas. 0 nays.

SENATOR BROWN made a MOTION TO PASS AS AMENDED.

SENATOR FISCHER seconded the motion.

Roll call was read. 5 yeas. 1 nay.

SENATOR ERBELE will be the carrier. (Meter # 485)

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*Donna Kramer*  
Operator's Signature

*10/2/03*  
Date



38154.0201  
Title.0300

Prepared by the Legislative Council staff for  
Senator J. Lee  
March 25, 2003

*JB*  
3-25-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1123

Page 1, line 11, replace "The deputy state health officer must hold, at a minimum," with "A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding an individual's health care unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist"

Page 1, line 12, remove "a baccalaureate degree in a health-related field, such as epidemiology or public health"

Renumber accordingly

Date: 03-25-03  
Roll Call Vote #: ①

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. ~~1429~~ 1123

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Move amendments

Motion Made By Sen. Fischer Seconded By Sen. Brown

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dan Hall 10/2/03  
Operator's Signature Date

Date: 03-25-03  
Roll Call Vote #: (2)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1123

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Sen. Brown Seconded By Sen. Fischer

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield		✓			
Senator Michael Polovitz	✓				

Total (Yes) 5 No 1

Absent \_\_\_\_\_

Floor Assignment Sen. Erbele

If the vote is on an amendment, briefly indicate intent:

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Donna G. Ballantyne  
Operator's Signature

12/2/03  
Date

REPORT OF STANDING COMMITTEE (410)  
March 25, 2003 4:30 p.m.

Module No: SR-53-5743  
Carrier: Erbele  
Insert LC: 38154.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

HB 1123, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1123 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "The deputy state health officer must hold, at a minimum," with "A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding an individual's health care unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist"

Page 1, line 12, remove "a baccalaureate degree in a health-related field, such as epidemiology or public health"

Renumber accordingly

Deanna Hall  
Operator's Signature

10/2/03  
Date

2003 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1123

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Deanna Holladay  
Operator's Signature

10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

House Human Services Committee

☒ Conference Committee

Hearing Date 4-9-03

Tape Number	Side A	Side B	Meter #
1	x		0.1-7.0
Committee Clerk Signature <i>Sharon Penzance</i>			

Minutes: Representative Pollert: called the conference committee to order on HB 1123.

Representative Pollert, Representative Devlin, Representative Potter, Senator Fischer,  
Senator Fairfield, Senator Erberle were present.

Representative Devlin: my concern was the languages of the individuals health care wasn't the issue that the House had the problem with, the House had the problem with somebody with no medical background, having public health discussions quarantine in the community that is what we were more concerned about, just as the situation in Minot. Public health incidents whether its quarantine or whatever, that they would have medical degree, the question is it costs us more then individuals health care, it the whole realm of public health issues.

Senator Erberle: so you are saying you would like to add language to talk about public health care but still want a degree person in there, the reason we went away from that part of it was because we don't require the health officer to have a degree.

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*Deanna Ball*  
Operator's Signature

10/2/03  
Date

Page 2  
House Human Services Committee  
Bill/Resolution Number HB 1123  
Hearing Date 4-9-03

Representative Devlin: we just want to make sure that there is communication between a medical person and a non medical person.

Senator Fischer: how about if we add to the word regarding remove "a individuals health care" and insert "public health issues" on line 3 after the word regarding.

Senator Erberle: would that still be inclusive of an individuals health care?

Representative Devlin: yes it would, I think that gets to essentially what the concern was, and the other thing was just technical questions.

Senator Fischer: MOTION to RECEDE and further AMENDING the bill.

Senator Erberle: SECOND the motion.

Senator Fairfield: would it be cleaner if we eliminated "issue" after public health?

**VOTE: 6-YES 0-NO 0-ABSENT.**

Representative Pollert: will carry the bill.

Meeting adjourned.

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Donna Hallmark  
Operator's Signature

10/2/03  
Date

38154.0204  
Title.0500

Adopted by the Conference Committee  
April 9, 2003

**Conference Committee Amendments to Engrossed HB 1123 - 04/09/2003**

That the Senate recede from its amendments as printed on page 1109 of the House Journal and pages 911 and 954 of the Senate Journal and that Engrossed House Bill No. 1123 be amended as follows:

Page 1, line 2, after the second "officer" insert "; and to declare an emergency"

Page 1, line 11, replace "The deputy state health officer must hold, at a minimum," with "A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist"

Page 1, line 12, remove "a baccalaureate degree in a health-related field, such as epidemiology or public health"

Page 1, after line 13, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly



**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HB 1123 (, as (re)engrossed):

Your Conference Committee House Human Services Committee

For the Senate:

For the House:

Senator Erberle	yes	✓	Rep. Pollert	yes	✓
Sen. Fischer	yes	✓	Rep. Devlin	yes	✓
Sen. Fairfield	yes	✓	Rep. Potter	yes	✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) \_\_\_\_\_ --

\_\_\_\_\_ and place \_\_\_\_\_ on the Seventh order.

☒ , adopt (further) amendments as follows, and place \_\_\_\_\_ on the  
Seventh order:

having been unable to agree, recommends that the committee be discharged and a  
new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: 4/9/03

CARRIER: Rep. Pollert

LC NO. of amendment
LC NO. of engrossment
Emergency clause added or deleted
Statement of purpose of amendment

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Operator's Signature

Date

**REPORT OF CONFERENCE COMMITTEE (420)**  
April 10, 2003 2:58 p.m.

**Module No: HR-65-7370**

**Insert LC: 38154.0204**

**REPORT OF CONFERENCE COMMITTEE**

**HB 1123, as engrossed:** Your conference committee (Sens. Erbele, Fischer, Fairfield and Reps. Pollert, Devlin, Potter) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1109, adopt amendments as follows, and place HB 1123 on the Seventh order:

That the Senate recede from its amendments as printed on page 1109 of the House Journal and pages 911 and 954 of the Senate Journal and that Engrossed House Bill No. 1123 be amended as follows:

Page 1, line 2, after the second "officer" insert "; and to declare an emergency"

Page 1, line 11, replace "The deputy state health officer must hold, at a minimum," with "A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist"

Page 1, line 12, remove "a baccalaureate degree in a health-related field, such as epidemiology or public health"

Page 1, after line 13, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed HB 1123 was placed on the Seventh order of business on the calendar.

2003 TESTIMONY

HB 1123

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Deanna G. Smith  
Operator's Signature

10/2/03  
Date

**Testimony**

**House Bill 1123**

**House Human Services Committee**

**Wednesday, January 8, 2003**

**9:30 a.m.**

Chairman Price, members of the House Human Services Committee. My name is Terry Dwelle, and I am the State Health Officer of the North Dakota Department of Health. I am here today to provide testimony in support of House Bill 1123.

House Bill 1123 allows the State Health Officer to appoint a Deputy State Health Officer to act on his or her behalf in the event of the absence or disability of the State Health Officer.

By law, the State Health Officer is authorized to delegate only routine matters to department staff. Currently, the State Health Officer does not have the authority to delegate the following administrative actions:

- Issuing administrative orders limiting the actions of a person with a highly communicable disease, such as HIV, to prevent the spread of the disease.
- Imposing quarantine or isolation in the event of a bioterrorism event, such as a smallpox outbreak.
- Signing contracts with vendors and approving other actions of the department.
- Approving employment decisions.

The events of September 11, 2001, have changed America in many ways. Homeland security has become a focus for the nation and has expanded public health's role in protecting our citizens against the threat of bioterrorism. The North Dakota Department of Health must be able and ready to respond quickly to a bioterrorism event or other public health emergency. Emergency orders regarding bioterrorism events or serious diseases cannot be delayed because the State Health Officer is unavailable.

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*Dwelle*  
Operator's Signature

10/2/03  
Date

The Department of Health is a large and complex agency. Passage of House Bill 1123 would allow the State Health Officer to delegate certain administrative duties to the Deputy, which would enhance the efficiency and responsiveness of the Department. In addition, the bill would ensure continuity of authority and decision-making by enabling the Deputy State Health Officer to act on behalf of the State Health Officer, thus ensuring that the public's health is protected.

The Department of Health respectfully requests passage of House Bill 1123. At this time, I will be pleased to answer any questions you may have.

Thank you.

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Dorinda Hallmark  
Operator's Signature

10/2/03  
Date

H61123

1

**1-01-11. Authority of deputies.**

Any duty imposed upon a ministerial officer, and any act permitted to be done by him, unless otherwise provided, may be performed by his lawful deputy.

Source: R.C. 1943, § 1-0111.

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Dannan Ballin  
Operator's signature

10/2/03  
Date

Exhibit 1

**Testimony**

**House Bill 1123**

**Senate Appropriations Committee**

**Wednesday, February 26, 2003**

**10:30 a.m.**

*Same testimony given to Senate Human Services*

Chairman Holmberg, members of the Committee, my name is Terry Dwelle, and I am the State Health Officer of the North Dakota Department of Health. I am here today to provide testimony in support of House Bill 1123 with one suggested amendment.

House Bill 1123 allows the State Health Officer to appoint a Deputy State Health Officer to act on his or her behalf in the event of the absence or disability of the State Health Officer. However, the House amended the bill to require the Deputy State Health Officer to hold a baccalaureate degree in a health-related field such as epidemiology or public health. This education requirement is not consistent with many of the current duties of the Deputy State Health Officer and is more stringent than the education requirements for the State Health Officer.

The Department of Health submitted House Bill 1123 after being alerted to the fact that the State Health Officer is authorized to delegate only routine matters to Department staff. Delegation of the authority to perform various administrative functions is necessary to effectively meet statutory responsibilities of the State Health Officer and to appropriately respond to emergency situations occurring during the absence of the State Health Officer.

Currently, the State Health Officer does not have the authority to delegate certain administrative actions, including:

- Issuing administrative orders limiting the actions of a person who has a highly communicable disease such as HIV to prevent the spread of the disease.
- Issuing orders regarding environmental regulatory matters.
- Imposing quarantine or isolation in the event of a bioterrorism attack, such as a smallpox outbreak.
- Signing major contracts with vendors and approving other actions of the Department.
- Approving employment decisions.
- Serving on certain statutory committees.

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*Terry Dwelle*  
Operator's Signature

10/2/03  
Date

The Department of Health is a large and complex agency with many diverse functions ranging from bioterrorism preparedness and response, preventive health, and control of communicable diseases to environmental and health facility regulation. These functions require employment of individuals holding professional designations ranging from certified engineers, environmental scientists, and certified public accountants to doctors, nurses and nurse practitioners, microbiologists, epidemiologists, and chemists, as well as a variety of master's degrees. Regardless of the educational background of the State Health Officer or the Deputy State Health Officer, he or she will need to rely on experts both within and outside the Department in making decisions that affect public health.

The events of September 11, 2001, have changed America in many ways. Homeland security has become a focus for the nation and has expanded public health's role in protecting our citizens against the threat of bioterrorism. The North Dakota Department of Health must be able and ready to respond quickly to a bioterrorism event or other public health emergency. Emergency orders regarding bioterrorism events or serious diseases cannot be delayed because the State Health Officer is unavailable.

Passage of House Bill 1123 would allow the State Health Officer to delegate certain administrative duties to the Deputy, which would enhance the efficiency and responsiveness of the Department. In addition, the bill would provide the Department the flexibility to employ a State Health Officer and a Deputy State Health Officer who have complementary sets of expertise, skills and knowledge available to efficiently and effectively ensure that the public's health is protected.

For example, currently I am able to bring medical expertise – including pediatrics, infectious disease and public health training and experience – and Arvy Smith, Deputy State Health Officer, has complementary expertise in accounting, budget and management. When a new State Health Officer is appointed in the future, a different set of complementary skills may be necessary.

The Department of Health respectfully requests that the Senate remove the sentence in Engrossed House Bill 1123 regarding the educational requirements for the Deputy State Health Officer and pass House Bill 1123. At this time, I am pleased to answer any questions you may have.

Thank you.



## **AMENDMENTS TO HB 1123**

**3-11-03**

On page 1, line 11, delete "The deputy state health officer must hold, at a minimum,"

On page 1, delete all of line 12.

On page 1, line 13, delete "deputy state health officer" and add the word "who" before the word "serves"

On page 1, after line 13, add the words "The state health officer may also appoint, with full authority, any person from the department to serve in the health officer's absence."

On page 1, add a new paragraph to read "Should any such appointment be made, the health officer, must ensure the appointee has expertise in the area to which the employee is appointed."

Renumber accordingly.

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Deanna Hallmark  
Operator's Signature

10/2/03  
Date