

Sixty-ninth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2255**

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~~a 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

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

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

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

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

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

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

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

- (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
- (b) Treat religious conduct more restrictively than any secular conduct of 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.