

Sixty-ninth  
Legislative Assembly  
of North Dakota

## FIRST ENGROSSMENT

### ENGROSSED 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, training, or experience in public health; and

12 b. Relevant leadership 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 ~~4.5.~~ ~~If the office of the state health officer is filled temporarily, the governor shall~~ The  
21 commissioner of the department of health and human services may appoint at least  
22 three licensed physicians recommended by the state medical association to serve as

1 an advisory committee to advise the state health officer on matters of public health as  
2 requested by the state health officer. Each member of the advisory committee is  
3 entitled to receive reimbursement of expenses in performing official duties in amounts  
4 provided by law for other state officers. ~~The term of the advisory committee coincides~~  
5 ~~with the term of the state health officer~~. A committee member serves at the pleasure of  
6 the ~~governor~~commissioner of the department of health and human services. A meeting  
7 of the advisory committee is not subject to open meeting requirements of chapter  
8 44-04.

9 ~~5.6.~~ The duties of the state health officer are as follows:

- 10 a. Provide strategy and policy advice to improve health and wellness.
  - 11 b. Serve in an advisory capacity for local public health and local health officers.
  - 12 c. Promote the development of local health services and recommend the allocation  
13 of health funds to local jurisdictions.
  - 14 d. Issue a written order relating to a disease control measure necessary to prevent  
15 the spread of a communicable disease. A disease control measure may include a  
16 special immunization activity and decontamination measure.
- 17 (1) The state health officer shall limit a written order issued under this section to  
18 the geographical area affected by the communicable disease. The state  
19 health officer may not issue a statewide order under this section unless the  
20 governor has declared a statewide disaster or emergency under chapter  
21 37-17.1 and the governor consents to the order. The statewide order is  
22 limited in duration to the duration of the declared disaster or emergency  
23 unless terminated earlier pursuant to chapter 37-17.1.
  - 24 (2) A written order issued under this section has the same effect as a  
25 physician's standing medical order.
  - 26 (3) The state health officer shall apply to the district court in a judicial district in  
27 which a communicable disease is present for an injunction canceling a  
28 public event or closing a place of business. On application of the state  
29 health officer showing the necessity of the cancellation, the court may issue  
30 an ex parte preliminary injunction, pending a full hearing.

- 1                   (4) Notwithstanding any other provision of law, an order issued pursuant to this  
2                   subsection may not:
- 3                   (a) Substantially burden a person's exercise of religion unless the order is  
4                   in furtherance of a compelling governmental interest and is the least  
5                   restrictive means of furthering that compelling governmental interest;
- 6                   (b) Treat religious conduct more restrictively than any secular conduct of  
7                   reasonably comparable risk, unless the government demonstrates  
8                   through clear and convincing scientific evidence that a particular  
9                   religious activity poses an extraordinary health risk; or
- 10                  (c) Treat religious conduct more restrictively than comparable secular  
11                  conduct because of alleged economic need or benefit.
- 12                  (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert  
13                  that violation as a claim or defense in a judicial proceeding and obtain  
14                  appropriate relief, including costs and reasonable attorney's fees.
- 15                  e. Perform all duties required or provided by law.