

**Testimony**  
**House Bill 1023**  
**Senate Appropriations Committee**  
**Thursday, March 7, 2013**  
**North Dakota Department of Health**

Good morning, Chairman Holmberg and members of the Appropriations Committee. My name is Brenda Weisz, Director of Accounting for the North Dakota Department of Health. I am here to provide testimony in support of our deficiency request included in House Bill 1023.

Salaries and Wages

The Department of Health is requesting a deficiency appropriation for the Division of Food and Lodging to handle the additional workload related to oil activity in the northwestern part of the state. Food and Lodging activities are funded through a combination of fees collected and deposited in the department's operating fund and a general fund appropriation. A vacant position was transferred to the division and filled as an environmental health practitioner (EHP) in 2012 to assist with the workload. Although the additional work generates additional fee revenue, it is not sufficient to support the additional position. The amount requested is based on an updated estimate of the revenue available and the estimated expenses to carry out the work through the remainder of the biennium.

The heavy workload increases in the Division of Food and Lodging are related to lodging/man camps, RV parks, mobile home parks and mobile food units. A large portion of the work is related to new facilities where construction plans need to be reviewed and additional pre-operational inspections conducted. This work does not generate revenue as only licensing fees are charged. We have licensed 230 new facilities so far this biennium and expect another 120 by the end of the biennium. Costs are expected to continue into the future as the total number of facilities has increased by over 10 percent and we expect additional new facilities next biennium as well. The funding and FTE for the 2013-15 biennium are included in our executive budget contained in SB 2004.

Litigation Contingency

The 2011 Legislative Assembly appropriated \$1 million to the Department of Health for the purpose of defraying expenses associated with legal action against the U.S. Environmental Protection Agency (EPA) under the Clean Air Act (CAA). Of the \$1 million dollars appropriated to the Department, \$500,000 was provided out of the general fund with the remaining \$500,000 to be borrowed from the Bank of North Dakota. As of today, the Department has

spent all of the \$500,000 from the general fund and we have used \$83,679 of the Special Fund Line of Credit (\$500,000). The total amount to be spent on litigation for this biennium will depend upon briefing schedules and when the case will be heard in court. We are required to repay the line of credit by June 30, 2013, before our 2013-15 budget period begins. We are requesting funding to make that payment as required. At the time we prepared our initial request for the repayment of the Special Line of Credit, we had estimated that the entire \$500,000 would be expended by June 30, 2013. Since that time, the legal action has not progressed as quickly as initially anticipated. We informed the House Appropriations Committee and they reduced the initial request appropriately. We support the action taken by the House Appropriations Committee and feel \$300,000 will be sufficient to repay the Special Fund Line of Credit. We have included \$500,000 from the general fund in Senate Bill 2004 to continue this work during the 2013-2015 biennium.

The department is currently working with the North Dakota Attorney General's Office and Moye White, LLP, of Denver to continue addressing the following federal air rule legal challenges: 1) Sulfur Dioxide (SO<sub>2</sub>) 1 hour standard, and 2) Regional Haze Federal Implementation Plan (FIP)/State Implementation Plan (SIP) issues. We reviewed EPA's 2012 decision rejecting portions of the state's Regional Haze plan and imposing a federal plan. With concurrence from the Attorney General's Office, we filed a legal challenge to specific aspects of EPA's decision.

We anticipate additional environmental legal work beyond the air program/rule legal challenges, including ongoing national legal challenges by various states and entities of EPA's various rules and continuing increased oil field impact legal work.

This concludes my testimony and I would be happy to answer any questions you may have regarding this request.