

**Testimony**  
**Administrative Rules Committee**  
**December 12, 2013**  
**North Dakota Department of Health**

Good morning Chairman Devlin and members of the Administrative Rules Committee. I am Arvy Smith, Deputy State Health Officer for the North Dakota Department of Health (DoH). I am here to provide additional information to address the concerns expressed at the September 12, 2013, committee meeting regarding the proposed food and lodging fee increase. I will follow the seven points the department was asked to address in the September 26, 2013, notice sent by Mr. Walstad.

**Background**

The DoH requested and the governor recommended a general fund appropriation for a new food and lodging licensing information data management system (LIDMS) to be developed during the 2013-15 biennium. The Senate approved this recommendation as requested in Senate Bill 2004 and the House approved the system but changed the funding source to food and lodging fees. The conference committee on SB 2004, and subsequently the 2013 Legislative Assembly, approved the House version of this item.

The food and lodging LIDMS would allow the department to accept credit card payment for license renewals, to capture e-mail addresses and be able to send license renewals and other correspondence electronically and to post inspection results for consumer access on the department's website. In addition, a new information management system would allow us to conduct electronic inspections on tablet computers and submit those inspections electronically to the office. There would be postage and processing savings to the department of around \$6,000 per biennium by not having to send out hard copy license renewals and by being able to receive inspection results from field inspectors electronically rather than by mail.

- 1. Copies and discussion of the consideration and motion of the standing committee considering the department's budget showing the legislative action to eliminate the proposed appropriation for the updated licensing information data management system and the suggestion the department should cover the cost of the system through fee increases.**

Appendix A includes the minutes of the House Appropriations Human Resources Division discussion of the LIDMS on April 4, 2013, and on April 8, 2013, starting

with No. 8. It was stated by Representative Bellew, who proposed the amendment, that the department raise fees “if need be” to complete the project.

When SB 2004 went to conference committee, Chairman Senator Kilzer requested a presentation by the department of the consequences of the House amendments to SB 2004. On page 3, No. 8 of my testimony dated April 19, 2013 (attached), I informed the conferees that we would have to increase food and lodging fees to pay for the new system because we had included all the fee revenue in the base budget so none was estimated to be available for the new system without increasing fees.

When the conferees identified their areas of difference between the two versions of the budget, the food and lodging item was not included. The final conference committee report was passed by the full Legislative Assembly with the House version of the LIDMS, using fees to pay for it.

**2. Current estimated cost for the updated licensing information data management system, separated into initial update cost and ongoing annual maintenance cost.**

At the time the DoH budget was developed, the estimated cost of the LIDMS was \$110,000, and the ongoing maintenance costs were estimated at \$20,000 to \$50,000 per year (\$40,000 to \$100,000 per biennium). The estimate was based on a system in place at the time the budget was developed. Users of this system are now reporting quality issues and lack of vendor responsiveness. As we are beginning the Request for Proposal process, we are seeing more effective systems as high as \$280,000 with \$30,000 to \$50,000 per year for maintenance. Since the fee increases only generate \$150,000 per biennium, we will have to consider whether we can find other funding sources or select a cheaper option.

**3. Consideration of sunseting or reducing fee increases after initial cost of the system is covered, reducing fee revenue to an amount necessary to cover ongoing maintenance cost.**

As the previous point indicates, maintenance on a system could be as high as \$50,000 per year, which would use \$100,000 of the \$150,000 new revenue the proposed fee increases would generate.

Without fee increases since 2008 the general fund has had to absorb almost 100% of salary, benefits and travel cost increases since that time. While we are seeing some fee revenue increases due to increased number of facilities licensed,

particularly in the western part of the state, actual fees collected between FY 2012 and FY 2013 increased only \$23,026 or 7 percent, from \$333,394 to \$356,420.

If we do not reduce the fee revenue down to the level necessary to cover ongoing maintenance costs of the LIDMS this revenue would help cover the program cost increases related to salaries and travel and reduce the need for the general fund to cover it for a period of time.

The average fee increase per year proposed for all 3,600 facilities, including the very large facilities, is just under \$21 per year, with most of the increases between \$10 and \$25. The reductions to the fees would be minimal.

**4. A description of consideration by the department on the feasibility of finding all or part of the necessary funding for the upgrade within the budget of the department.**

Almost half of the DoH budget is passed through to local entities in the form of grants and contracts. Part of the budget increases are appropriated in separate bills where the funding is appropriated for a particular purpose and must be returned to the general fund if we don't spend it. Most of the remaining increases were either for oil impact or go to programs where the groups that are provided the funding through grants and contracts are well aware of the increases the legislature appropriated. While the department does experience some general fund roll up, by the time we know how much roll up we will have it is far too late to start and complete a technology project by the time the biennium ends and the unspent general fund appropriation reverts back to the general fund.

**5. Review of a comparison of total fee collections by the department for 2011 and 2013.**

In the 2009-2011 biennium \$655,489 in fees were collected, and in the 2011-13 biennium a total of \$689,814 was collected.

**6. The committee requested the department have discussions with representatives of the North Dakota Petroleum Marketers Association, the North Dakota Retailers Association, and the North Dakota Hospitality Association to consider concerns of those groups and report the results of those discussions to the Administrative Rules Committee.**

On November 5, 2013, Kenan Bullinger, Director of the Food and Lodging Division, met with Rudy Martinson, ND Hospitality Association and Mike Rud, ND Petroleum Marketers Association. Details were provided about the process the department went through and why the license fees were proposed for increase.

Both Mr. Rud and Mr. Martinson stated they were not opposed to the department pursuing a new management system for improved licensing and inspection systems. They did not support the raising of fees to pay for this system. Mr. Bullinger promised to provide courtesy notifications on any future laws or regulations that would be of interest or would impact their particular associations.

**7. Provide a comparison of the current annual maintenance costs of the existing system and the estimated ongoing annual maintenance costs of the updated system.**

The current system is an Access system built internally quite some time ago with limited capabilities. There are minimal maintenance costs as most maintenance can be done internally. Depending on the system we purchase, maintenance costs can run from \$30,000 to \$50,000 per year.

Thank you for your attention. I am happy to answer any questions you may have.