

**SECOND ENGROSSMENT
with Senate Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

REENGROSSED HOUSE BILL NO. 1196

Introduced by

Representatives Devlin, Boucher, Severson

Senators Andrist, Fischer, Solberg

1 A BILL for an Act to create and enact a new subsection to section 21-10-06 and a new chapter
2 to title 43 of the North Dakota Century Code, relating to funds under the management of the
3 state investment board and the nursing facility nurses student loan payment program; to amend
4 and reenact sections 6-09.16-01, 6-09.16-02, 6-09.16-03, 6-09.16-04, 6-09.16-05, 6-09.16-06,
5 23-09.3-01.1, 23-16-01.1, 50-24.4-30, 50-30-01, 50-30-02, and 50-30-04 of the North Dakota
6 Century Code, relating to the nursing facility alternative loan fund, the moratorium on the
7 expansion of basic care bed capacity, the moratorium on the expansion of long-term care bed
8 capacity, the government nursing facility funding pool, and nursing facility loans; to provide for a
9 transfer from the nursing facility alternative grant fund; to provide for a transfer from the health
10 care trust fund; to provide a statement of legislative intent; to provide for a legislative council
11 study; to provide an appropriation; to provide a continuing appropriation; to provide an
12 expiration date; and to declare an emergency.

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

14 **SECTION 1. AMENDMENT.** Section 6-09.16-01 of the 1999 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **6-09.16-01. ~~(Effective through June 30, 2001)~~ Definitions.** Terms defined in chapter
17 50-30 have the same meaning when used in this chapter.

18 **SECTION 2. AMENDMENT.** Section 6-09.16-02 of the 1999 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **6-09.16-02. ~~(Effective through June 30, 2001)~~ Revolving Long-term care facility**
21 **loan fund - Appropriation Continuing appropriation.** A revolving loan fund must be
22 maintained in the Bank of North Dakota for the purpose of making loans to nursing facilities,
23 basic care facilities, or assisted living facilities, or other entities providing alternatives to nursing
24 facility care, to encourage and support conversion of nursing facilities for renovation projects.

1 All moneys transferred into the fund, interest upon moneys in the fund, and collections of
2 interest and principal on loans made from the fund are hereby appropriated for disbursement
3 pursuant to the requirements of this chapter.

4 **SECTION 3. AMENDMENT.** Section 6-09.16-03 of the 1999 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **6-09.16-03. (~~Effective through June 30, 2001~~) Nursing Long-term care facility**
7 **alternative loan fund.**

- 8 1. There is hereby created a nursing long-term care facility ~~alternative~~ loan fund. The
9 fund ~~shall include~~ consists of revenue transferred from the North Dakota health
10 care trust fund, interest upon moneys in the fund, and collections of interest and
11 principal on loans made from the fund.
- 12 2. The Bank of North Dakota shall administer the loan fund. Funds in the loan fund
13 may be used for:
 - 14 a. Loans as provided in this chapter and as approved by the department under
15 chapter 50-30; and
 - 16 b. The costs of administration of the fund; ~~and~~
 - 17 e. ~~Repayment of federal funds if the United States department of health and~~
18 ~~human services determines that funds were inappropriately claimed under~~
19 ~~section 50-24.4-30.~~
- 20 3. Any money in the fund not required for use under subsection 2 must be transferred
21 to the North Dakota health care trust fund.

22 **SECTION 4. AMENDMENT.** Section 6-09.16-04 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **6-09.16-04. (~~Effective through June 30, 2001~~) Loan application - How made.** All
25 applications for loans under this chapter must be made to the department. The department
26 may approve the applications of qualified applicants ~~who~~ that propose projects that conform to
27 requirements established under chapter 50-30. ~~Applications approved by the department must~~
28 ~~be forwarded to the Bank of North Dakota. Upon~~ The Bank of North Dakota shall review and
29 approve or reject all loan applications forwarded to the Bank by the department. For
30 applications approved by the Bank and upon final approval of the application by the Bank of

1 ~~North Dakota~~ department, loans may be made from the ~~revolving~~ long-term care facility loan
2 fund in accordance with ~~the provisions of~~ this chapter.

3 **SECTION 5. AMENDMENT.** Section 6-09.16-05 of the 1999 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **6-09.16-05. (~~Effective through June 30, 2001~~) Amount of loans - Terms and**
6 **conditions.** Loans in an amount not exceeding ~~eighty~~ ninety percent of project costs may be
7 made by the Bank of North Dakota from the fund maintained pursuant to this chapter. Such
8 loans must bear interest at a rate ~~determined by the Bank of North Dakota to be two~~
9 ~~percentage points less than the market rate for similar commercial loans, provided that no loan~~
10 ~~may bear interest at a rate less than one-half of one~~ two percent, ~~or more than seven percent,~~
11 of the outstanding principal balance of the loan. In consideration of the making of a loan under
12 this chapter, each borrower shall execute a contract with the department to operate the project
13 in accordance with standards established under chapter 50-30. The contract must also provide
14 that if the use of the project is discontinued or diverted to purposes other than those provided in
15 the loan application without written consent of the department, the full amount of the loan
16 provided under this chapter immediately becomes due and payable. The Bank of North Dakota
17 may annually deduct, as a service fee for administering the ~~revolving~~ loan fund maintained
18 under this chapter, one-half of one percent of the principal balance of the outstanding loans
19 from the ~~revolving~~ fund.

20 **SECTION 6. AMENDMENT.** Section 6-09.16-06 of the 1999 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **6-09.16-06. (~~Effective through June 30, 2001~~) Powers of Bank of North Dakota.**
23 The Bank of North Dakota may do all acts or things necessary to negotiate loans and preserve
24 security under this chapter, including the power to take such security as deemed necessary, to
25 exercise any right of redemption, and to bring suit in order to collect interest and principal due
26 the ~~revolving~~ loan fund under mortgages, contracts, and notes executed to obtain loans under
27 the provisions of this chapter. If the applicant's plan for financing provides for a loan of funds
28 from sources other than the state of North Dakota, the Bank of North Dakota may take a
29 subordinate security interest. The bank may recover from the ~~revolving~~ loan fund amounts
30 actually expended by it for legal fees and to effect a redemption.

1 **SECTION 7.** A new subsection to section 21-10-06 of the 1999 Supplement to the
2 North Dakota Century Code is created and enacted as follows:

3 Health care trust fund.

4 **SECTION 8. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the
5 North Dakota Century Code is amended and reenacted as follows:

6 **23-09.3-01.1. Moratorium on expansion of basic care bed capacity.** Except when
7 ~~existing beds are converted for use by~~ nursing facilities are converting licensed nursing facility
8 bed capacity to basic care bed capacity or the alzheimer's and related dementia population
9 ~~under the pilot projects provided for in~~ established under section 50-06-14.4 are requesting
10 licensure of their existing beds as basic care bed capacity, or unless the applicant can
11 demonstrate to the department that a need for additional basic care bed capacity exists in the
12 immediate geographic area, the department may not issue a license under this chapter for any
13 additional bed capacity above the state's gross licensed capacity of one thousand four hundred
14 seventy-one beds, adjusted by any reduction in beds before July 31, ~~1999~~ 2001, during the
15 period between August 1, ~~1999~~ 2001, and July 31, ~~2004~~ 2003. Transfers of existing beds from
16 one municipality to another municipality must be approved if the licensing requirements are
17 met, during the period August 1, ~~1999~~ 2001, to July 31, ~~2004~~ 2003, only to the extent that for
18 each bed transfer approved the total number of licensed beds in the state is reduced by the
19 same number transferred. ~~Existing licensed beds released by a facility which are not~~
20 ~~immediately transferred to another facility may not be banked for future transfer to another~~
21 ~~facility.~~ Not more than once in a twelve-month period, a nursing facility may convert licensed
22 nursing facility bed capacity licensed after July 1, 2001, as nursing facility capacity, to basic
23 care bed capacity or may convert basic care bed capacity to licensed nursing facility bed
24 capacity. At least ninety days before the conversion, the facility shall notify the state
25 department of health of the facility's intent to convert bed capacity. The converted beds must
26 be located in the same block of rooms within the facility.

27 **SECTION 9. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North
28 Dakota Century Code is amended and reenacted as follows:

29 **23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

30 Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for
31 use by the alzheimer's and related dementia population under the projects provided for in

1 section 50-06-14.4 or when nursing facilities are converting basic care bed capacity licensed
2 after July 1, 2001, as nursing facility capacity, to nursing facility bed capacity, the state
3 department of health may not issue a license for any additional bed capacity above the state's
4 gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction
5 in beds before July 31, ~~1999~~ 2001, during the period between August 1, ~~1999~~ 2001, and
6 July 31, ~~2004~~ 2003. Transfers of existing beds from one municipality to another municipality
7 must be approved if the department of health licensing requirements are met, during the period
8 August 1, ~~1999~~ 2001, to July 31, ~~2004~~ 2003, only to the extent that for each bed transfer
9 approved the total number of licensed beds in the state is reduced by the same number
10 transferred. Existing licensed beds released by a facility which are not immediately transferred
11 to another facility may not be banked for future transfer to another facility. Not more than once
12 in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to
13 basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as
14 nursing facility capacity, to licensed nursing facility bed capacity. At least ninety days before
15 the conversion, the facility shall notify the state department of health of the facility's intent to
16 convert bed capacity. The converted beds must be located in the same block of rooms within
17 the facility.

18 **SECTION 10.** A new chapter to title 43 of the North Dakota Century Code is created
19 and enacted as follows:

20 **Nursing facility nurses student loan payment program - State health council -**
21 **Powers and duties.** The state health council, in cooperation with the North Dakota long term
22 care association, shall administer the nursing facility nurses student loan payment program.
23 The state health council shall adopt rules necessary to administer the nursing facility nurses
24 student loan payment program.

25 **Nurse selection criteria - Eligibility for loan payment program.**

- 26 1. The state health council shall adopt rules establishing criteria regarding nurse
27 selection for loan payment funds under this chapter. The criteria must give priority
28 to nurses employed by rural facilities and must give priority to nurses with previous
29 long-term care experience.
- 30 2. In addition to meeting the selection criteria, an applicant for loan payment under
31 this chapter shall establish that the applicant:

- 1 a. Is licensed as a nurse under chapter 43-12.1;
- 2 b. Is employed as a nurse by a licensed nursing facility; and
- 3 c. Has an outstanding education loan balance.

4 **Distribution of funds.** The state health council shall distribute funds monthly to
5 institutions that own student loans of applicants who meet and continue to meet the criteria
6 standards and eligibility standards.

- 7 1. In the case of an eligible applicant who has a student loan with forty-eight or fewer
8 monthly scheduled payments remaining on the loan at the date of application, the
9 monthly payment amount is equal to the regularly scheduled monthly payment
10 amount.
- 11 2. In the case of an eligible applicant who has a student loan with more than
12 forty-eight monthly scheduled payments remaining on the loan at the date of
13 application, the monthly payment amount is equal to one forty-eighth of the amount
14 of the outstanding balance of the educational loan on the date of application plus
15 any applicable interest.

16 **Nursing facility nurses student loan payment fund.** The nursing facility nurses loan
17 payment fund is created in the state treasury. The fund consists of revenue transferred from
18 the North Dakota health care trust fund and interest earned on moneys in the fund. Moneys in
19 the fund may be spent by the state health council pursuant to legislative appropriation for
20 defraying the expenses of the nursing facility nurses loan payment program in accordance with
21 this chapter.

22 **SECTION 11. AMENDMENT.** Section 50-24.4-30 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **50-24.4-30. (~~Effective through June 30, 2001~~) Government nursing facility funding**
25 **pool –Appropriations.**

- 26 1. For purposes of this section:
 - 27 a. "Fiscal period" means a twelve-month period determined by the department;
 - 28 and
 - 29 b. "~~Governmental~~ Government nursing facility" means ~~any~~ a nursing home
 - 30 administered by any political subdivision of this state for which a rate is set
 - 31 under this chapter.

- 1 2. The department shall establish a pool consisting of an amount annually calculated
2 by multiplying the total of all resident days of all nursing homes during the fiscal
3 period during which a resident was eligible for and received benefits under chapter
4 50-24.1 times an amount that does not exceed the amount that can reasonably be
5 estimated to be paid under payment principles established under title XVIII of the
6 Social Security Act [42 U.S.C. 1395; et seq.], reduced by the payment rates set for
7 each such resident, for each such day, during the fiscal period.
- 8 3. In addition to any payment made pursuant to a rate set under this chapter, and
9 notwithstanding any other provision of this chapter, the department shall pay to
10 each ~~governmental~~ government nursing facility an amount determined by:
- 11 a. Dividing that facility's total inpatient days for the fiscal period by the total
12 inpatient days of all ~~governmental~~ government nursing facilities for the fiscal
13 period; and
- 14 b. Multiplying a decimal fraction determined under subdivision a times the pool
15 amount determined under subsection 2.
- 16 4. Each ~~governmental~~ government nursing facility, ~~immediately upon~~ within one
17 business day of receiving a payment under subsection 3, shall remit the amount of
18 that payment, less a ~~ten~~ fifty thousand dollar transaction fee, to the state treasurer
19 for credit to:
- 20 a. The North Dakota health care trust fund in an amount equal to the federal
21 medical assistance percentage for the fiscal period times the total remittance
22 to the state treasurer, less ~~ten~~ fifty thousand dollars; and
- 23 b. The general fund for all remaining amounts. The amounts deposited in the
24 general fund are to be considered the first moneys spent pursuant to
25 legislative appropriations for medical assistance or medical assistance-related
26 expenses.
- 27 5. A government nursing facility is not entitled to receive transaction fees totaling
28 more than fifty thousand dollars during any calendar year. Each government
29 nursing facility shall use its transaction fee revenues for long-term care-related
30 services.

1 6. Notwithstanding any other provision of this code, or of any ordinance or code
2 governing the operation of a ~~governmental~~ government nursing facility, a
3 ~~governmental~~ government nursing facility is ~~authorized~~ entitled to receive and,
4 upon receipt, is required to remit payments provided under this section.

5 ~~6.~~ 7. No payment is required under this section for any period in which the funds
6 otherwise appropriated under subdivision b of subsection ~~7~~ 8 are unavailable due
7 to action by the secretary of the United States department of health and human
8 services.

9 ~~7.~~ 8. The department of human services, subject to legislative appropriation, may make
10 the payments described in subsection 3 for the pool amount annually determined
11 under subsection 2, as follows:

12 a. From special funds derived from federal funds and other income, the pool
13 amount determined under subsection 2 reduced by the amount determined
14 under subdivision b; and

15 b. From the general fund, the "state percentage" as that term is used in defining
16 the term "federal medical assistance percentage" for purposes of title XIX of
17 the Social Security Act [42 U.S.C. 1396; et seq.], multiplied times the pool
18 amount determined under subsection 2.

19 **SECTION 12. AMENDMENT.** Section 50-30-01 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **50-30-01. (~~Effective through June 30, 2001—See notes~~) Definitions.** For purposes
22 of this chapter:

23 1. ~~"Alternative to nursing facility care" means services described in the home and~~
24 ~~community based services waiver for aged persons under medical assistance.~~

25 2. ~~"Assisted living facility" has the meaning provided in section 50-24.5-01, but if the~~
26 ~~term is not defined in that section, the term means a facility that:~~

27 a. ~~Makes response staff available at all times;~~

28 b. ~~Provides housing and:~~

29 (1) ~~Congregate meals;~~

30 (2) ~~Kitchen facilities in each resident's living quarters; or~~

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- 1 ~~(3)~~ Any combination of congregate meals and kitchen facilities in each
2 resident's living quarters sufficient to assure each resident adequate
3 access to meals;
- 4 e. Assures provision of:
- 5 ~~(1)~~ Personal care, therapeutic care, and social and recreational
6 programming;
- 7 ~~(2)~~ Supervision, safety, and security;
- 8 ~~(3)~~ Medication services; and
- 9 ~~(4)~~ Transportation services;
- 10 d. Fosters dignity, respect, and independence by allowing, to the maximum
11 extent feasible, each resident to determine the resident's service providers,
12 routines of care provision, and service delivery; and
- 13 e. Services five or more adult residents, unrelated to the proprietor, on a
14 specified premises not licensed under chapter 23-20 or 25-16, which meets
15 the requirements of the national fire protection association 101 Life Safety
16 Code, as applicable.
- 17 ~~3.~~ "Basic care facility" has the meaning provided in section 23-09.3-01.
- 18 4. "Conversion" means:
- 19 a. ~~The remodeling of existing space and, if necessary, the construction of~~
20 ~~additional space required to accommodate basic care facility services,~~
21 ~~assisted living facility services, or other alternatives to nursing facility care; or~~
- 22 b. ~~New construction of a basic care facility, assisted living facility, or other~~
23 ~~alternative to nursing facility care if existing nursing facility beds are no longer~~
24 ~~licensed and the department determines that new construction is more cost~~
25 ~~effective than the conversion of existing space.~~
- 26 ~~5.~~ 2. "Department" means the department of human services.
- 27 ~~6.~~ 3. "Medical assistance" means a program established under title XIX of the Social
28 Security Act [42 U.S.C. 1396; et seq.] and chapter 50-24.1.
- 29 ~~7.~~ 4. "Nursing facility" has the same meaning as provided in section 50-24.4-01 for the
30 term "nursing home".

1 **SECTION 13. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-30-02. (~~Effective through June 30, 2001~~—See notes) North Dakota health care**
4 **trust fund created - Appropriation Uses - Continuing appropriation.** There is hereby
5 created in the state treasury a special fund known as the North Dakota health care trust fund.
6 The fund ~~shall include~~ consists of revenue received from ~~governmental~~ government nursing
7 facilities for remittance to the fund under section 50-24.4-30. The department shall administer
8 the fund and shall adopt procedures for participation by ~~governmental~~ government nursing
9 facilities. ~~All moneys designated for the fund from whatever source derived must be deposited~~
10 ~~with the state treasurer in the North Dakota health care trust fund.~~ The state treasurer
11 investment board shall invest ~~such funds in interest bearing accounts, as designated by the~~
12 ~~department~~ moneys in the fund in accordance with chapter 21-10, and the interest income
13 earned must be deposited in the North Dakota health care trust fund. All moneys deposited in
14 the North Dakota health care trust fund are available to the department, ~~subject to legislative~~
15 ~~appropriation, for disbursement pursuant to the requirements of this chapter.:~~

- 16 1. Transfer to the long-term care facility loan fund, as authorized by legislative
17 appropriation, for making loans pursuant to the requirements of this chapter.
- 18 2. Payment, as authorized by legislative appropriation, of costs of other programs
19 authorized by the legislative assembly.
- 20 3. Repayment of federal funds, which are appropriated and may be spent if the
21 United States department of health and human services determines that funds
22 were inappropriately claimed under section 50-24.4-30.

23 **SECTION 14. AMENDMENT.** Section 50-30-04 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **50-30-04. (~~Effective through June 30, 2001~~—See notes) ~~Department to award~~**
26 **~~grants or make loan guarantees~~ Long-term care facility loans.**

- 27 1. The department may ~~award grants from the nursing facility alternative grant fund or~~
28 ~~approve loans from the nursing~~ long-term care facility alternative loan fund
29 ~~established under chapter 6-09.16 for capital or one-time expenditures, including~~
30 ~~startup and training expenses and operating losses for the first year:~~

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- 1 a. ~~To any renovation projects involving a nursing facility which has been~~
2 approved for at least three years as a provider under the medical assistance
3 program to convert all or a portion of the facility licensed to provide such care
4 to a, basic care facility, or assisted living facility, ~~or other alternative to nursing~~
5 facility care; or
- 6 b. ~~To any other entity meeting conditions established by the department to~~
7 develop a basic care facility, assisted living facility, or other alternative to
8 nursing facility care.
- 9 2. ~~A nursing facility or other entity may be eligible for a grant or loan only if the basic~~
10 ~~care facility, assisted living facility, or other alternative to nursing facility care is~~
11 located in an underserved area as determined by the department.
- 12 3. ~~To be eligible for a grant or loan under this section, the nursing facility or other~~
13 entity approved by the department shall provide at least twenty percent of the total
14 cost of any conversion. ~~The department shall establish policies and procedures for~~
15 certification of the required matching funds. ~~The department's share of the total~~
16 cost of An approved loan for any conversion is limited to project may not exceed
17 one million dollars or eighty ninety percent of the project cost, whichever is less.
- 18 4. ~~The department shall annually establish a calendar for receiving and evaluating~~
19 proposals and awarding grants or approving loans.
- 20 5. ~~No grant or loan application may be approved by the department unless the~~
21 applicant can demonstrate that:
- 22 a. ~~Conversion of the nursing facility or portion of the facility to a basic care~~
23 ~~facility, assisted living facility, or other alternative to nursing facility care may~~
24 offer efficient and economical care to individuals requiring long term care
25 services in the area;
- 26 b. ~~Basic care, assisted living services, or other alternatives to nursing facility~~
27 ~~care are unlikely to be available in the area for individuals eligible for services~~
28 under the medical assistance program; and
- 29 c. ~~The resulting reduction in the availability of nursing facility service is not~~
30 expected to cause undue hardship on those individuals requiring nursing
31 facility services.

- 1 3. The department shall give preference for loan approval to an applicant that is
2 converting nursing facility bed capacity to basic care bed capacity.
- 3 6- 4. No ~~grant may be awarded~~ or loan may be approved unless the applicant agrees:
4 a. ~~To maintain a minimum occupancy rate by individuals eligible for~~
5 ~~supplemental security income benefits provided under title XVI of the Social~~
6 ~~Security Act [42 U.S.C. 1382, et seq.]; and~~
- 7 b. ~~To refund to repay to the nursing facility alternative grant fund or the nursing~~
8 long-term care facility alternative loan fund, on an amortized basis, the
9 amount outstanding balance of the grant or loan and any accrued interest if
10 the applicant or its successor in interest ceases to operate ~~a basic care~~
11 ~~facility, assisted living facility, or other alternative to nursing facility care~~ the
12 project or facility financed by the loan proceeds during the ten-year period
13 after the date the applicant began operation of ~~its the project or~~ facility as a
14 ~~basic care facility, assisted living facility, or other alternative to nursing facility~~
15 ~~care ceases to maintain the agreed minimum occupancy rate or fails to~~
16 commence operations within a reasonable time.
- 17 7- 5. In addition to other remedies provided by law or contract, the department may
18 deduct the amount of any refund due from a recipient of ~~grant or a loan guarantee~~
19 ~~funds~~ from any money owed by the department to such recipient or the recipient's
20 successor in interest.

21 **SECTION 15. NURSING FACILITY ALTERNATIVE GRANT FUND - TRANSFER -**
22 **GRANTS ADMINISTRATION.** The state treasurer shall transfer any remaining balance in the
23 nursing facility alternative grant fund on June 30, 2001, to the health care trust fund. The
24 department of human services may continue making grant payments relating to grants
25 approved during the 1999-2001 biennium under the nursing facility alternative grant fund. The
26 department may spend moneys in the health care trust fund pursuant to legislative
27 appropriations for the purpose of making these grant payments, for the biennium beginning
28 July 1, 2001, and ending June 30, 2003.

29 **SECTION 16. NURSING FACILITY ALTERNATIVE LOANS - 1999-2001 BIENNIUM -**
30 **INTEREST RATE ADJUSTMENT.** The Bank of North Dakota and the department of human
31 services shall adjust the rate of interest charged on nursing facility alternative loans approved

1 during the biennium beginning July 1, 1999, and ending June 30, 2001, to a rate equivalent to
2 two percent effective July 1, 2001, taking into consideration any grants approved in conjunction
3 with the loan.

4 **SECTION 17. LEGISLATIVE INTENT - HEALTH CARE TRUST FUND USES.** It is the
5 intent of the fifty-seventh legislative assembly that the June 30, 2003, unobligated balance in
6 the health care trust fund and any investment earnings on that amount during the 2003-05
7 biennium not be appropriated but be retained in the fund to be used to continue, for periods
8 subsequent to the 2003-05 biennium, the increased funding levels authorized in this Act for the
9 2001-03 biennium.

10 **SECTION 18. APPROPRIATION - GOVERNMENT NURSING FACILITY FUNDING**
11 **POOL.** The funds provided in this section, or so much of the funds as may be necessary, are
12 appropriated out of any moneys in the general fund in the state treasury, not otherwise
13 appropriated, and from special funds derived from federal funds, to the department of human
14 services for the purpose of making government nursing facility funding pool payments under
15 section 50-24.4-30, for the biennium beginning July 1, 2001, and ending June 30, 2003.

16 Total all funds	\$38,750,000
17 Less estimated income	<u>27,100,000</u>
18 Total general fund appropriation	\$11,650,000

19 **SECTION 19. ADDITIONAL GOVERNMENT NURSING FACILITY FUNDING POOL**
20 **PAYMENTS - CONTINUING APPROPRIATION - GENERAL FUND REPAYMENT.** Any
21 estimated income in excess of the \$27,100,000 appropriated in section 18 of this Act which
22 becomes available based on the calculation provided for in section 50-24.4-30 is appropriated
23 and may be spent by the department of human services for the purpose of making the
24 additional government nursing facility fund pool payments for the biennium beginning July 1,
25 2001, and ending June 30, 2003. Any additional state matching funds required are
26 appropriated and may be spent from the general fund by the department of human services for
27 the purpose of making the additional payments, for the biennium beginning July 1, 2001, and
28 ending June 30, 2003. Any general fund amounts spent pursuant to this section must be
29 returned to the general fund within two days.

30 **SECTION 20. APPROPRIATION - 1999-2001 BIENNIUM GOVERNMENT NURSING**
31 **FACILITY TRANSACTION FEE.** There is appropriated out of any moneys in the health care

1 trust fund in the state treasury, not otherwise appropriated, the sum of \$800,000, or so much of
2 the sum as may be necessary, to the department of human services for the purpose of making
3 an additional transaction fee payment to the government nursing facilities, for the period
4 beginning with the effective date of this Act and ending June 30, 2001. Notwithstanding section
5 50-24.4-30, the department of human services shall make a transaction fee payment of
6 \$400,000 to the government nursing facility in Dunseith and a transaction fee payment of
7 \$400,000 to the government nursing facility in McVille by June 30, 2001. The additional
8 payment relates to government nursing facility funding pool payments made before the
9 effective date of this Act. Each government nursing facility shall use its transaction fee revenue
10 for long-term care-related services.

11 **SECTION 21. APPROPRIATION - ADMINISTRATIVE COSTS.** There is appropriated
12 out of any moneys in the health care trust fund in the state treasury, not otherwise
13 appropriated, the sum of \$71,158, or so much of the sum as may be necessary, to the
14 department of human services for the purpose of defraying the administrative costs associated
15 with the intergovernmental transfer program, for the biennium beginning July 1, 2001, and
16 ending June 30, 2003.

17 **SECTION 22. APPROPRIATION - LONG-TERM CARE FACILITY LOANS.** There is
18 appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise
19 appropriated, the sum of \$8,899,774, or so much of the sum as may be necessary, to the
20 department of human services for the purpose of making transfers to the long-term care facility
21 loan fund for loans approved under chapter 50-30, for the biennium beginning July 1, 2001, and
22 ending June 30, 2003. Of this amount \$3,920,000 relates to commitments made during the
23 biennium beginning July 1, 1999, and ending June 30, 2001.

24 **SECTION 23. APPROPRIATION - NURSING HOME BED REDUCTION.** There is
25 appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise
26 appropriated, the sum of \$4,100,000, or so much of the sum as may be necessary, to the
27 department of human services for the purpose of providing incentives to nursing homes to
28 reduce licensed nursing facility bed capacity for the biennium beginning July 1, 2001, and
29 ending June 30, 2003. The department of human services may pay incentives of up to \$10,000
30 per bed to nursing facilities that reduce licensed nursing facility bed capacity by at least eight
31 beds and incentives of up to \$2,500 per bed to nursing facilities that reduce licensed nursing

1 facility bed capacity by fewer than eight beds. An incentive may not be paid for nursing facility
2 bed capacity that is temporarily converted to basic care bed capacity.

3 **SECTION 24. APPROPRIATION - NURSING HOME COMPENSATION**

4 **ENHANCEMENT.** There is appropriated out of any moneys in the health care trust fund in the
5 state treasury, not otherwise appropriated, the sum of \$8,189,054, or so much of the sum as
6 may be necessary, and from special funds derived from federal funds the sum of \$19,107,793,
7 or so much of the sum as may be necessary, to the department of human services for the
8 purpose of providing salary and benefit enhancements to nursing facility employees, or if a
9 facility is combined with a hospital, to nursing facility and hospital employees, for the biennium
10 beginning July 1, 2001, and ending June 30, 2003. The department of human services shall
11 increase nursing facility payment rates to provide for these increases beginning July 1, 2001.

12 **SECTION 25. APPROPRIATION - BASIC CARE COMPENSATION ENHANCEMENT.**

13 There is appropriated out of any moneys in the health care trust fund in the state treasury, not
14 otherwise appropriated, the sum of \$202,080, or so much of the sum as may be necessary, and
15 from special funds derived from federal funds the sum of \$471,520, or so much of the sum as
16 may be necessary, to the department of human services for the purpose of providing salary and
17 benefit enhancements to basic care facility employees, for the biennium beginning July 1, 2001,
18 and ending June 30, 2003. The department of human services shall increase basic care facility
19 payment rates to provide for these increases beginning July 1, 2001.

20 **SECTION 26. APPROPRIATION - NURSING HOME REBASING.** There is

21 appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise
22 appropriated, the sum of \$681,846, or so much of the sum as may be necessary, and from
23 special funds derived from federal funds, the sum of \$1,590,974, or so much of the sum as may
24 be necessary, to the department of human services for the purpose of recognizing increased
25 costs as a result of rebasing nursing facility limits based on cost reports for the year ending
26 June 30, 1999, for the period beginning January 1, 2002, and ending June 30, 2003.

27 **SECTION 27. APPROPRIATION - PERSONAL CARE ALLOWANCE FOR NURSING**
28 **FACILITY AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**

29 **RESIDENTS.** There is appropriated out of any moneys in the health care trust fund in the state
30 treasury, not otherwise appropriated, the sum of \$309,600, or so much of the sum as may be
31 necessary, and from special funds derived from federal funds, the sum of \$708,000, or so much

1 of the sum as may be necessary, to the department of human services for the purpose of
2 increasing the personal care allowance for nursing home and intermediate care for the mentally
3 retarded residents by \$10 per month, from \$40 to \$50 per month, for the period beginning
4 January 1, 2002, and ending June 30, 2003.

5 **SECTION 28. APPROPRIATION - PERSONAL CARE ALLOWANCE FOR BASIC**
6 **CARE RESIDENTS.** There is appropriated out of any moneys in the health care trust fund in
7 the state treasury, not otherwise appropriated, the sum of \$180,000, or so much of the sum as
8 may be necessary, to the department of human services for the purpose of increasing the
9 personal care allowance for basic care residents by \$15 per month, from \$45 to \$60 per month,
10 for the biennium beginning July 1, 2001, and ending June 30, 2003.

11 **SECTION 29. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE NEEDS.** The
12 legislative council shall consider studying, during the 2001-02 interim, the long-term care needs
13 in North Dakota. If studied, the legislative council shall receive progress reports and a final
14 report from the department of human services on the statewide needs assessment study for
15 long-term care.

16 **SECTION 30. APPROPRIATION - LONG-TERM CARE NEEDS STUDY.** There is
17 appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise
18 appropriated, the sum of \$241,006, or so much of the sum as may be necessary, to the
19 department of human services for the purpose of conducting a statewide needs assessment
20 study for long-term care, for the biennium beginning July 1, 2001, and ending June 30, 2003.

21 **SECTION 31. TRANSFER - NURSING FACILITY NURSES STUDENT LOAN**
22 **PAYMENT FUND.** The office of management and budget shall transfer \$1,000,000 from the
23 health care trust fund to the nursing facility nurses student loan payment fund on July 1, 2001.

24 **SECTION 32. APPROPRIATION - STATE DEPARTMENT OF HEALTH - NURSING**
25 **FACILITY NURSES STUDENT LOAN PAYMENT FUND - ADDITIONAL SPENDING**
26 **AUTHORITY - EMERGENCY COMMISSION APPROVAL.** There is appropriated out of any
27 moneys in the nursing facility nurses student loan payment fund in the state treasury, not
28 otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to
29 the state department of health for the purpose of making nursing facility nurses student loan
30 payments, for the biennium beginning July 1, 2001, and ending June 30, 2003. The state
31 department of health may request emergency commission and budget section approval to

1 spend additional moneys from the fund for making nursing facility nurses student loan
2 payments, which is appropriated for the biennium beginning July 1, 2001, and ending June 30,
3 2003.

4 **SECTION 33. APPROPRIATION - SERVICE PAYMENTS FOR THE ELDERLY AND**
5 **DISABLED.** There is appropriated out of any moneys in the health care trust fund in the state
6 treasury, not otherwise appropriated, the sum of \$6,898,302, or so much of the sum as may be
7 necessary, to the department of human services for the purpose of making service payments
8 for the elderly and disabled, for the biennium beginning July 1, 2001, and ending June 30,
9 2003.

10 **SECTION 34. APPROPRIATION - HEALTH INSURANCE PORTABILITY AND**
11 **ACCOUNTABILITY ACT.** There is appropriated out of any moneys in the health care trust
12 fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the
13 sum as may be necessary, and from special funds derived from federal funds, the sum of
14 \$5,055,347, or so much of the sum as may be necessary, to the department of human services
15 for the purpose of defraying the expenses of complying with the federal Health Insurance
16 Portability and Accountability Act or other technology projects, for the period beginning with the
17 effective date of this Act and ending June 30, 2003.

18 **SECTION 35. APPROPRIATION - 1999-2001 BIENNIUM NURSING FACILITY**
19 **GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state
20 treasury, not otherwise appropriated, the sum of \$100,226, or so much of the sum as may be
21 necessary, to the department of human services for the purpose of making payments on grants
22 approved under the nursing facility alternative grant fund during the 1999-2001 biennium, for
23 the biennium beginning July 1, 2001, and ending June 30, 2003.

24 **SECTION 36. APPROPRIATION - SENIOR CITIZEN MILL LEVY MATCHING**
25 **GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state
26 treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be
27 necessary, to the department of human services for the purpose of providing additional senior
28 citizen mill levy matching grants, for the biennium beginning July 1, 2001, and ending June 30,
29 2003.

30 **SECTION 37. APPROPRIATION - MEDICAL ASSISTANCE - TARGETED CASE**
31 **MANAGEMENT SERVICES.** There is appropriated out of any moneys in the health care trust

1 fund in the state treasury, not otherwise appropriated, the sum of \$338,530, or so much of the
2 sum as may be necessary, and from special funds derived from federal funds, the sum of
3 \$769,220, or so much of the sum as may be necessary, to the department of human services
4 for the purpose of making medical assistance payments for targeted case management
5 services, for the biennium beginning July 1, 2001, and ending June 30, 2003.

6 **SECTION 38. APPROPRIATION - INDEPENDENT LIVING CENTER GRANTS.**

7 There is appropriated out of any moneys in the health care trust fund in the state treasury, not
8 otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to
9 the department of human services for the purpose of providing grants to independent living
10 centers, for the biennium beginning July 1, 2001, and ending June 30, 2003.

11 **SECTION 39. APPROPRIATION - TRAINING GRANTS.** There is appropriated out of
12 any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the
13 sum of \$140,000, or so much of the sum as may be necessary, to the department of human
14 services for the purpose of providing grants to organizations for training qualified service
15 providers, for the biennium beginning July 1, 2001, and ending June 30, 2003. A qualified
16 service provider means a county agency or independent contractor that agrees to meet
17 standards for services and operations established by the department of human services for the
18 provision of services to individuals receiving long-term care services in a home or
19 community-based setting.

20 **SECTION 40. HEALTH CARE TRUST FUND - MINIMUM BALANCE REQUIRED.**

21 Except for making payments under subsection 3 of section 50-30-02, the state treasurer may
22 not allow expenditures or transfers from the health care trust fund that would reduce the
23 unobligated balance in the fund below \$13,000,000 until the director of the department of
24 human services certifies to the state treasurer that the federal health care financing
25 administration's claim for the return of \$13,000,000 of the state's first-year payment has been
26 resolved, for the period beginning with the effective date of this Act and ending June 30, 2003.

27 **SECTION 41. DEPARTMENT OF HUMAN SERVICES - EMERGENCY**

28 **RULEMAKING AUTHORITY.** Notwithstanding subsection 6 of section 28-32-02, the
29 department of human services may adopt interim final rules to implement this Act for the
30 biennium beginning with the effective date of this Act and ending June 30, 2003. The
31 department shall take appropriate measures to make the interim final rules known to every

1 person who may be affected by them. The interim final rules are ineffective one hundred eighty
2 days after its declared effective date unless first adopted as final rules.

3 **SECTION 42. EXPIRATION DATE.** Sections 8 and 9 of this Act are effective through
4 July 31, 2003, and after that date are ineffective.

5 **SECTION 43. EMERGENCY.** Sections 20, 34, 40, and 41 of this Act are declared to
6 be an emergency measure.