98013.0400

Sixty-first
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT
with Senate Amendments

ENGROSSED HOUSE BILL NO. 1012

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the department of human services; to provide a contingent appropriation; to provide for legislative council studies; to provide statements of legislative intent; to create and enact a new subsection to section 50-25.1-05 of the North Dakota Century Code, relating to the adoption of rules regarding the recording of interviews in child abuse or neglect cases; to amend and reenact sections 25-04-05, 50-06-29, 50-24.1-02.6, 50-24.5-04, and 50-30-02 of the North Dakota Century Code, relating to developmental center admission screenings, the establishment of an aging and disability resource link, medical assistance eligibility, the personal needs allowance for individuals in basic care facilities, and use of the health care trust fund; and to repeal section 4 of chapter 422 of the 2007 Session Laws, relating to the effective date of the expansion of medical assistance benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

Subdivision 1.

MANAGEMENT

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$11,512,358	$7,664,509	$19,176,867
Operating expenses	60,110,356	(12,979,144)	47,131,212

Capital assets	285	(285)	0
Total all funds	$71,622,999	($5,314,920)	$66,308,079
Less estimated income	50,663,834	(14,544,808)	36,119,026
Total general fund	$20,959,165	$9,229,888	$30,189,053

Subdivision 2.

PROGRAM AND POLICY

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$25,411,041	$16,221,145	$41,632,186
Operating expenses	67,811,802	6,622,596	74,434,398
Capital assets	399	12,601	13,000
Grants	344,019,216	111,781,588	455,800,804
Grants - Medical assistance	1,117,187,821	214,327,791	1,331,515,612
State administrative	12,488,292	(12,488,292)	0
child support			
Total all funds	$1,566,918,571	$336,477,429	$1,903,396,000
Less estimated income	1,126,663,567	271,725,995	1,398,389,562
Total general fund	$440,255,004	$64,751,434	$505,006,438

Subdivision 3.

HUMAN SERVICE CENTERS AND INSTITUTIONS

	Base Level	Adjustments or Enhancements	Appropriation
Northwest human service center	$7,493,897	$1,026,397	$8,520,294
North central human service center	16,782,604	4,080,946	20,863,550
Lake region human service center	9,817,355	1,153,359	10,970,714
Northeast human service center	22,107,349	4,178,237	26,285,586
Southeast human service center	26,061,630	5,370,959	31,432,589
South central human service center	14,683,811	1,101,416	15,785,227
West central human service center	20,687,272	4,489,089	25,176,361
Badlands human service center	9,798,789	1,891,646	11,690,435
State hospital	57,391,944	12,508,784	69,900,728

Developmental center	46,793,933	7,221,144	54,015,077
Total all funds	$231,618,584	$43,021,977	$274,640,561
Less estimated income	112,757,229	16,139,178	128,896,407
Total general fund	$118,861,355	$26,882,799	$145,744,154

Subdivision 4.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	$580,075,524	$101,828,152	$681,903,676
Grand total special funds	1,290,084,630	359,292,050	1,649,376,680
Grand total all funds	$1,870,160,154	$461,120,202	$2,331,280,356
Full-time equivalent positions	2223.38	(6.50)	2216.88

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $226,442, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of $130,678, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal needs allowance for individuals in basic care facilities and intermediate care facilities for the mentally retarded to $95 per month, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of human services for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Federal medical assistance percentage	$66,500,000
Elderly nutrition services	485,000
Child support incentive matching funds	3,200,000
Rehabilitation services and disability assistance	2,043,000

and independent living	
Individuals With Disabilities Education Act - Part C	2,140,000
Supplemental nutrition assistance program benefits and administration	9,874,747
Senior employment program	143,288
Older blind	3,170
Total federal funds	$84,389,205

The department of human services may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section, except for the funding of $66,500,000 relating to the federal medical assistance percentage and funding of $2,763,082 of child support incentive matching funds, are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act funds are no longer available.

SECTION 4. GENERAL FUND TRANSFER TO BUDGET STABILIZATION FUND - EXCEPTION - USE OF GENERAL FUND AMOUNTS. Notwithstanding section 54-27.2-02, the state treasurer and the office of management and budget may not include in the amount used to determine general fund transfers to the budget stabilization fund at the end of the 2007-09 biennium under chapter 54-27.2 any general fund amounts resulting from the increased federal share of medical assistance payments resulting from federal medical assistance percentage changes under the federal American Recovery and Reinvestment Act of 2009. The state treasurer and the office of management and budget shall separately account for these amounts and 2009-11 biennium general fund amounts resulting from federal medical assistance percentage changes under the federal American Recovery and Reinvestment Act of 2009 and use these amounts to defray the expenses of continuing program costs of the department of human services from the general fund for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

Inflationary increases for human service providers	$32,564,450
Rate increases for selected medicaid services due to rebasing	21,788,982
Rate increases for nursing homes due to property limit changes	3,000,000
Wage increases for employees of nursing homes, basic care, and developmental disabilities services providers and qualified service providers	15,867,327
Global behavioral health initiative	4,088,873
Salary increases for department of human services employees	18,949,591
Total	$96,259,223

SECTION 5. CONTINGENT APPROPRIATION. If section 24 of this Act becomes effective, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $964,031, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of $1,582,480, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of implementing the expansion of medical assistance benefits for pregnant women as provided for in section 24 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 6. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SECOND LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixtieth legislative assembly for the 2007-09 biennium and the 2009-11 one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2007-09	2009-11
Medicaid management information system project (MMIS)	$3,643,133	$0
State hospital - Sex offender treatment addition project	3,100,000	0
State hospital - Capital improvements	3,062,757	0
State hospital - Extraordinary repairs	1,153,500	0
Developmental center - Capital improvements	300,000	0
Developmental center - Extraordinary repairs	547,092	0
Developmental center - Equipment	80,782	0
Extraordinary repairs	0	3,943,692

Equipment over $5,000	0	352,606
Total general fund	$11,887,264	$4,296,298

The 2009-11 one-time funding amounts are not a part of the entity's base budget for the 2011-13 biennium. The department of human services shall report to the appropriations committees of the sixty-second legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 7. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the department of human services may transfer appropriation authority between line items within each subdivision of section 1 of this Act and between subdivisions within section 1 of this Act for the biennium beginning July 1, 2009, and ending June 30, 2011. The department shall notify the office of management and budget of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2010, any transfers made in excess of $50,000 and to the appropriations committees of the sixty-second legislative assembly regarding any transfers made pursuant to this section.

SECTION 8. ESTIMATED INCOME - LIMIT - HEALTH CARE TRUST FUND. The estimated income line item in subdivision 2 of section 1 of this Act includes $4,324,506 from the health care trust fund for nursing facilities. The department of human services expenditures from this fund may not exceed this amount for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 9. LEGISLATIVE COUNCIL STUDY - CHILD SUPPORT ENFORCEMENT. During the 2009-10 interim, the legislative council shall consider studying the department of human services' child support enforcement program. The study should include the review of arrearages in terms of total owed and interest accrued and child support enforcement activities in other states. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 10. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE. During the 2009-10 interim, the legislative council shall study long-term care services in the state. The study must include a review of the department of human services' payment system and a review of the state department of health's survey and inspection programs and processes. The

legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 11. SUPPLEMENTAL PAYMENTS - BASIC CARE AND NURSING HOME FACILITY SALARY AND BENEFIT INCREASES. The funding appropriated in subdivision 2 of section 1 of this Act includes $22,576,412, of which $7,927,252 is from the general fund, $1,000,000 is from the health care trust fund, and $13,649,160 is from federal funds, for providing supplemental payments to basic care and skilled nursing care facilities to allow for a salary and benefit increase for employees beginning July 1, 2009. Basic care and skilled nursing care facilities may not use the money received under this section for providing salary and benefit enhancements to administrators or directors of nursing.

SECTION 12. SUPPLEMENTAL PAYMENTS - DEVELOPMENTAL DISABILITIES PROVIDER SALARY AND BENEFIT INCREASES. The funding appropriated in subdivision 2 of section 1 of this Act includes $21,639,106, of which $7,086,807 is from the general fund and $14,552,299 is from federal funds, for providing supplemental payments to developmental disabilities providers to allow for a salary and benefit increase for employees beginning July 1, 2009. Developmental disabilities service providers may not use the money received under this section for providing salary and benefit enhancements to administrators.

SECTION 13. LEGISLATIVE INTENT - MEDICAID PROVIDER PAYMENTS. It is the intent of the legislative assembly that the department of human services establish a goal to set medicaid payments for hospitals, physicians, chiropractors, and ambulances at 100 percent of cost.

SECTION 14. SUPPLEMENTAL PAYMENT - CRITICAL ACCESS HOSPITALS. The grants - medical assistance line item in subdivision 2 of section 1 of this Act includes the sum of $400,000 from the general fund that the department of human services shall use for providing a supplemental payment to eligible critical access hospitals. A critical access hospital is eligible for a payment under this section only if its percentage of medical payments exceeds 25 percent of its total annual revenue in its most recent audited financial statements and is located in a city with a population that does not exceed 1,450. The department shall seek federal medicaid funding to provide a portion of the $400,000 supplement payment. If federal medicaid funding is not available for a portion of the payment, the department may spend the $400,000 from the

general fund for making the supplemental payment only if the action will not result in a reduction in federal medicaid funding to the state.

SECTION 15. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES MEDICALLY FRAGILE. It is the intent of the sixty-first legislative assembly that the additional funding for severely medically fragile and behaviorally challenged individuals be provided to the Anne Carlsen center and other similar private providers serving individuals with developmental disabilities in proportion to the respective severity of the critical medical and behavioral needs of each individual served by these providers. The funding is to become part of each provider's annual base budget and is not to reduce each provider's entitlement to additional critical needs staffing in future ratesetting by the department.

SECTION 16. LEGISLATIVE INTENT - DEMENTIA CARE SERVICES. It is the intent of the sixty-first legislative assembly that the department of human services integrate the dementia care services program established in House Bill No. 1043 with the home and community-based care services programs of the department.

SECTION 17. LEGISLATIVE COUNCIL STUDY - RETURNING VETERANS AND THEIR FAMILIES. During the 2009-11 interim, the legislative council shall consider studying the impact of veterans who are returning from wars and their families on the state's human services system. The study must include an analysis of the estimated cost of providing human service-related services to the returning veterans and their families, including treatment for traumatic brain injury and mental illness. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 18. LEGISLATIVE INTENT - HOME TELEMONITORING SERVICES. It is the intent of the sixty-first legislative assembly that the department of human services consider the changes necessary to reimburse home telemonitoring services under the medicaid program at the same rate as skilled nursing visits provided in person.

SECTION 19. UNSPENT 2007-09 BIENNIUM - GENERAL FUND APPROPRIATIONS - EXCEPTION. The amount of $270,000 of the $3,100,000 for a sexual offender treatment addition at the state hospital appropriated in subdivision 3 of section 3 of 2007 Senate Bill No. 2012 is not subject to section 54-44.1-11 and may be spent during the 2009-11 biennium for completing roof repair at the state hospital.

SECTION 20. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - ~~Temporary~~ Screening required prior to admission or readmission - Educational or related services without charge for persons twenty-one years of age and under.

1. The superintendent may admit a person to the developmental center at westwood park, Grafton when all of the following conditions have been met:
   a. Application for admission has been made on behalf of the person by a parent or guardian or the person or agency having legal custody, or by the person seeking admission, in accordance with procedures established by the department of human services.
   b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the developmental center at westwood park, Grafton.
   c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of human services.
2. ~~The superintendent~~ No person may ~~admit~~ be admitted or readmitted to the developmental center at westwood park, Grafton, ~~temporarily for the purposes of observation, without commitment,~~ unless that person has undergone a screening process at the developmental center to determine whether the admission or readmission is appropriate. Length of stay criteria may be established under rules as the department of human services may adopt~~, any~~. Any person who is suspected of being able to benefit from the services offered at the center~~,~~ may be screened to ascertain whether or not that person is actually a proper case for care, treatment, and training ~~in~~ at the ~~state facility~~ developmental center. If in the opinion of the superintendent the person ~~temporarily admitted to the developmental center at westwood park, Grafton~~ screened under this subsection is

a proper subject for institutional care, treatment, and training at the developmental center, that person may remain as a voluntary resident at ~~such~~ the center at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Notwithstanding any other provision of this chapter, no handicapped patient, twenty-one years of age or under, or the estate or the parent of such patient, may be charged for educational or related services provided at the developmental center at westwood park, Grafton. Except as provided in subsection 4, the department of human services has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services other than medical and medically related services must be paid by the developmental center at westwood park, Grafton, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.

4. Parents of a handicapped patient, twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of nonhandicapped children. Financial losses do not include incidental costs such as the time needed to file or

assist in filing an insurance claim or the postage needed to mail the claim.

Financial losses include:

a. A decrease in available lifetime coverage or any other benefit under an insurance policy.

b. An increase in premiums or the discontinuation of a policy.

c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the developmental center pays or waives the out-of-pocket expense.

SECTION 21. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. ~~Application for aging~~ Aging and disability resource ~~center funding~~ link - No wrong door model. ~~No later than December 31, 2007, the~~ The department of human services, within the limits of legislative appropriation, shall ~~seek federal funds for the planning~~ plan and ~~implementation of~~ implement an aging and disability resource ~~center for~~ link, "no wrong door" model, initially in up to two regions of the state. The department also may provide additional services or may provide services in multiple regions as required or allowed by any source providing funds for these purposes. The initial resource ~~center will be a single point of information program at the community level which~~ link model will help people residing in the state make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care~~, and which~~. Participating access points will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. Upon receipt of ~~federal funds~~ funding, the department of human services may establish the initial aging and disability resource ~~center~~ link, "no wrong door" model, or it may request bids and award ~~a contract~~ contracts for ~~the provision of this service~~ training and coordination to implement the model utilizing existing community-based access points and for the provision of services. The ~~duties of the aging and disability resource center must include all duties~~ initial model and any subsequent model or variation of the model, as well as any additional locations will provide services consistent with those required ~~to receive federal funds, including~~ by the 2006 amendments to the Older Americans Act [Pub. L. 109-365; 120 Stat. 2522; 42 U.S.C. 3001

et seq.], providing information about the full range of long-term care service and support options available in the state to assure that consumers may make informed decisions about their care. The resource ~~center~~ link's participating access points must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the ~~resource center~~ access points to limit the information given to a consumer to steer the consumer to services that may also be provided by the ~~resource center~~ access points.

SECTION 22. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. ~~(Contingent effective date - See note) Medical assistance benefits - Eligibility criteria.~~

~~1. The department shall provide medical assistance benefits to otherwise eligible persons who are:~~

~~a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and~~

~~b. Minors who have countable income that does not exceed an amount determined under subsection 3.~~

~~2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.~~

~~3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, that provide an income level for all minors born before September 30, 1983, equal to one hundred percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined and that do not exceed legislative appropriations for that purpose.~~

~~4. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.~~

~~(Contingent effective date - See note)~~ Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are:
   a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and
   b. Minors who have countable income that does not exceed an amount determined under subsection 3.
2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.
3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law~~, that provide an income level for all individuals from birth through age eighteen equal to one hundred thirty-three percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined~~.
4. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.

SECTION 23. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. ~~(Contingent effective date - See note) Medical assistance benefits - Eligibility criteria.~~

~~1. The department shall provide medical assistance benefits to otherwise eligible persons who are:~~
   ~~a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and~~
   ~~b. Minors who have countable income that does not exceed an amount determined under subsection 3.~~

~~2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of subsection 3, is the greatest income level achievable without exceeding legislative appropriations for that purpose.~~

~~3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law, that provide an income level for all minors born before September 30, 1983, equal to one hundred percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined and that do not exceed legislative appropriations for that purpose.~~

~~4. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.~~

~~(Contingent effective date - See note)~~ Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are:
   a. Medically needy persons who have countable income that does not exceed an amount determined under subsection 2; and
   b. Minors who have countable income that does not exceed an amount determined under subsection 3.
2. The department of human services shall establish an income level for medically needy persons at an amount, no less than required by federal law, that, consistent with the requirements of ~~subsection~~ subsections 3 and 4, is the greatest income level achievable without exceeding legislative appropriations for that purpose.
3. The department of human services shall establish income levels for minors, based on the age of the minors, at amounts, no less than required by federal law~~, that provide an income level for all individuals from birth through age eighteen equal to one hundred thirty-three percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined~~.

4. The department of human services shall establish income levels for pregnant women at an amount, no less than required by federal law, equal to one hundred sixty-five percent of the federal poverty level in the month for which eligibility for medical assistance benefits is being determined.

5. The department of human services shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.

SECTION 24. AMENDMENT. Section 50-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-04. Services provided - Limit on cost. Services provided under this chapter must be treated as necessary remedial care to the extent those services are not covered under the medical assistance program. The cost of the services provided under this chapter to a person residing in a basic care or adult family foster care facility for which the rate charged includes room and board is limited to the rate set for services in that facility, plus ~~sixty~~ ninety-five dollars, less that person's total income.

SECTION 25. A new subsection to section 50-25.1-05 of the North Dakota Century Code is created and enacted as follows:

The department shall adopt rules that require all interviews of the alleged abused or neglected child conducted under this section to be audio-recorded or video-recorded, when possible. The rules must provide that a recording may not be disclosed except in accordance with section 50-25.1-11.

SECTION 26. AMENDMENT. Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must

be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:

a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.

b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.

c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.

2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.

3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06.

SECTION 27. REPEAL. Section 4 of chapter 422 of the 2007 Session Laws is repealed.

SECTION 28. EFFECTIVE DATE. Section 24 of this Act becomes effective on the date the department of human services certifies to the legislative council that the department has received approval to claim federal financial participation to expand medical assistance benefits to pregnant women as provided for in section 1 of this Act, but may not become effective earlier than January 1, 2010.

SECTION 29. EMERGENCY. Sections 3 and 19 of this Act are declared to be an emergency measure.