

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED HOUSE BILL NO. 1012**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide appropriations for defraying the expenses of the department of
2 human services; to authorize the department of human services to convey land in Walsh
3 County; to amend and reenact subsection 1 of section 23-09.3-01.1, subsection 1 of section
4 23-16-01.1, section 50-24.1-37, and subsection 1 of section 54-27-25 of the North Dakota
5 Century Code, relating to the moratorium on basic care, nursing facility bed capacity, Medicaid
6 expansion, and tobacco settlement trust fund transfers; to repeal section 50-24.1-37 of the
7 North Dakota Century Code, relating to the Medicaid expansion program; to provide for
8 exemptions; to provide statements of legislative intent; to provide for reports to the legislative
9 management; to provide for legislative management studies; to authorize transfers; to provide
10 an expiration date; to provide a contingent effective date; and to declare an emergency.

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

12 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
13 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
14 treasury, not otherwise appropriated, and from special funds derived from federal funds and
15 other income, to the department of human services for the purpose of defraying the expenses
16 of its various divisions, for the biennium beginning July 1, 2017, and ending June 30, 2019, as
17 follows:

18 Subdivision 1.

19 MANAGEMENT

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
20			
21			
22	Salaries and wages	\$28,049,386	(\$1,769,247) \$26,280,139
23	Operating expenses	87,542,966	72,572,860 160,115,826
24	Capital assets	26,000	(26,000) 0

Sixty-fifth
Legislative Assembly

1	Grants	<u>0</u>	<u>204,000</u>	<u>204,000</u>
2	Total all funds	\$115,618,352	\$70,981,613	\$186,599,965
3	Less estimated income	<u>71,324,758</u>	<u>58,154,800</u>	<u>129,479,558</u>
4	Total general fund	\$44,293,594	\$12,826,813	\$57,120,407
5	Subdivision 2.			

PROGRAM AND POLICY

6			Adjustments or	
7		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
8	Salaries and wages	\$58,102,898	\$3,667,008	\$61,769,906
9	Operating expenses	107,383,843	17,338,098	124,721,941
10	Capital assets	0	10,000	10,000
11	Grants	457,953,280	(24,485,621)	433,467,659
12	Grants - medical assistance	<u>2,384,560,568</u>	<u>213,559,361</u>	<u>2,598,119,929</u>
13	Total all funds	\$3,008,000,589	\$210,088,846	\$3,218,089,435
14	Less estimated income	<u>1,995,024,801</u>	<u>165,841,615</u>	<u>2,160,866,416</u>
15	Total general fund	\$1,012,975,788	\$44,247,231	\$1,057,223,019
16	Subdivision 3.			

FIELD SERVICES

18			Adjustments or	
19		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
20	Human service centers	\$198,888,443	(\$2,838,954)	\$196,049,489
21	Institutions	<u>139,587,498</u>	<u>833,726</u>	<u>140,421,224</u>
22	Total all funds	\$338,475,941	(\$2,005,228)	\$336,470,713
23	Less estimated income	<u>132,820,302</u>	<u>5,723,403</u>	<u>138,543,705</u>
24	Total general fund	\$205,655,639	(\$7,728,631)	\$197,927,008
25	Subdivision 4.			

COUNTY SOCIAL SERVICE FINANCING

27			Adjustments or	
28		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
29	County social service financing	<u>\$0</u>	<u>\$26,000,000</u>	<u>\$26,000,000</u>
30	Total all funds	\$0	\$26,000,000	\$26,000,000

Sixty-fifth
Legislative Assembly

1	Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
2	Total general fund	\$0	\$26,000,000	\$26,000,000
3	Subdivision 5.			
4		BILL TOTAL		
5			Adjustments or	
6		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
7	Grand total general fund	\$1,262,925,021	\$75,345,413	\$1,338,270,434
8	Grand total special funds	<u>2,199,169,861</u>	<u>229,719,818</u>	<u>2,428,889,679</u>
9	Grand total all funds	\$3,462,094,882	\$305,065,231	\$3,767,160,113
10	Full-time equivalent positions	2,211.08	(54.85)	2,156.23

11 **SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act
 12 includes the sum of \$5,914,453, of which \$4,962,381 is from the general fund, for increases in
 13 employee health insurance premiums from \$1,130 to \$1,241 per month.

14 **SECTION 3. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
 15 **SIXTY-SIXTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
 16 items approved by the sixty-fourth legislative assembly as adjusted for the 2015-17 biennium
 17 and the 2017-19 biennium one-time funding items included in the appropriations in section 1 of
 18 this Act:

19	<u>One-Time Funding Description</u>	<u>2015-17</u>	<u>2017-19</u>
20	Developmental disabilities equipment	\$10,000	\$0
21	Heating plant repairs and upgrades - state hospital	1,156,000	0
22	Heating plant repairs and upgrades - life skills and	75,000	0
23	transition center		
24	Window replacement - life skills and transition center	44,000	0
25	Equipment over \$5,000 - state hospital	275,000	0
26	Equipment over \$5,000 - life skills and transition center	200,000	0
27	Extraordinary repairs - state hospital	1,000,000	0
28	Extraordinary repairs - life skills and transition center	1,250,000	0
29	Assistive technology services	80,000	0
30	Modification of eligibility systems	60,872,269	0

Sixty-fifth
Legislative Assembly

1	Medicaid expansion - fee schedule enhancement	0	226,000,000
2	County social services pilot program	0	26,000,000
3	Child care licensing and data system	0	3,000,000
4	Health information network/care coordination	<u>0</u>	<u>40,800,000</u>
5	Total all funds	\$64,962,269	\$295,800,000
6	Less estimated income	<u>46,870,102</u>	<u>269,800,000</u>
7	Total general fund	\$18,092,167	\$26,000,000

8 The 2017-19 biennium one-time funding amounts are not a part of the entity's base budget for
9 the 2019-21 biennium. The department of human services shall report to the appropriations
10 committees of the sixty-sixth legislative assembly on the use of this one-time funding for the
11 biennium beginning July 1, 2017, and ending June 30, 2019.

12 **SECTION 4. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.** Notwithstanding
13 section 54-16-04, the department of human services may transfer appropriation authority
14 between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium
15 beginning July 1, 2017, and ending June 30, 2019. The department of human services shall
16 notify the office of management and budget and the legislative council of any transfer made
17 pursuant to this section. The department shall report to the budget section after June 30, 2018,
18 any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-sixth
19 legislative assembly regarding any transfers made pursuant to this section.

20 **SECTION 5. EXEMPTION.** The amount appropriated for the replacement of the Medicaid
21 management information system and related projects in chapter 50 of the 2007 Session Laws
22 and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11.
23 Any unexpended funds from these appropriations approved under section 54-44.1-11 for
24 continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15
25 biennium and then the 2015-17 biennium are available for the completion of the Medicaid
26 management information system and related projects during the biennium beginning July 1,
27 2017, and ending June 30, 2019.

28 **SECTION 6. EXEMPTION.** The amount appropriated for the modification of the department
29 of human services' eligibility systems in chapter 578 of the 2011 Special Session Session Laws
30 is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this
31 appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium

1 and then the 2015-17 biennium are available for the completion of the modification of the
2 eligibility systems project during the biennium beginning July 1, 2017, and ending June 30,
3 2019.

4 **SECTION 7. EXEMPTION.** The amount appropriated for the development of the electronic
5 health records system in chapter 12 of the 2013 Session Laws is not subject to the provisions of
6 section 54-44.1-11. Any unexpended funds from this appropriation approved under section
7 54-44.1-11 for continuation into the 2015-17 biennium are available for the completion of the
8 electronic health records system during the biennium beginning July 1, 2017, and ending
9 June 30, 2019.

10 **SECTION 8. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
11 \$37,779,159 is from the tobacco prevention and control trust fund for the purpose of defraying
12 expenses of the department of human services, for the biennium beginning July 1, 2017, and
13 ending June 30, 2019.

14 **SECTION 9. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
15 \$1,686,191 is from the health care trust fund for the purpose of defraying expenses of long-term
16 care services programs, for the biennium beginning July 1, 2017, and ending June 30, 2019.

17 **SECTION 10. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
18 \$18,000,000 is from the community health trust fund for the purpose of defraying expenses in
19 the medical services division, for the biennium beginning July 1, 2017, and ending June 30,
20 2019.

21 **SECTION 11. APPROPRIATION - 2015-17 BIENNIUM.** There is appropriated out of special
22 funds derived from federal funds, not otherwise appropriated, the sum of \$9,000,000, or so
23 much of the sum as may be necessary, to the department of human services for the purpose of
24 defraying medical assistance grant costs, for the period beginning with the effective date of this
25 Act and ending June 30, 2017.

26 **SECTION 12. APPROPRIATION - 2015-17 BIENNIUM - REBASING, OPERATING**
27 **MARGINS, AND INCENTIVES.** There is appropriated out of any moneys in the general fund in
28 the state treasury, not otherwise appropriated, the sum of \$417,010, or so much of the sum as
29 may be necessary, and from special funds derived from federal funds and other income, the
30 sum of \$417,010, or so much of the sum as may be necessary, to the department of human

1 services for the purpose of adjusting long-term care facility rates relating to rebasing, operating
2 margins, and incentives, for the period beginning June 1, 2017, and ending June 30, 2017.

3 **SECTION 13. APPROPRIATION - 2015-17 BIENNIUM - SUBSTANCE USE DISORDER**

4 **VOUCHER PROGRAM.** There is appropriated out of any moneys in the general fund in the
5 state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may
6 be necessary, to the department of human services for the purpose of defraying the expenses
7 of the substance use disorder voucher program, for the period beginning with the effective date
8 of this Act, and ending June 30, 2017.

9 **SECTION 14. LEGISLATIVE INTENT - SUBSTANCE USE DISORDER VOUCHER**

10 **PROGRAM - MEDICATION ASSISTED TREATMENT.** It is the intent of the sixty-fifth legislative
11 assembly that the department of human services include medication assisted treatment as an
12 allowable service under the substance use disorder voucher program. It is also the intent that
13 payments for medication dispensed as part of the treatment be established quarterly, based on
14 the Medicaid allowed amount, plus a weekly dispensing and administration fee of no more than
15 the dispensing fee established under the state's medical assistance program.

16 **SECTION 15. LEGISLATIVE INTENT - RESTORATION FUNDING FOR BASIC CARE.** It

17 is the intent of the sixty-fifth legislative assembly that the funding appropriated to the
18 department of human services for the restoration of basic care provider rates be prioritized in
19 the following order:

- 20 1. Operating margin;
- 21 2. Medical leave days; and then
- 22 3. Increase to limits.

23 **SECTION 16. LEGISLATIVE INTENT - MEDICAID EXPANSION - FEE SCHEDULE.** It is

24 the intent of the sixty-fifth legislative assembly that the one-time funding of \$226,000,000, of
25 which \$13,300,000 is from the tobacco prevention and control trust fund, provided for defraying
26 a portion of the expenses of the Medicaid expansion program be used for establishing the
27 provider fee schedule at the maximum level possible without exceeding the current levels of
28 reimbursement for the Medicaid expansion contracted providers.

29 **SECTION 17. LEGISLATIVE INTENT - POLICY CHANGES AND CLARIFICATION**

30 **RELATED TO HOME HEALTH.** It is the intent of the sixty-fifth legislative assembly that the
31 department of human services adopt rules in accordance with the Medicaid program, face-

1 to-face requirements for home health services; policy changes and clarifications related to
2 home health final rule published by the centers for Medicare and Medicaid services on
3 February 2, 2016; title 42, Code of Federal Regulations, part 440. It is further the intent of the
4 legislative assembly that the department require certified home health agencies to ensure a
5 face-to-face visit occurred between a physician and Medicaid beneficiary before initiating home
6 health services, and to ensure a face-to-face visit between a physician or nonphysician provider
7 occurred before providing medical equipment, supplies, and appliances. It is further the intent of
8 the legislative assembly that the department adopt rules to define medical equipment, supplies,
9 and appliances and specify allowable time frames for the face-to-face visits.

10 **SECTION 18. LEGISLATIVE INTENT - CARE COORDINATION AGREEMENTS.** It is the
11 intent of the sixty-fifth legislative assembly that the department of human services establish
12 requisite agreements with tribal health care organizations that will result in one hundred percent
13 federal funding for eligible medical assistance provided to American Indians through care
14 coordination agreements for the biennium beginning July 1, 2017, and ending July 30, 2019.

15 **SECTION 19. CARE COORDINATION AGREEMENTS - HEALTH CARE TRUST FUND**
16 **DEPOSITS.** The department of human services shall deposit any federal funding received in
17 excess of the state's regular federal medical assistance percentage resulting from the
18 department establishing requisite agreements with tribal health care organizations in the health
19 care trust fund for the biennium beginning July 1, 2017, and ending June 30, 2019. The
20 department shall maintain a separate account within the health care trust fund for this funding.

21 **SECTION 20. LEGISLATIVE INTENT - BRAIN INJURY - 1915(i) STATE PLAN**
22 **AMENDMENT.** It is the intent of the sixty-fifth legislative assembly that the department of
23 human services include services for individuals with a brain injury as part of the comprehensive
24 assessment for a Medicaid 1915(i) state plan amendment. The department may utilize existing
25 funding available in the department's budget for enhancing services through a Medicaid 1915(i)
26 state plan amendment for individuals with a brain injury for the biennium beginning July 1, 2017,
27 and ending June 30, 2019.

28 **SECTION 21. LEGISLATIVE INTENT - GRAFTON JOB SERVICE NORTH DAKOTA**
29 **BUILDING PURCHASE.** It is the intent of the sixty-fifth legislative assembly that the department
30 of human services purchase the Grafton job service North Dakota building using donated funds
31 for the use of the life skills and transition center, but only if anticipated revenues generated from

1 use of the building will be sufficient to provide for the operating and maintenance costs of the
2 building.

3 **SECTION 22. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION**

4 **CENTER.** The state of North Dakota by and through the department of human services may
5 convey real property containing 3.46 acres, more or less, associated with the life skills and
6 transition center in Grafton. The department may convey a parcel of land described as follows:
7 the north fifty-eight feet of said north half of the southeast quarter of section twenty-five less the
8 railroad right-of-way and the south forty feet of the north ninety-eight feet of the west one
9 hundred twenty-three feet of said north half of the southeast quarter of section twenty-five less
10 the railroad right-of-way on the terms and conditions determined appropriate by the department
11 and the attorney general. Section 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

12 **SECTION 23. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES CASE**

13 **MANAGEMENT.** It is the intent of the sixty-fifth legislative assembly that the department of
14 human services provide case management services for individuals with a developmental
15 disability within the ratio provided pursuant to North Dakota Administrative Code for the
16 biennium beginning July 1, 2017, and ending June 30, 2019. If case management services for
17 individuals with a developmental disability exceed the ratio requirement provided in the North
18 Dakota Administrative Code, the department may hire temporary staff or the department may
19 propose a change to North Dakota Administrative Code to meet the ratio requirement.

20 **SECTION 24. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES -**

21 **PROGRAMMATIC AND ADMINISTRATIVE REQUIREMENTS.** It is the intent of the sixty-fifth
22 legislative assembly that the department of human services report all new programmatic and
23 administrative requirements to the centers for Medicare and Medicaid services and seek
24 waivers of the same unless the director finds immediate full compliance necessary for
25 individuals with disabilities.

26 **SECTION 25. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES - CONFLICT-**

27 **FREE CASE MANAGEMENT.** It is the intent of the sixty-fifth legislative assembly that the
28 department of human services request waivers or delays of implementation of conflict-free case
29 management rules and requirements for individuals with a developmental disability.

30 **SECTION 26. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES - VARIANCE.** It

31 is the intent of the sixty-fifth legislative assembly that during the 2017-19 biennium, the

1 department of human services may authorize a treatment or care center's variance request
2 relating to the treatment or care center's bedrooms or bathrooms, if the department determines
3 the variance does not pose a health or safety risk. It is also the intent that the department of
4 human services adopt rules to establish a variance process that allows the department to grant
5 a variance if the variance will not pose a danger to the health or safety of an individual served
6 by the treatment or care center.

7 **SECTION 27. LEGISLATIVE INTENT - PROCESS AND OUTCOME MEASURES.** It is the
8 intent of the sixty-fifth legislative assembly that behavioral health service providers that receive
9 funding from the department of human services submit process and outcome measures to the
10 department for programs and services supported by state funding.

11 **SECTION 28. LEGISLATIVE INTENT - TELEPHONE SUPPORT AND DIRECTORY**
12 **SERVICES.** It is the intent of the sixty-fifth legislative assembly that the vendor of telephone and
13 directory services, under contract with the department of human services, include private
14 behavioral health service providers in the vendor's directory at no cost to the private behavioral
15 health service providers.

16 **SECTION 29. REPORTING REQUIREMENTS - YOUTH ACCESS TO TOBACCO.** The
17 operating expenses line item in subdivision 2 of section 1 of this Act includes \$75,000 from the
18 tobacco prevention and control trust fund for costs of complying with youth access to tobacco
19 reporting requirements under title 45, Code of Federal Regulations, part 96, section 130, for the
20 biennium beginning July 1, 2017, and ending June 30, 2019. The state department of health
21 and local public health units shall collect and disclose all required data reporting elements to the
22 department of human services.

23 **SECTION 30. ROBINSON RECOVERY CENTER FUNDING.** Notwithstanding the
24 designation of funding for the Robinson recovery center in the appropriation for the department
25 of human services in section 1 of this Act, the department of human services may utilize other
26 providers for substance use disorder treatment services if the current contractor is unable to
27 provide the full capacity of services anticipated under the current contract for the biennium
28 beginning July 1, 2017, and ending June 30, 2019.

29 **SECTION 31. LEGISLATIVE INTENT - OPERATING EXPENSES.** It is the intent of the
30 sixty-fifth legislative assembly that the department of human services analyze its budgetary
31 needs and allocate up to \$650,000 from the general fund included in the operating expenses

1 line item in subdivision 1 of section 1 of this Act to other line items in subdivisions 1, 2, and 3
2 within section 1 of this Act based on the department's priorities resulting from its analysis.

3 **SECTION 32. LEGISLATIVE MANAGEMENT STUDY - STATE MEDICAL ASSISTANCE**
4 **PROGRAMS.**

- 5 1. During the 2017-18 interim, the legislative management shall consider studying
6 options to operate the state medical assistance program and other related programs,
7 as managed care. The study must:
- 8 a. Identify and review populations to consider for managed care, including
9 individuals eligible under traditional medical assistance, Medicaid expansion, the
10 children's health insurance program, and individuals receiving services through
11 the long-term care and developmental disabilities programs.
 - 12 b. Consider the needs of individuals receiving services from managed care
13 programs in similar-sized states, and the alignment of benefit packages.
 - 14 c. Review populations covered by the program of all-inclusive care for the elderly in
15 other states.
 - 16 d. Consider options for including services under a managed care arrangement.
 - 17 e. Consider developing a proposed plan, cost estimates, and potential timeline for
18 implementing the managed care options identified.
 - 19 f. Consider preparing and distributing a request for information from managed care
20 organizations regarding the managed care options identified.
- 21 2. The legislative management shall report its findings and recommendations, together
22 with any legislation necessary to implement the recommendations, to the sixty-sixth
23 legislative assembly.

24 **SECTION 33. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH AND**

25 **DEVELOPMENTAL DISABILITIES SERVICES.** During the 2017-18 interim, the legislative
26 management shall consider studying state and federal laws and regulations relating to the care
27 and treatment of individuals with developmental disabilities or behavioral health needs.

- 28 1. The study must include a review of the following:
- 29 a. The state's services and delivery systems, including whether changes are
30 necessary to maintain compliance with state and federal laws and regulations;

- 1 b. Efforts by other states to comply with the 1999 Olmstead v. L.C. case, including
2 the planning and implementation process for any new programs;
- 3 c. Community- and non-community-based services, including the costs and
4 effectiveness of services;
- 5 d. Noncompliance with state and federal laws and regulations, including a review of
6 the fees and penalties for noncompliance;
- 7 e. A comparison of voluntary and involuntary compliance with state and federal laws
8 and regulations, including a review of long-term costs and effectiveness;
- 9 f. The impact of implementation and expansion of selected programs that were
10 added to address unmet needs, including the impact on costs and effectiveness
11 of new programs;
- 12 g. Needed changes to address noncompliance and a timeline for completing
13 changes;
- 14 h. Data on the number of individuals who would be impacted by voluntary
15 compliance efforts, and data on the type of services that may need changing,
16 including housing, peer counseling, outpatient treatment, crisis line access, and
17 transportation services; and
- 18 i. An evaluation of the funding, mission, and caseload at the life skills and transition
19 center, including the center's transition plan and number of clients eligible for
20 community placement.
- 21 2. The legislative management shall report its findings and recommendations, together
22 with any legislation necessary to implement those recommendations, to the sixty-sixth
23 legislative assembly.

24 **SECTION 34. LEGISLATIVE MANAGEMENT STUDY - DEPARTMENT OF HUMAN**
25 **SERVICES DELIVERY SYSTEM.** During the 2017-18 interim, the legislative management shall
26 consider conducting a comprehensive study of the department of human services.

- 27 1. The study must include:
 - 28 a. A review of the continuum of services for each population served, the delivery
29 methods for those services, and the efficiency and effectiveness of the services.
 - 30 b. The involvement of federal, state, and local governments and for-profit and
31 nonprofit entities in the provision and funding of services.

- 1 c. An analysis of the funding levels for the programs and services included in the
- 2 delivery system.
- 3 d. Consideration of the appropriate role for each of the entities involved in the
- 4 delivery system.
- 5 e. The development of a comprehensive master structure for the system.
- 6 2. The legislative management shall report it's findings and recommendations, together
- 7 with any legislation required to implement the recommendations, to the sixty-sixth
- 8 legislative assembly.

9 **SECTION 35. LEGISLATIVE MANAGEMENT STUDY - NURSING FACILITY RATES.**

10 During the 2017-18 interim, the legislative management shall consider studying the nursing
11 facility rate components to determine the adequacy of reimbursement and evaluate the
12 efficiency of nursing facility operations. The study must identify and review potential quality
13 measures relating to nursing facilities and consider the feasibility and desirability of using quality
14 measures as a component of reimbursement. The legislative management shall report its
15 findings and recommendations, together with any legislation required to implement the
16 recommendations, to the sixty-sixth legislative assembly.

17 **SECTION 36. AMENDMENT.** Subsection 1 of section 23-09.3-01.1 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 1. Basic care beds may not be added to the state's licensed bed capacity during the
20 period between August 1, ~~2015~~2017, and July 31, ~~2017~~2019, except when:
 - 21 a. A nursing facility converts nursing facility beds to basic care;
 - 22 b. An entity licenses bed capacity transferred as basic care bed capacity under
23 section 23-16-01.1;
 - 24 c. An entity demonstrates to the state department of health and the department of
25 human services that basic care services are not readily available within a
26 designated area of the state or that existing basic care beds within a fifty-mile
27 [80.47-kilometer] radius have been occupied at ninety percent or more for the
28 previous twelve months. In determining whether basic care services will be
29 readily available if an additional license is issued, preference may be given to an
30 entity that agrees to any participation program established by the department of

- 1 human services for individuals eligible for services under the medical assistance
2 program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
3 d. The state department of health and the department of human services grant
4 approval of new basic care beds to an entity. The approved entity shall license
5 the beds within forty-eight months from the date of approval.

6 **SECTION 37. AMENDMENT.** Subsection 1 of section 23-16-01.1 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic
9 care beds to nursing facility beds or relicenses nursing facility beds delicensed after
10 July 31, 2011, nursing facility beds may not be added to the state's licensed bed
11 capacity during the period between August 1, ~~2015~~2017, and July 31, ~~2017~~2019. A
12 nursing facility may not delicense nursing facility bed capacity, relicense nursing facility
13 bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert
14 licensed basic care bed capacity back to nursing facility bed capacity, or otherwise
15 reconfigure licensed nursing facility bed capacity more than one time in a
16 twelve-month period.

17 **SECTION 38. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **50-24.1-37. (Effective January 1, 2014, through July 31, ~~2017~~2019) Medicaid**
20 **expansion - Legislative management report.**

- 21 1. The department of human services shall expand medical assistance coverage as
22 authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148],
23 as amended by the Health Care and Education Reconciliation Act of 2010 [Pub.
24 L. 111-152] to individuals under sixty-five years of age with income below one hundred
25 thirty-eight percent of the federal poverty level, based on modified adjusted gross
26 income.
27 2. The department of human services shall inform new enrollees in the medical
28 assistance program that benefits may be reduced or eliminated if federal participation
29 decreases or is eliminated.
30 3. The department shall implement the expansion by bidding through private carriers or
31 utilizing the health insurance exchange.

- 1 4. The contract between the department and the private carrier must:
- 2 a. Provide a reimbursement methodology for all medications and dispensing fees
- 3 which identifies the minimum amount paid to pharmacy providers for each
- 4 medication. The reimbursement methodology, at a minimum, must:
- 5 (1) Be available on the department's website; and
- 6 (2) Encompass all types of pharmacy providers regardless of whether the
- 7 pharmacy benefits are being paid through the private carrier or contractor or
- 8 subcontractor of the private carrier under this section.
- 9 b. Provide full transparency of all costs and all rebates in aggregate.
- 10 c. Allow an individual to obtain medication from a pharmacy that provides mail order
- 11 service; however, the contract may not require mail order to be the sole method
- 12 of service and must allow for all contracted pharmacy providers to dispense any
- 13 and all drugs included in the benefit plan and allowed under the pharmacy
- 14 provider's license.
- 15 d. Ensure that pharmacy services obtained in jurisdictions other than this state and
- 16 its three contiguous states are subject to prior authorization and reporting to the
- 17 department for eligibility verification.
- 18 e. Ensure the payments to pharmacy providers do not include a required payback
- 19 amount to the private carrier or one of the private carrier's contractors or
- 20 subcontractors which is not representative of the amounts allowed under the
- 21 reimbursement methodology provided in subdivision a.
- 22 f. *Any*
- 23 5. The contract between the department and the private carrier must provide the
- 24 department with full access to provider reimbursement rates. The department shall
- 25 consider provider reimbursement rate information in selecting a private carrier under
- 26 this section. Before August first of each even-numbered year, the department shall
- 27 submit a report to the legislative management regarding provider reimbursement rates
- 28 under the medical assistance expansion program. This report may provide cumulative
- 29 data and trend data but may not disclose identifiable provider reimbursement rates.
- 30 6. Provider reimbursement rate information received by the department under this
- 31 section and any information provided to the department of human services or any

1 audit firm by a pharmacy benefit manager under this section is confidential under-
2 ~~section 44-04-17.1, except the department may use the reimbursement rate~~
3 information to prepare the report to the legislative management as required under this
4 section.

5 **SECTION 39. AMENDMENT.** Subsection 1 of section 54-27-25 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. There is created in the state treasury a tobacco settlement trust fund. The fund
8 consists of the tobacco settlement dollars obtained by the state under subsection IX(c)
9 (1) of the master settlement agreement and consent agreement adopted by the east
10 central judicial district court in its judgment entered December 28, 1998 [Civil
11 No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.
12 Except as provided in subsection 2, moneys received by the state under
13 subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be
14 credited to the fund and deposited in the fund. The principal and interest of the fund
15 may be appropriated to the attorney general for the purpose of enforcing the master
16 settlement agreement and any disputes with the agreement. All remaining principal
17 and interest of the fund must be allocated as follows:

18 a. Transfers to a community health trust fund to be administered by the state
19 department of health. The state department of health may use funds as
20 appropriated for community-based public health programs and other public health
21 programs, including programs with emphasis on preventing or reducing tobacco
22 usage in this state. Transfers under this subsection must equal ~~ten~~fifty-five
23 percent of total annual transfers from the tobacco settlement trust fund of which a
24 minimum of eighty percent must be used for tobacco prevention and control.

25 ~~b. Transfers to the common schools trust fund to become a part of the principal of~~
26 ~~that fund. Transfers under this subsection must equal forty-five percent of total~~
27 ~~annual transfers from the tobacco settlement trust fund.~~

28 e. Transfers to the water development trust fund to be used to address the
29 long-term water development and management needs of the state. Transfers
30 under this subsection must equal forty-five percent of the total annual transfers
31 from the tobacco settlement trust fund.

1 **SECTION 40. REPEAL.** Section 50-24.1-37 of the North Dakota Century Code is repealed.

2 **SECTION 41. CONTINGENT EFFECTIVE DATE.** Section 40 of this Act becomes effective
3 if the executive director of the department of human services certifies to the secretary of state
4 and the legislative council the federal government ended the medical assistance expansion
5 program.

6 **SECTION 42. EXPIRATION DATE.** Section 39 of this Act is effective through June 30,
7 2019, and after that date is ineffective.

8 **SECTION 43. EMERGENCY.** Sections 11, 12, 13, and 22 of this Act are declared to be an
9 emergency measure.