

**Fifty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1196  
(Representatives Devlin, Boucher, Severson)  
(Senators Andrist, Fischer, Solberg)

AN ACT to provide for a long-term care nursing scholarship and loan repayment grant program; to create and enact a new subsection to section 21-10-06 of the North Dakota Century Code, relating to funds under the management of the state investment board; to amend 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, 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 Century Code, relating to the nursing facility alternative loan fund, the moratorium on the expansion of basic care bed capacity, the moratorium on the expansion of long-term care bed capacity, the government nursing facility funding pool, and nursing facility loans; to provide for a transfer from the nursing facility alternative grant fund; to provide a statement of legislative intent; to provide for a legislative council study; to provide an appropriation; to provide a continuing appropriation; and to declare an emergency.

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

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

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

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

**6-09.16-02. (~~Effective through June 30, 2001~~) Revolving Long-term care facility loan fund - Appropriation Continuing appropriation.** A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making loans to nursing facilities, basic care facilities, or assisted living facilities, ~~or other entities providing alternatives to nursing facility care, to encourage and support conversion of nursing facilities for renovation projects.~~ All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are ~~hereby~~ appropriated for disbursement pursuant to the requirements of this chapter.

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

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

1. There is ~~hereby~~ created a nursing long-term care facility alternative loan fund. The fund ~~shall include~~ consists of revenue transferred from the North Dakota health care trust fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund.
2. The Bank of North Dakota shall administer the loan fund. Funds in the loan fund may be used for:
  - a. Loans as provided in this chapter and as approved by the department under chapter 50-30; and
  - b. The costs of administration of the fund; ~~and~~

e. ~~Repayment of federal funds if the United States department of health and human services determines that funds were inappropriately claimed under section 50-24.4-30.~~

3. Any money in the fund not required for use under subsection 2 must be transferred to the North Dakota health care trust fund.

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

**6-09.16-04. (~~Effective through June 30, 2001~~) Loan application - How made.** All applications for loans under this chapter must be made to the department. The department may approve the applications of qualified applicants ~~who that~~ propose projects that conform to requirements established under chapter 50-30. ~~Applications approved by the department must be forwarded to the Bank of North Dakota. Upon~~ The Bank of North Dakota shall review and approve or reject all loan applications forwarded to the Bank by the department. For applications approved by the Bank and upon final approval of the application by the ~~Bank of North Dakota department~~, loans may be made from the revolving long-term care facility loan fund in accordance with ~~the provisions of this chapter.~~

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

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

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

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

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

Health care trust fund.

**SECTION 8. Long-term care nursing scholarship and loan repayment grant program.**

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program.

The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.

2. An applicant for a program grant shall establish that the applicant:
  - a. Is a licensed nursing facility;
  - b. Has available matching funds equal to the amount of the grant request; and
  - c. Meets the eligibility criteria established by rule.
3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed to eligible applicants in the second year of the biennium in any amount determined by the state health council.

**SECTION 9. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

1. Except when existing beds are converted for use by a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia population under the pilot projects provided for in established under section 50-06-14.4 requests licensure of the facility's existing beds as basic care bed capacity, or unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 4999 2001, during the period between August 1, 4999 2001, and July 31, 2004 2003.
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 4999 2001, to July 31, 2004 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately and transferred to another facility may not be banked for future transfer to another facility must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state

department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.

**SECTION 10. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when a nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, ~~2004~~ 2003.
2. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, ~~1999~~ 2001, to July 31, ~~2004~~ 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately~~ and transferred to another facility ~~may not be banked for future transfer to another facility~~ must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001, to July 31, 2003, may occur, only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the medical assistance program. Medical assistance payments may only be made to a medicaid-certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.

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

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

1. For purposes of this section:
  - a. "Fiscal period" means a twelve-month period determined by the department; and
  - b. ~~"Governmental~~ Government nursing facility" means ~~any~~ a nursing home administered by any political subdivision of this state for which a rate is set under this chapter.
2. The department shall establish a pool consisting of an amount annually calculated by multiplying the total of all resident days of all nursing homes during the fiscal period during which a resident was eligible for and received benefits under chapter 50-24.1 times an amount that does not exceed the amount that can reasonably be estimated to be paid

under payment principles established under title XVIII of the Social Security Act [42 U.S.C. 1395; et seq.], reduced by the payment rates set for each such resident, for each such day, during the fiscal period.

3. In addition to any payment made pursuant to a rate set under this chapter, and notwithstanding any other provision of this chapter, the department shall pay to each ~~governmental~~ government nursing facility an amount determined by:
  - a. Dividing that facility's total inpatient days for the fiscal period by the total inpatient days of all ~~governmental~~ government nursing facilities for the fiscal period; and
  - b. Multiplying a decimal fraction determined under subdivision a times the pool amount determined under subsection 2.
4. Each ~~governmental~~ government nursing facility, ~~immediately upon~~ within one business day of receiving a payment under subsection 3, shall remit the amount of that payment, less a ~~ten~~ fifty thousand dollar transaction fee, to the state treasurer for credit to:
  - a. The North Dakota health care trust fund in an amount equal to the federal medical assistance percentage for the fiscal period times the total remittance to the state treasurer, less ~~ten~~ fifty thousand dollars; and
  - b. The general fund for all remaining amounts. The amounts deposited in the general fund are to be considered the first moneys spent pursuant to legislative appropriations for medical assistance or medical assistance-related expenses.
5. A government nursing facility is not entitled to receive transaction fees totaling more than fifty thousand dollars during any calendar year. Each government nursing facility shall use its transaction fee revenues for long-term care-related services.
- ~~6.~~ 7. Notwithstanding any other provision of this code, or of any ordinance or code governing the operation of a ~~governmental~~ government nursing facility, a ~~governmental~~ government nursing facility is ~~authorized~~ entitled to receive and, upon receipt, is required to remit payments provided under this section.
- ~~6.~~ 7. No payment is required under this section for any period in which the funds otherwise appropriated under subdivision b of subsection ~~7~~ 8 are unavailable due to action by the secretary of the United States department of health and human services.
- ~~7.~~ 8. The department of human services, subject to legislative appropriation, may make the payments described in subsection 3 for the pool amount annually determined under subsection 2, as follows:
  - a. From special funds derived from federal funds and other income, the pool amount determined under subsection 2 reduced by the amount determined under subdivision b; and
  - b. From the general fund, the "state percentage" as that term is used in defining the term "federal medical assistance percentage" for purposes of title XIX of the Social Security Act [42 U.S.C. 1396; et seq.], multiplied times the pool amount determined under subsection 2.

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

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

1. ~~"Alternative to nursing facility care" means services described in the home and community based services waiver for aged persons under medical assistance.~~
2. ~~"Assisted living facility" has the meaning provided in section 50-24.5-01, but if the term is not defined in that section, the term means a facility that:~~
  - a. ~~Makes response staff available at all times;~~
  - b. ~~Provides housing and:~~
    - (1) ~~Congregate meals;~~
    - (2) ~~Kitchen facilities in each resident's living quarters; or~~
    - (3) ~~Any combination of congregate meals and kitchen facilities in each resident's living quarters sufficient to assure each resident adequate access to meals;~~
  - e. ~~Assures provision of:~~
    - (1) ~~Personal care, therapeutic care, and social and recreational programming;~~
    - (2) ~~Supervision, safety, and security;~~
    - (3) ~~Medication services; and~~
    - (4) ~~Transportation services;~~
  - d. ~~Fosters dignity, respect, and independence by allowing, to the maximum extent feasible, each resident to determine the resident's service providers, routines of care provision, and service delivery; and~~
  - e. ~~Services five or more adult residents, unrelated to the proprietor, on a specified premises not licensed under chapter 23-20 or 25-16, which meets the requirements of the national fire protection association 101 Life Safety Code, as applicable.~~
3. ~~"Basic care facility" has the meaning provided in section 23-09.3-01.~~
4. ~~"Conversion" means:~~
  - a. ~~The remodeling of existing space and, if necessary, the construction of additional space required to accommodate basic care facility services, assisted living facility services, or other alternatives to nursing facility care; or~~
  - b. ~~New construction of a basic care facility, assisted living facility, or other alternative to nursing facility care if existing nursing facility beds are no longer licensed and the department determines that new construction is more cost effective than the conversion of existing space.~~
5. 2. "Department" means the department of human services.
6. 3. "Medical assistance" means a program established under title XIX of the Social Security Act [42 U.S.C. 1396; et seq.] and chapter 50-24.1.
7. 4. "Nursing facility" has the same meaning as provided in section 50-24.4-01 for the term "nursing home".

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

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

1. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
2. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
3. 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 section 50-24.4-30.

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

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

1. The department may ~~award grants from the nursing facility alternative grant fund or approve loans from the nursing long-term care facility alternative loan fund established under chapter 6-09.16 for capital or one-time expenditures, including startup and training expenses and operating losses for the first year:~~
  - a. ~~To any renovation projects involving a nursing facility which has been approved for at least three years as a provider under the medical assistance program to convert all or a portion of the facility licensed to provide such care to a basic care facility, or assisted living facility, or other alternative to nursing facility care; or~~
  - b. ~~To any other entity meeting conditions established by the department to develop a basic care facility, assisted living facility, or other alternative to nursing facility care.~~
2. ~~A nursing facility or other entity may be eligible for a grant or loan only if the basic care facility, assisted living facility, or other alternative to nursing facility care is located in an underserved area as determined by the department.~~
3. ~~To be eligible for a grant or loan under this section, the nursing facility or other entity approved by the department shall provide at least twenty percent of the total cost of any conversion. The department shall establish policies and procedures for certification of the required matching funds. The department's share of the total cost of~~ An approved loan for any conversion is limited to project may not exceed one million dollars or eighty ninety percent of the project cost, whichever is less.
4. ~~The department shall annually establish a calendar for receiving and evaluating proposals and awarding grants or approving loans.~~
5. ~~No grant or loan application may be approved by the department unless the applicant can demonstrate that:~~

- a. ~~Conversion of the nursing facility or portion of the facility to a basic care facility, assisted living facility, or other alternative to nursing facility care may offer efficient and economical care to individuals requiring long term care services in the area;~~
  - b. ~~Basic care, assisted living services, or other alternatives to nursing facility care are unlikely to be available in the area for individuals eligible for services under the medical assistance program; and~~
  - e. ~~The resulting reduction in the availability of nursing facility service is not expected to cause undue hardship on those individuals requiring nursing facility services.~~
3. The department shall give preference for loan approval to an applicant that is converting nursing facility bed capacity to basic care bed capacity.
6. 4. No grant may be awarded or loan may be approved unless the applicant agrees:
- a. ~~To maintain a minimum occupancy rate by individuals eligible for supplemental security income benefits provided under title XVI of the Social Security Act [42 U.S.C. 1382, et seq.]; and~~
  - b. ~~To refund to repay to the nursing facility alternative grant fund or the nursing long-term care facility alternative loan fund, on an amortized basis, the amount outstanding balance of the grant or loan and any accrued interest if the applicant or its successor in interest ceases to operate a basic care facility, assisted living facility, or other alternative to nursing facility care the project or facility financed by the loan proceeds during the ten-year period after the date the applicant began operation of its the project or facility as a basic care facility, assisted living facility, or other alternative to nursing facility care ceases to maintain the agreed minimum occupancy rate or fails to commence operations within a reasonable time.~~
7. 5. In addition to other remedies provided by law or contract, the department may deduct the amount of any refund due from a recipient of grant or a loan guarantee funds from any money owed by the department to such recipient or the recipient's successor in interest.

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

**SECTION 16. NURSING FACILITY ALTERNATIVE LOANS - 1999-2001 BIENNIUM - INTEREST RATE ADJUSTMENT.** The Bank of North Dakota and the department of human services shall adjust the rate of interest charged on nursing facility alternative loans approved during the biennium beginning July 1, 1999, and ending June 30, 2001, to a rate equivalent to two percent effective July 1, 2001, taking into consideration any grants approved in conjunction with the loan.

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

**SECTION 18. APPROPRIATION - GOVERNMENT NURSING FACILITY FUNDING POOL.** 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, to the department of human services for the purpose of making

government nursing facility funding pool payments under section 50-24.4-30, for the biennium beginning July 1, 2001, and ending June 30, 2003.

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

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

**SECTION 20. APPROPRIATION - 1999-2001 BIENNIUM GOVERNMENT NURSING FACILITY TRANSACTION FEE.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$800,000, or so much of the sum as may be necessary, to the department of human services for the purpose of making an additional transaction fee payment to the government nursing facilities, for the period beginning with the effective date of this Act and ending June 30, 2001. Notwithstanding section 50-24.4-30, the department of human services shall make a transaction fee payment of \$400,000 to the government nursing facility in Dunseith and a transaction fee payment of \$400,000 to the government nursing facility in McVile by June 30, 2001. The additional payment relates to government nursing facility funding pool payments made before the effective date of this Act. Each government nursing facility shall use its transaction fee revenue for long-term care-related services.

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

**SECTION 22. APPROPRIATION - LONG-TERM CARE FACILITY LOANS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$12,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of making transfers to the long-term care facility loan fund for loans approved under chapter 50-30, for the biennium beginning July 1, 2001, and ending June 30, 2003. Of this amount, up to \$4,960,000 may be used for commitments made during the biennium beginning July 1, 1999, and ending June 30, 2001.

**SECTION 23. APPROPRIATION - NURSING HOME BED REDUCTION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$4,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing incentives to nursing homes to reduce licensed nursing facility bed capacity for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of human services may pay incentives of up to \$15,000 per bed to a nursing facility that reduces all of its licensed bed capacity, up to \$12,000 per bed to a nursing facility that reduces its licensed nursing facility bed capacity by at least eight beds and incentives of up to \$8,000 per bed to a nursing facility that reduces its licensed nursing facility bed capacity by fewer than eight beds. An incentive may not be paid for nursing facility bed capacity that is temporarily converted to basic care bed capacity. The department shall establish rules that allow nursing facilities to make offers to reduce licensed nursing facility bed capacity on a quarterly basis beginning July 1, 2001. To be eligible for an incentive, a nursing facility's offer to reduce bed capacity must be received by the department of human

services by the first day of the quarter for which incentives will be approved. Within thirty days of the beginning of the quarter, the department shall inform the facility making an offer of the department's approval or disapproval of the offer. The department shall give priority for incentives to a facility that offers to reduce the entire licensed bed capacity. If offers for reducing bed capacity exceed the department's allocation of funds for incentives for the quarter, a facility that does not have its offer approved may submit the offer for consideration in a subsequent quarter.

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

There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$8,189,054, or so much of the sum as may be necessary, and from special funds derived from federal funds the sum of \$19,107,793, or so much of the sum as may be necessary, to the department of human services for the purpose of providing salary and benefit enhancements to nursing facility employees, or if a facility is combined with a hospital, to nursing facility and hospital employees, for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of human services shall increase nursing facility payment rates to provide for these increases beginning July 1, 2001. A nursing facility may not use any moneys received under this section for the purpose of providing the facility's matching share for a long-term care nursing scholarship and loan repayment grant.

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

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

**SECTION 26. APPROPRIATION - NURSING HOME REBASING.**

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

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

There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$309,600, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$708,000, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal care allowance for nursing home and intermediate care for the mentally retarded residents by \$10 per month, from \$40 to \$50 per month, for the period beginning January 1, 2002, and ending June 30, 2003.

**SECTION 28. APPROPRIATION - PERSONAL CARE ALLOWANCE FOR BASIC CARE RESIDENTS.**

There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$180,000, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal care allowance for basic care residents by \$15 per month, from \$45 to \$60 per month, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 29. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE NEEDS.**

The legislative council shall consider studying, during the 2001-02 interim, the long-term care needs and the nursing facility payment system in North Dakota. If studied, the legislative council shall receive progress reports and a final report from the department of human services on the statewide needs

assessment and nursing facility payment system study for long-term care. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

**SECTION 30. APPROPRIATION - LONG-TERM CARE NEEDS STUDY.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$241,006, or so much of the sum as may be necessary, to the department of human services for the purpose of conducting a statewide needs assessment and nursing facility payment system study for long-term care, for the period beginning with the effective date of this Act and ending January 1, 2003.

**SECTION 31. APPROPRIATION - STATE DEPARTMENT OF HEALTH - LONG-TERM CARE NURSING SCHOLARSHIP AND LOAN REPAYMENT GRANT PROGRAM.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$489,500, or so much of the sum as may be necessary, to the state department of health for the purpose of making long-term care nursing scholarship and loan repayment program grants, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 32. APPROPRIATION - SERVICE PAYMENTS FOR THE ELDERLY AND DISABLED.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$6,898,302, or so much of the sum as may be necessary, to the department of human services for the purpose of making service payments for the elderly and disabled, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 33. APPROPRIATION - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$5,055,347, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of complying with the federal Health Insurance Portability and Accountability Act or other technology projects, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 34. APPROPRIATION - 1999-2001 BIENNIUM NURSING FACILITY GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,226, or so much of the sum as may be necessary, to the department of human services for the purpose of making payments on grants approved under the nursing facility alternative grant fund during the 1999-2001 biennium, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 35. APPROPRIATION - SENIOR CITIZEN MILL LEVY MATCHING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$250,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing additional senior citizen mill levy matching grants, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 36. APPROPRIATION - MEDICAL ASSISTANCE - TARGETED CASE MANAGEMENT SERVICES.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$338,530, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$769,220, or so much of the sum as may be necessary, to the department of human services for the purpose of making medical assistance payments for targeted case management services, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 37. APPROPRIATION - INDEPENDENT LIVING CENTER GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of

human services for the purpose of providing grants to independent living centers, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 38. APPROPRIATION - TRAINING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$140,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to organizations for training qualified service providers, for the biennium beginning July 1, 2001, and ending June 30, 2003. A qualified service provider means a county agency or independent contractor that agrees to meet standards for services and operations established by the department of human services for the provision of services to individuals receiving long-term care services in a home or community-based setting.

**SECTION 39. HEALTH CARE TRUST FUND - MINIMUM BALANCE REQUIRED.** Except for making payments under subsection 3 of section 50-30-02, the state treasurer may not allow expenditures or transfers from the health care trust fund that would reduce the unobligated balance in the fund below \$13,000,000 until the director of the department of human services certifies to the state treasurer that the federal health care financing administration's claim for the return of \$13,000,000 of the state's first-year payment has been resolved, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 40. DEPARTMENT OF HUMAN SERVICES - EMERGENCY RULEMAKING AUTHORITY.** Notwithstanding subsection 6 of section 28-32-02, the department of human services may adopt interim final rules to implement this Act for the biennium beginning with the effective date of this Act and ending June 30, 2003. The department shall take appropriate measures to make the interim final rules known to every person who may be affected by them. The interim final rules are ineffective one hundred eighty days after its declared effective date unless first adopted as final rules.

**SECTION 41. EMERGENCY.** Sections 20, 30, 33, 39, and 40 of this Act are declared to be an emergency measure.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1196 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas        94            Nays        0            Absent      4

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        49            Nays        0            Absent      0

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2001.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2001,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State