Prepared by the North Dakota Legislative Council
staff for the Health Services Committee
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OTHER DUTIES OF THE HEALTH SERVICES COMMITTEE - BACKGROUND MEMORANDUM

In addition to the study responsibilities assigned to the Health Services Committee for the 2011-12 interim, the committee has also been assigned to:

- Receive from the State Fire Marshal a report regarding findings and recommendations for legislation to improve the effectiveness of the law on reduced ignition propensity standards for cigarettes;
- Recommend a private entity to contract with for preparing cost-benefit analyses of health insurance mandate legislation;
- Receive reports from the State Department of Health before January 1, 2012, April 1, 2012, and July 1, 2012, regarding the department's inventory of material relating to abortions and outlining the department's practice of gathering the inventory items; and
- Receive a report from the Health Council by July 1, 2012, regarding the findings of its review of current health care bed recommendations and whether changes should be made to better serve the population of North Dakota.

REPORT ON THE EFFECTIVENESS OF LEGISLATION RELATED TO REDUCED IGNITION PROPENSITY STANDARDS FOR CIGARETTES

The Legislative Assembly, in 2009 House Bill No. 1368, created North Dakota Century Code Chapter 18-13 relating to reduced ignition propensity standards for cigarettes and penalties for wholesale and retail sale of cigarettes that violate the reduced propensity standards. The bill provides for enforcement of the standards by the State Fire Marshal, Tax Commissioner, and Attorney General and for monetary violations to be deposited in the fire prevention and public safety fund to be used by the State Fire Marshal to support fire safety and prevention programs. No funds were deposited into the fire prevention and public safety fund during the 2009-11 biennium. In addition, fees collected for testing cigarettes are to be used by the State Fire Marshal for the purpose of processing, testing, enforcement, and oversight of ignition propensity standards. Cigarette manufacturers are required to pay the State Fire Marshal an initial $250 fee for certification, which is deposited in the Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund. Deposits into the fund totaled $228,250 during the 2009-11 biennium and contract expenditures totaled $9,438. Section 18-13-02(6) (Appendix A) requires the State Fire Marshal review the effectiveness of test methods and performance standards and report each interim to the Legislative Council the State Fire Marshal's findings and any recommendations for legislation to improve the effectiveness of the law on reduced ignition propensity standards for cigarettes. The Health Services Committee has been assigned the responsibility to receive this report.

HEALTH INSURANCE COVERAGE MANDATES

Section 54-03-28 (Appendix B) provides that a legislative measure mandating health insurance coverage may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit analysis. The Health Services Committee has been assigned the responsibility of recommending a private entity, after receiving recommendations from the Insurance Commissioner, for the Legislative Council to contract with to perform the cost-benefit analysis for the 2013 legislative session. The Insurance Commissioner is to pay the costs of the contracted services, and each cost-benefit analysis must include:

1. The extent to which the proposed mandate would increase or decrease the cost of services.
2. The extent to which the proposed mandate would increase the use of services.
3. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of the insured.
4. The impact of the proposed mandate on the total cost of health care.

The section also provides that a legislative measure mandating the health insurance coverage must provide that:

1. The measure is effective only for the next biennium.
2. The application of the mandate is limited to the public employees health insurance program and the public employees retiree health insurance program.
3. For the next Legislative Assembly, the Public Employees Retirement System (PERS) prepare and request introduction of a bill to repeal the expiration date and extend the mandated coverage to apply to all accident and health insurance policies.

The Public Employees Retirement System Board is also required to prepare a report, which is attached to the bill, regarding the effect of the mandated coverage or payment on the system's health insurance program. The board must include information on the utilization and costs relating to the mandated coverage and a

recommendation on whether the coverage should continue.

The 2009-10 interim Health and Human Services Committee learned PERS is not required the use of a consultant when evaluating legislative measures mandating health insurance coverage. However, if a future analysis does require additional resources, Section 54-52.1-06.1 provides a continuing appropriation to PERS for consulting services related to the uniform group insurance program.

A majority of the members of the standing committee to which the legislative measure is referred during a legislative session, acting through the chairman, determines whether a legislative measure mandates coverage of services. Any amendment to the legislative measure that mandates health insurance coverage may not be acted on by a committee of the Legislative Assembly unless the amendment has had a cost-benefit analysis prepared and attached.

The Insurance Department has categorized and defined mandated health insurance benefits as follows:

1. Service mandates - Benefit or treatment mandates that require insurers to cover certain treatments, illnesses, services, or procedures. Examples include child immunization, well-child visits, and mammography.
2. Beneficiary mandates - Mandates or defines the categories of individuals to receive benefits. Examples include newborns from birth, adopted children from the time of adoption, and handicapped dependents.
3. Provider mandates - Mandates that require insurers to pay for services provided by specific providers. Examples include nurse practitioners, optometrists, and psychologists.
4. Administrative mandates - Mandates that relate to certain insurance reform efforts that increase the administrative expenses of a specific health care plan. Examples include information disclosures, precluding companies from basing policy rates on gender, and precluding insurers from denying coverage for preauthorized services.

Prior Recommendations

The 2003-04 and 2005-06 interim Budget Committees on Health Care, the 2007-08 interim Human Services Committee, and the 2009-10 interim Health and Human Services Committee recommended that the Insurance Department contract with Milliman USA for cost-benefit analysis services on health insurance mandates during the 2005, 2007, 2009, and 2011 legislative sessions. During the 2005 legislative session, two bills were referred for cost-benefit analysis at a total cost of $8,323. In addition, the Insurance Department paid $5,606 to Milliman USA for general project work during the 2005 legislative session for total payments during the 2005 legislative session of $13,929. During the 2007 legislative session, there were no health insurance mandates referred for cost-benefit analysis. The Insurance Department paid a total of $28,070 to Milliman USA for analyses conducted on three bills during the 2009 legislative session and $14,982 to Milliman for analysis conducted on one bill during the 2011 legislative session.

The 2009-10 interim Health and Human Services Committee received information regarding the length of time necessary to complete cost-benefit analyses for health insurance mandates proposed during each of the last four legislative sessions. The committee learned the number of days required to perform the analyses ranged from 6 days to 19 days during the 2003 legislative session and 20 days for one bill proposed during the 2005 legislative session. There were no mandates proposed during the 2007 legislative session. The number of days required to perform the analyses ranged from 23 days to 24 days for the three bills introduced during the 2009 legislative session. Analysis performed on the one bill introduced during the 2011 legislative session took 14 days.

The committee reviewed legislative rules relating to health insurance mandate legislation. The committee learned in September 2008, the 2007-08 interim Legislative Management Committee recommended proposed amendments to House and Senate Rules 402 relating to bill introduction deadlines for measures subject to cost-benefit analysis under Section 54-03-28. The proposed rules amendment provided that a current legislator may submit a mandated health insurance bill to the Employee Benefits Programs Committee no later than April 1 of the year before a regular legislative session. Any new legislator taking office after November 30 of the year preceding the legislative session may submit a mandated health insurance bill for consideration by the Employee Benefits Programs Committee no later than the first Wednesday following adjournment of the organizational session. During the December 2008 organizational session, the House adopted the proposed amendment to House Rule 402, but the Senate has not yet adopted the rule.

REPORT ON INVENTORY OF ABORTION DATA AND STATE DEPARTMENT OF HEALTH PRACTICES REGARDING INVENTORY DEVELOPMENT

The Legislative Assembly approved 2011 House Bill No. 1297 which expands information related to abortions and alternatives to abortion that must be included in the printed materials that are provided by the State Department of Health. The bill also provides for additional reporting requirements for the State Department of Health. Section 15 of the bill (Appendix C) requires the State Department of Health to:

- Create an inventory of the data, reports, records, and other material the department is

required to gather, receive, create, or maintain relating to abortions as required under Chapter 14-02.1. The inventory must include information regarding the frequency with which the items in the inventory must be gathered, received, or created;
- Create a report that outlines the department's practices in gathering, receiving, and creating the items in the inventory; and
- Make three reports to the Legislative Management on the status and outcome of the creation of the inventory and the practices report. The first report must be made before January 1, 2012; the second before April 1, 2012; and the third before September 1, 2012. The Health Services Committee has been assigned the responsibility to receive these reports.

Section 16 of the bill limited the cost to the State Department of Health of producing printed information related to abortion data to $50,000.

STATE HEALTH COUNCIL REVIEW OF HEALTH CARE BEDS IN THE STATE

The Legislative Assembly approved 2011 House Bill No. 1040 which extends the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity from July 31, 2011, to July 31, 2013. As of March 1, 2011, there were 6,363 licensed long-term care beds and 1,786 basic care beds in the state. Section 3 of the bill (Appendix D) requires the Health Council review current health care bed recommendations to determine if changes should be made to better serve the population of North Dakota and report its findings to the Legislative Management by July 1, 2012. The Health Services Committee has been assigned the responsibility to receive this report.

ATTACH:4