

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1012

Introduced by

Appropriations Committee

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

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

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

19 Subdivision 1.

| | MANAGEMENT | | |
|----------------------------------|-------------------------|--------------------------|-------------------------|
| | | Adjustments or | |
| | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 23 Salaries and wages | \$28,049,386 | (\$4,612,071) | \$23,437,315 |
| 24 Operating expenses | 87,542,966 | 71,922,860 | 159,465,826 |

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| | | | | |
|----|-----------------------|---------------|---------------|---------------|
| 1 | Capital assets | 26,000 | (26,000) | 0 |
| 2 | Grants | 0 | 204,000 | 204,000 |
| 3 | Total all funds | \$115,618,352 | \$67,488,789 | \$183,107,141 |
| 4 | Less estimated income | 71,324,758 | 56,767,760 | 128,092,518 |
| 5 | Total general fund | \$44,293,594 | \$10,721,029 | \$55,014,623 |
| 6 | Salaries and wages | \$28,049,386 | (\$1,769,247) | \$26,280,139 |
| 7 | Operating expenses | 87,542,966 | 72,572,860 | 160,115,826 |
| 8 | Capital assets | 26,000 | (26,000) | 0 |
| 9 | Grants | 0 | 204,000 | 204,000 |
| 10 | Total all funds | \$115,618,352 | \$70,981,613 | \$186,599,965 |
| 11 | Less estimated income | 71,324,758 | 58,154,800 | 129,479,558 |
| 12 | Total general fund | \$44,293,594 | \$12,826,813 | \$57,120,407 |

13 Subdivision 2.

PROGRAM AND POLICY

| 14 | | | Adjustments or | |
|----|-----------------------------|-----------------|----------------|-----------------|
| 15 | | Base Level | Enhancements | Appropriation |
| 16 | Salaries and wages | \$58,102,898 | \$2,884,535 | \$60,987,433 |
| 17 | Operating expenses | 107,383,843 | 17,207,206 | 124,591,049 |
| 18 | Capital assets | 0 | 10,000 | 10,000 |
| 19 | Grants | 457,953,280 | 5,921,488 | 463,874,768 |
| 20 | Grants - medical assistance | 2,384,560,568 | (30,582,216) | 2,353,978,352 |
| 21 | Total all funds | \$3,008,000,589 | (\$4,558,987) | \$3,003,441,602 |
| 22 | Less estimated income | 1,995,024,801 | (90,849,740) | 1,904,175,061 |
| 23 | Total general fund | \$1,012,975,788 | \$86,290,753 | \$1,099,266,541 |
| 24 | Salaries and wages | \$58,102,898 | \$3,667,008 | \$61,769,906 |
| 25 | Operating expenses | 107,383,843 | 17,338,098 | 124,721,941 |
| 26 | Capital assets | 0 | 10,000 | 10,000 |
| 27 | Grants | 457,953,280 | (24,485,621) | 433,467,659 |
| 28 | Grants - medical assistance | 2,384,560,568 | 213,559,361 | 2,598,119,929 |
| 29 | Total all funds | \$3,008,000,589 | \$210,088,846 | \$3,218,089,435 |

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|----|--|----------------------------|--------------------------|----------------------------|
| 1 | <u>Less estimated income</u> | <u>1,995,024,801</u> | <u>165,841,615</u> | <u>2,160,866,416</u> |
| 2 | <u>Total general fund</u> | <u>\$1,012,975,788</u> | <u>\$44,247,231</u> | <u>\$1,057,223,019</u> |
| 3 | Subdivision 3. | | | |
| 4 | FIELD SERVICES | | | |
| 5 | | | Adjustments or | |
| 6 | | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 7 | Human service centers | \$198,888,443 | (\$3,083,589) | \$195,804,854 |
| 8 | Institutions | 139,587,498 | 258,930 | 139,846,428 |
| 9 | Total all funds | \$338,475,941 | (\$2,824,659) | \$335,651,282 |
| 10 | Less estimated income | 132,820,302 | 5,301,710 | 138,122,012 |
| 11 | Total general fund | \$205,655,639 | (\$8,126,369) | \$197,529,270 |
| 12 | <u>Human service centers</u> | <u>\$198,888,443</u> | <u>(\$2,838,954)</u> | <u>\$196,049,489</u> |
| 13 | <u>Institutions</u> | <u>139,587,498</u> | <u>833,726</u> | <u>140,421,224</u> |
| 14 | <u>Total all funds</u> | <u>\$338,475,941</u> | <u>(\$2,005,228)</u> | <u>\$336,470,713</u> |
| 15 | <u>Less estimated income</u> | <u>132,820,302</u> | <u>5,723,403</u> | <u>138,543,705</u> |
| 16 | <u>Total general fund</u> | <u>\$205,655,639</u> | <u>(\$7,728,631)</u> | <u>\$197,927,008</u> |
| 17 | <u>Subdivision 4.</u> | | | |
| 18 | <u>COUNTY SOCIAL SERVICE FINANCING</u> | | | |
| 19 | | | Adjustments or | |
| 20 | | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 21 | <u>County social service financing</u> | <u>\$0</u> | <u>\$26,000,000</u> | <u>\$26,000,000</u> |
| 22 | <u>Total all funds</u> | <u>\$0</u> | <u>\$26,000,000</u> | <u>\$26,000,000</u> |
| 23 | <u>Less estimated income</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| 24 | <u>Total general fund</u> | <u>\$0</u> | <u>\$26,000,000</u> | <u>\$26,000,000</u> |
| 25 | <u>Subdivision 4.5.</u> | | | |
| 26 | BILL TOTAL | | | |
| 27 | | | Adjustments or | |
| 28 | | <u>Base Level</u> | <u>Enhancements</u> | <u>Appropriation</u> |
| 29 | Grand total general fund | \$1,262,925,021 | \$88,885,413 | \$1,351,810,434 |
| 30 | Grand total special funds | 2,199,169,861 | (28,780,270) | 2,170,389,591 |

| | | | | |
|---|---|----------------------------|-------------------------|----------------------------|
| 1 | Grand total all funds | \$3,462,094,882 | \$60,105,143 | \$3,522,200,025 |
| 2 | Full-time equivalent positions | 2,211.08 | (74.85) | 2,136.23 |
| 3 | <u>Grand total general fund</u> | <u>\$1,262,925,021</u> | <u>\$75,345,413</u> | <u>\$1,338,270,434</u> |
| 4 | <u>Grand total special funds</u> | <u>2,199,169,861</u> | <u>229,719,818</u> | <u>2,428,889,679</u> |
| 5 | <u>Grand total all funds</u> | <u>\$3,462,094,882</u> | <u>\$305,065,231</u> | <u>\$3,767,160,113</u> |
| 6 | <u>Full-time equivalent positions</u> | <u>2,211.08</u> | <u>(54.85)</u> | <u>2,156.23</u> |

7 **SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act
8 includes the sum of ~~\$6,376,445~~\$5,914,453, of which ~~\$5,350,004~~\$4,962,381 is from the general
9 fund, for increases in employee health insurance premiums from \$1,130 to ~~\$1,249~~\$1,241 per
10 month.

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

| 16 | <u>One-Time Funding Description</u> | <u>2015-17</u> | <u>2017-19</u> |
|----|--|----------------|--------------------|
| 17 | Developmental disabilities equipment | \$10,000 | \$0 |
| 18 | Heating plant repairs and upgrades - state hospital | 1,156,000 | 0 |
| 19 | Heating plant repairs and upgrades - life skills and | 75,000 | 0 |
| 20 | transition center | | |
| 21 | Window replacement - life skills and transition center | 44,000 | 0 |
| 22 | Equipment over \$5,000 - state hospital | 275,000 | 0 |
| 23 | Equipment over \$5,000 - life skills and transition center | 200,000 | 0 |
| 24 | Extraordinary repairs - state hospital | 1,000,000 | 0 |
| 25 | Extraordinary repairs - life skills and transition center | 1,250,000 | 0 |
| 26 | Assistive technology services | 80,000 | 0 |
| 27 | Modification of eligibility systems | 60,872,269 | 0 |
| 28 | <u>Medicaid expansion - fee schedule enhancement</u> | <u>0</u> | <u>226,000,000</u> |
| 29 | <u>County social services pilot program</u> | <u>0</u> | <u>26,000,000</u> |
| 30 | Child care licensing and data system | 0 | 3,000,000 |

| | | | |
|---|--|-------------------------|-------------------------|
| 1 | Health information network/care coordination | 0 | 40,800,000 |
| 2 | Total all funds | \$64,962,269 | \$43,800,000 |
| 3 | Less estimated income | 46,870,102 | 43,800,000 |
| 4 | Total general fund | \$18,092,167 | \$0 |
| 5 | Total all funds | \$64,962,269 | \$295,800,000 |
| 6 | Less estimated income | 46,870,102 | 269,800,000 |
| 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 ~~\$16,000,000~~\$37,779,159 is from the tobacco prevention and control trust fund for the purpose
12 of defraying expenses ~~in the medical services division~~of the department of human services, for
13 the biennium beginning July 1, 2017, and ending June 30, 2019.

14 **SECTION 9. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
15 ~~\$686,194~~\$1,686,191 is from the health care trust fund for the purpose of defraying expenses of
16 long-term care services programs, for the biennium beginning July 1, 2017, and ending June
17 30, 2019.

18 **SECTION 10. ESTIMATED INCOME.** Of funds appropriated in section 1 of this Act,
19 \$18,000,000 is from the community health trust fund for the purpose of defraying expenses in
20 the medical services division, for the biennium beginning July 1, 2017, and ending June 30,
21 2019.

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

27 **SECTION 12. APPROPRIATION - 2015-17 BIENNIUM - REBASING ~~AND~~, OPERATING**
28 **MARGINS, AND INCENTIVES.** There is appropriated out of any moneys in the general fund in
29 the state treasury, not otherwise appropriated, the sum of ~~\$329,636~~\$417,010, or so much of the
30 sum as may be necessary, and from special funds derived from federal funds and other income,
31 the sum of ~~\$329,636~~\$417,010, or so much of the sum as may be necessary, to the department

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

4 **SECTION 13. APPROPRIATION - 2015-17 BIENNIUM - SUBSTANCE USE DISORDER**
5 **VOUCHER PROGRAM.** There is appropriated out of any moneys in the general fund in the
6 state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may
7 be necessary, to the department of human services for the purpose of defraying the expenses
8 of the substance use disorder voucher program, for the period beginning with the effective date
9 of this Act, and ending June 30, 2017.

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

17 **SECTION 15. LEGISLATIVE INTENT - RESTORATION FUNDING FOR BASIC CARE.** It
18 is the intent of the sixty-fifth legislative assembly that the funding appropriated to the
19 department of human services for the restoration of basic care provider rates be prioritized in
20 the following order:

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

24 **SECTION 16. LEGISLATIVE INTENT - MEDICAID EXPANSION - FEE SCHEDULE.** It is
25 the intent of the sixty-fifth legislative assembly that the one-time funding of \$226,000,000, of
26 which \$13,300,000 is from the tobacco prevention and control trust fund, provided for defraying
27 a portion of the expenses of the Medicaid expansion program be used for establishing the
28 provider fee schedule at the maximum level possible without exceeding the current levels of
29 reimbursement for the Medicaid expansion contracted providers.

30 **SECTION 17. LEGISLATIVE INTENT - POLICY CHANGES AND CLARIFICATION**
31 **RELATED TO HOME HEALTH.** It is the intent of the sixty-fifth legislative assembly that the

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

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

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

22 **SECTION 20. LEGISLATIVE INTENT - ~~TRAUMATIC~~ BRAIN INJURY - 1915(i) STATE**
23 **PLAN AMENDMENT.** It is the intent of the sixty-fifth legislative assembly that the department of
24 human services ~~apply for a~~ include services for individuals with a brain injury as part of the
25 comprehensive assessment for a Medicaid 1915(i) state plan amendment ~~for traumatic brain-~~
26 ~~injury services.~~ The department may utilize ~~an existing 0.5 full-time equivalent position and~~
27 funding available in the department's budget for ~~this purpose~~ enhancing services through a
28 Medicaid 1915(i) state plan amendment for individuals with a brain injury for the biennium
29 beginning July 1, 2017, and ending June 30, 2019.

30 **SECTION 21. LEGISLATIVE INTENT - GRAFTON JOB SERVICE NORTH DAKOTA**
31 **BUILDING PURCHASE.** It is the intent of the sixty-fifth legislative assembly that the department

1 of human services purchase the Grafton job service North Dakota building using donated funds
2 for the use of the life skills and transition center, but only if anticipated revenues generated from
3 use of the building will be sufficient to provide for the operating and maintenance costs of the
4 building.

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

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

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

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

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

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

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

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

1 | **SECTION 26. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES - VARIANCE.** It

2 | is the intent of the sixty-fifth legislative assembly that during the 2017-19 biennium, the
3 | department of human services may authorize a treatment or care center's variance request
4 | relating to the treatment or care center's bedrooms or bathrooms, if the department determines
5 | the variance does not pose a health or safety risk. It is also the intent that the department of
6 | human services adopt rules to establish a variance process that allows the department to grant
7 | a variance if the variance will not pose a danger to the health or safety of an individual served
8 | by the treatment or care center.

9 | **SECTION 27. LEGISLATIVE INTENT - PROCESS AND OUTCOME MEASURES.** It is the

10 | intent of the sixty-fifth legislative assembly that behavioral health service providers that receive
11 | funding from the department of human services submit process and outcome measures to the
12 | department for programs and services supported by state funding.

13 | **SECTION 28. LEGISLATIVE INTENT - TELEPHONE SUPPORT AND DIRECTORY**

14 | **SERVICES.** It is the intent of the sixty-fifth legislative assembly that the vendor of telephone and
15 | directory services, under contract with the department of human services, include private
16 | behavioral health service providers in the vendor's directory at no cost to the private behavioral
17 | health service providers.

18 | **SECTION 29. REPORTING REQUIREMENTS - YOUTH ACCESS TO TOBACCO.** The

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

25 | **SECTION 30. ROBINSON RECOVERY CENTER FUNDING.** Notwithstanding the

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

1 **SECTION 31. LEGISLATIVE INTENT - OPERATING EXPENSES.** It is the intent of the
2 sixty-fifth legislative assembly that the department of human services analyze its budgetary
3 needs and allocate up to \$650,000 from the general fund included in the operating expenses
4 line item in subdivision 1 of section 1 of this Act to other line items in subdivisions 1, 2, and 3
5 within section 1 of this Act based on the department's priorities resulting from its analysis.

6 **SECTION 32. LEGISLATIVE MANAGEMENT STUDY - STATE MEDICAL ASSISTANCE**
7 **PROGRAMS.**

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

27 **SECTION 33. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH AND**
28 **DEVELOPMENTAL DISABILITIES SERVICES.** During the 2017-18 interim, the legislative
29 management shall consider studying state and federal laws and regulations relating to the care
30 and treatment of individuals with developmental disabilities or behavioral health needs.

- 31 1. The study must include a review of the following:

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

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

- 29 1. The study must include:
 - 30 a. A review of the continuum of services for each population served, the delivery
 - 31 methods for those services, and the efficiency and effectiveness of the services.

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

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

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

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

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

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

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

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

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

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

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

1 3. ~~Effective January 1, 2018, medical assistance expansion program applicants and~~
2 ~~recipients who are at least nineteen but less than twenty-one years of age must~~
3 ~~receive coverage through traditional medical assistance.~~

4 ~~4.~~ The department shall implement the expansion by bidding through private carriers or
5 utilizing the health insurance exchange.

6 ~~5.4.~~ The contract between the department and the private carrier must:

- 7 a. Provide a reimbursement methodology for all medications and dispensing fees
8 which identifies the minimum amount paid to pharmacy providers for each
9 medication. The reimbursement methodology, at a minimum, must:
- 10 (1) Be available on the department's website; and
11 (2) Encompass all types of pharmacy providers regardless of whether the
12 pharmacy benefits are being paid through the private carrier or contractor or
13 subcontractor of the private carrier under this section.
- 14 b. Provide full transparency of all costs and all rebates in aggregate.
- 15 c. Allow an individual to obtain medication from a pharmacy that provides mail order
16 service; however, the contract may not require mail order to be the sole method
17 of service and must allow for all contracted pharmacy providers to dispense any
18 and all drugs included in the benefit plan and allowed under the pharmacy
19 provider's license.
- 20 d. Ensure that pharmacy services obtained in jurisdictions other than this state and
21 its three contiguous states are subject to prior authorization and reporting to the
22 department for eligibility verification.
- 23 e. Ensure the payments to pharmacy providers do not include a required payback
24 amount to the private carrier or one of the private carrier's contractors or
25 subcontractors which is not representative of the amounts allowed under the
26 reimbursement methodology provided in subdivision a.
- 27 f. Any

28 ~~6.5.~~ The contract between the department and the private carrier must provide the
29 department with full access to provider reimbursement rates. The department shall
30 consider provider reimbursement rate information in selecting a private carrier under
31 this section. Before August first of each even-numbered year, the department shall

1 submit a report to the legislative management regarding provider reimbursement rates
2 under the medical assistance expansion program. This report may provide cumulative
3 data and trend data but may not disclose identifiable provider reimbursement rates.
4 7.6. Provider reimbursement rate information received by the department under this
5 section and any information provided to the department of human services or any
6 audit firm by a pharmacy benefit manager under this section is confidential under
7 section 44-04-17.1, except the department may use the reimbursement rate
8 information to prepare the report to the legislative management as required under this
9 section.

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

- 12 1. There is created in the state treasury a tobacco settlement trust fund. The fund
13 consists of the tobacco settlement dollars obtained by the state under subsection IX(c)
14 (1) of the master settlement agreement and consent agreement adopted by the east
15 central judicial district court in its judgment entered December 28, 1998 [Civil
16 No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.
17 Except as provided in subsection 2, moneys received by the state under
18 subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be
19 credited to the fund and deposited in the fund. The principal and interest of the fund
20 may be appropriated to the attorney general for the purpose of enforcing the master
21 settlement agreement and any disputes with the agreement. All remaining principal
22 and interest of the fund must be allocated as follows:
 - 23 a. Transfers to a community health trust fund to be administered by the state
24 department of health. The state department of health may use funds as
25 appropriated for community-based public health programs and other public health
26 programs, including programs with emphasis on preventing or reducing tobacco
27 usage in this state. Transfers under this subsection must equal ~~ten~~fifty-five
28 percent of total annual transfers from the tobacco settlement trust fund of which a
29 minimum of eighty percent must be used for tobacco prevention and control.

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

4 ~~c.~~ Transfers to the water development trust fund to be used to address the
5 long-term water development and management needs of the state. Transfers
6 under this subsection must equal forty-five percent of the total annual transfers
7 from the tobacco settlement trust fund.

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

9 **SECTION 41. CONTINGENT EFFECTIVE DATE.** Section ~~21~~40 of this Act becomes
10 effective if the executive director of the department of human services certifies to the secretary
11 of state and the legislative council the federal government ended the medical assistance
12 expansion program.

13 **SECTION 42. EXPIRATION DATE.** Section 39 of this Act is effective through June 30,
14 2019, and after that date is ineffective.

15 **SECTION 43. EMERGENCY.** Sections ~~40~~,~~11~~, 12, 13, and ~~15~~22 of this Act are declared to
16 be an emergency measure.