

PUBLIC WELFARE

CHAPTER 418

HOUSE BILL NO. 1108

(Human Services Committee)

(At the request of the Department of Human Services)

TEMPORARY ASSISTANCE TO NEEDY FAMILIES AND DOMESTIC VIOLENCE VICTIMS

AN ACT to create and enact a new section to chapter 50-09 of the North Dakota Century Code, relating to victims of domestic violence; to amend and reenact subsection 2 of section 50-01.2-00.1, sections 50-09-06, 50-09-06.1, and subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to the temporary assistance for needy families program; and to repeal sections 50-06-01.8 and 50-09-26 of the North Dakota Century Code, relating to transition to the temporary assistance for needy families program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the ~~training, education, employment, and management~~ temporary assistance for needy families program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996, or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.

SECTION 2. AMENDMENT. Section 50-09-06 of the North Dakota Century Code is amended and reenacted as follows:

50-09-06. Application for assistance - Assignment of support rights. Application for assistance under this chapter must be made to the county agency in the manner and form prescribed by the state agency. The application must contain such information as the state agency may require, and the action of the state agency in approving and granting assistance or in disapproving and denying assistance is final and binding on the county agency. ~~An application for assistance under this chapter is deemed to create and effect an assignment of all rights of support, which~~

exist or may come to exist for the benefit of the child, to the state agency and county agency. The assignment:

1. Is effective as to both current and accrued child support obligations.
2. Takes effect upon a determination of eligibility for assistance under this chapter.
3. Terminates when an applicant ceases to receive assistance under this chapter, except with respect to the amount of any unpaid support obligation accrued under the assignment.

¹⁹¹ **SECTION 3. AMENDMENT.** Section 50-09-06.1 of the North Dakota Century Code is amended and reenacted as follows:

50-09-06.1. Application for foster care for children - Assignment of support rights. Application for foster care for children must be made to the county agency in the manner and form prescribed by the state agency. The application must contain such information as the state agency may require. An application for foster care for children under this chapter is deemed to create and effect an assignment of all rights to support, which the a family member or foster child may have or come to have, to the state agency and county agency. The assignment:

1. Is effective as to both all current and accrued child support obligations and periods of eligibility;
2. Takes effect upon a determination that the child is eligible for foster care for children. Is limited to the total cost of benefits provided to the family or foster child; and
3. Terminates when the child eligibility ceases to receive foster care for children, except with respect to the amount of any unpaid support obligation accrued under the assignment unpaid at that time.

SECTION 4. AMENDMENT. Subsection 1 of section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2, 3, and 5 through 7, the department of human services, in its administration of temporary assistance for needy families in the form of the training, education, employment, and management program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt up to twenty percent of the caseload from the requirements of subdivision b due to mental or physical disability of a parent or

¹⁹¹ Section 50-09-06.1 was also amended by section 27 of House Bill No. 1012, chapter 12.

child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;

- d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
- e. Unless otherwise required by federal law, and except as provided in subdivision ~~m~~ k, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996, for the first five years of residence in the United States, and after five years of residence, until the immigrant has ten years of work history, provide benefits only after considering the income and assets of the immigrant's sponsor;
- f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department not to exceed five thousand dollars for a one-person household and eight thousand dollars for a household of two or more;
- g. ~~Seek approval of appropriate federal officials, and, if approved, use a simplified food stamp program to provide food stamp benefits to eligible households receiving temporary assistance for needy families;~~
- ~~h.~~ Exclude one motor vehicle of any value in determining eligibility;
- ~~i.~~ h. Require work activities as defined in section 14-08.1-05.1 for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;
- ~~j.~~ i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
- ~~k.~~ j. Conduct a program, designed to reach state and local law enforcement officials, the education system, and relevant counseling services, which provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men;
- ~~l.~~ ~~Afford otherwise eligible households that have resided in this state less than twelve months benefits subject to the lifetime limit of the household's immediately previous state of residence;~~
- ~~m.~~ k. Provide benefits to otherwise eligible noncitizens who are lawfully present in the United States as refugees, asylees, veterans, active duty military personnel, spouses and dependents of active duty military personnel, and Cuban-Haitian entrants;
- ~~n.~~ l. Establish and enforce standards against program fraud and abuse;

- ~~o~~ m. Establish procedures to screen and identify victims of domestic violence for referral to appropriate services which are to be incorporated into the training, education, employment, and management temporary assistance for needy families program assessment effective June 30, 1998;
- ~~p~~ n. Provide an employment placement program;
- ~~q~~ o. Implement, as soon as practicable, an electronic fund transfer system;
- ~~r~~ p. Consider exempting funds in individual development accounts;
- ~~s~~ q. Determine the unemployment rate of adults living ~~on an~~ in a county that includes Indian reservation lands and a significant population of Indian individuals by using ~~the~~ unemployment data provided by job service North Dakota;
- ~~t~~ r. When appropriate, require household members to complete high school;
- ~~u~~ s. Exempt single parents from required work activities as defined in section 14-08.1-05.1 if the exempted parent has a child under four months of age;
- ~~v~~ t. ~~Count only approved work activities as defined in section 14-08.1-05.1 for the purpose of measuring work participation rates;~~
- ~~w~~ t. Provide for ~~progressive~~ sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- ~~x~~ u. Provide for ~~progressive~~ sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- ~~y~~ v. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- ~~z~~ w. Require each household to participate in developing an individual responsibility plan and provide for ~~progressive~~ sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate in developing an individual responsibility plan;
- ~~aa~~ x. Provide pre-pregnancy family planning services that are to be incorporated into the training, education, employment, and management temporary assistance for needy families program assessment effective June 30, 1998;
- ~~bb~~ y. Seek federal funding to assist in the evaluation of the program;

- ~~cc.~~ ~~Seek the approval of the secretary to develop and use a single application form for all economic assistance programs administered by the county social service boards;~~
- ~~dd.~~ z. After June 30, 1998, ~~except~~ Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the month of the child's probable conception;
- ~~ee.~~ aa. Disregard earned income as an incentive allowance for no more than twelve months; ~~and~~
- ~~ff.~~ bb. Except as otherwise may be permitted by federal law, not reduce or terminate benefits based on a refusal of an individual to work if the individual is a single custodial parent caring for a child who has not attained six years of age and the individual proves a demonstrated inability to obtain needed child care because of the:
 - (1) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site;
 - (2) Unavailability or unsuitability of informal child care by a relative or under other arrangements; or
 - (3) Unavailability of appropriate and affordable formal child care arrangements; and
- cc. Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere.

SECTION 5. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Victims of domestic violence - Duties of state agency.

1. The state agency shall:
 - a. Inform all temporary assistance for needy families applicants and recipients of the options available under the domestic violence option;
 - b. Screen all applicants to determine who are past or present victims of domestic violence or at risk of further domestic violence;
 - c. Refer these individuals to a local domestic violence sexual assault organization for safety planning and supportive services; and
 - d. Determine if good cause exists to waive work requirements or time limits on receipt of benefits for victims of domestic violence.
2. For purposes of this section:

- a. "Domestic violence option" means the provision of title IV-A under which a state may elect to implement a special program to serve victims of domestic violence.
- b. "Domestic violence sexual assault organization" has the meaning provided in section 14-07.1-01.
- c. "Victims of domestic violence" means a person subject to domestic violence as defined in section 14-07.1-01.

¹⁹² **SECTION 6. REPEAL.** Sections 50-06-01.8 and 50-09-26 of the North Dakota Century Code are repealed.

Approved March 27, 2001
Filed March 27, 2001

¹⁹² Section 50-06-01.8 was amended by section 21 of Senate Bill No. 2032, chapter 488.

CHAPTER 419

HOUSE BILL NO. 1385

(Representative Delzer)

CHILDREN WITH SERIOUS EMOTIONAL DISORDERS TREATMENT

AN ACT to amend and reenact section 50-06-06.13 of the North Dakota Century Code, relating to treatment services for children with serious emotional disorders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-06.13 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.13. Treatment services for children with serious emotional disorders. The department shall establish in all human service regions a program to provide out-of-home treatment services for a medicaid-eligible child with a serious emotional disorder. ~~If a child is placed in an out-of-home treatment program established under this section, the juvenile court must make a judicial determination as to whether the placement is in the best interests of the child.~~ The department may not require a parent or legal guardian to transfer legal custody of the child in order to have the child placed in an out-of-home treatment program when the sole reason for the placement is the need to obtain services for the child's emotional or behavioral problems and both parents or the legal guardian have agreed to the child's voluntary placement or, if there is a parental disagreement, there is a judicial determination by the juvenile court that placement is in the best interests of the child.

Approved April 24, 2001

Filed April 24, 2001

CHAPTER 420**SENATE BILL NO. 2168**

(Human Services Committee)

(At the request of the Department of Human Services)

HUMAN SERVICES PREMIUM TAX EXEMPTION

AN ACT to amend and reenact section 50-06-19 of the North Dakota Century Code, relating to exemption from insurance premium taxes paid by the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-19 of the North Dakota Century Code is amended and reenacted as follows:

50-06-19. Exemption from insurance premium tax. No tax otherwise due under section 26.1-03-17 may be required of a stock or mutual insurance company, nonprofit health service corporation, or health maintenance organization with respect to ~~premiums, capitation payments, policy fees, or service fees~~ collected by any third-party administrator providing administrative services or premiums, capitation payments, or policy fees paid by the department for coverage or services provided to a recipient of benefits.

Approved March 14, 2001

Filed March 14, 2001

CHAPTER 421

SENATE BILL NO. 2308

(Senators Kringstad, Kilzer, Thane)
(Representatives Cleary, Grande, Maragos)

COMPULSIVE GAMBLING PREVENTION AND TREATMENT

AN ACT to amend and reenact the new section to chapter 50-06 of the North Dakota Century Code as created by section 2 of House Bill No. 1089, as approved by the fifty-seventh legislative assembly, relating to compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹³ **SECTION 1. AMENDMENT.** The new section to chapter 50-06 of the North Dakota Century Code as created by section 2 of House Bill No. 1089, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

Compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services. The department of human services shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for compulsive gamblers. An individual who provides treatment services must ~~meet the minimum standards for certification as a gambling counselor as established by the national council on problem gambling and~~ be a mental health professional as defined in section 25-03.1-02 and meet the minimum standards for certification as a gambling counselor as established by rule by that mental health professional's licensing board. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department of human services may establish a sliding payment scale for services under the program. The department of human services may establish a centrally located repository of educational materials on identifying and treating compulsive gambling. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's compulsive gambling services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering compulsive gambling education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of human services. The term "compulsive gambler" means an individual who is chronically and progressively preoccupied with gambling and the urge to gamble and with gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

¹⁹³ Section 50-06-21 was created by section 2 of House Bill No. 1089, chapter 460.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$89,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing for a compulsive gambling prevention, awareness, rehabilitation, and treatment program, of which \$1,000 may be designated for per diem and travel expenses for in-state professional boards to gather information and set certification standards, for the biennium beginning July 1, 2001, and ending June 30, 2003.

Approved April 23, 2001
Filed April 23, 2001

CHAPTER 422

HOUSE BILL NO. 1110

(Human Services Committee)

(At the request of the Department of Human Services)

UNCOLLECTED CLAIMS INTEREST

AN ACT to create and enact a new section to chapter 50-06.3 of the North Dakota Century Code, relating to interest accrued on uncollected aged, blind, and disabled claims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06.3 of the North Dakota Century Code is created and enacted as follows:

Interest not to accrue on uncollected claims. Rights existing and vested or instruments executed under sections 50-24-13, 50-24-15, 50-24-30, 50-24-33, 50-24-34, and 50-24-38 prior to July 1, 1979, continue to be effective until their expiration according to their own terms or by force of law. Interest not already collected may not accrue on the principal amount of those claims.

Approved March 12, 2001

Filed March 12, 2001

CHAPTER 423

SENATE BILL NO. 2096

(Human Services Committee)

(At the request of the Department of Human Services)

FOSTER CARE PROVIDER FINGERPRINTING AND CRIMINAL RECORDS CHECK

AN ACT to create and enact a new subsection to section 50-11-06.8 of the North Dakota Century Code, relating to when fingerprints and a criminal history record investigation are required of an adult family foster care provider; and to amend and reenact subsection 2 of section 50-11-02, section 50-11-02.4, subsection 5 of section 50-11-06.8, and section 50-11-06.9 of the North Dakota Century Code, relating to when fingerprints are not required of a foster care provider, when a law enforcement agency is to take fingerprints of persons providing foster care services, and when a criminal history record investigation is not required of foster care providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 50-11-02 of the North Dakota Century Code is amended and reenacted as follows:

2. Before licensing or approving a facility providing foster care for children or adults, the department shall seek a criminal history record when required by ~~section 50-11-06.8~~ this chapter. The department shall consider any criminal history record information available at the time a licensing or approval decision is made.

SECTION 2. AMENDMENT. Section 50-11-02.4 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02.4. Criminal history record investigation - Fingerprinting not required.

1. a. Except as provided in section 50-11-06.9, each facility providing foster care for children shall secure from any individual employed by the facility and any adult living in the facility, but not being provided care in the facility, identifying information other than fingerprints, that is appropriate to accomplish a statewide criminal history record investigation.
- b. Except as provided in section 50-11-06.9, the department shall secure from any individual employed by, or providing care in, an adult family foster care facility and any adult living in the facility, but not being provided care in the facility, identifying information other than fingerprints, that is appropriate to accomplish a statewide criminal history record investigation.
2. Fingerprints need not be taken and a nationwide background check need not be made if an individual:

- (1) a. Has resided continuously in this state for eleven years or since reaching age eighteen, whichever is less;
 - (2) b. Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or
 - (3) c. Is excused from providing fingerprints under rules adopted by the department.
2. 3. The department shall verify that sufficient identifying information has been provided. Upon verification, the department shall submit that information to the bureau of criminal investigation.
 3. 4. The bureau of criminal investigation shall provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department. The department shall provide a copy of any response received from the bureau of criminal investigation to the facility.
 4. 5. The department shall pay the cost of securing any criminal history record information made available under chapter 12-60.
 5. 6. The department shall consult with the bureau of criminal investigation to determine the identifying information, other than fingerprints, appropriate to accomplish a statewide criminal history record investigation.
 6. 7. The department may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

SECTION 3. A new subsection to section 50-11-06.8 of the North Dakota Century Code is created and enacted as follows:

Except as provided in sections 50-11-02.4 and 50-11-06.9, the department shall secure from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and all other information necessary to secure state criminal history record information and a nationwide background check under federal law from:

- a. Any individual employed by, or providing care in, an adult family foster care facility; and
- b. Any adult living in an adult family foster care facility, but not being provided care in the facility.

SECTION 4. AMENDMENT. Subsection 5 of section 50-11-06.8 of the North Dakota Century Code is amended and reenacted as follows:

5. Upon request by the operators of a facility, a law enforcement agency shall take fingerprints of persons described in ~~subdivisions a and b of subsection 4~~ this section if the request is made for purposes of this section.

SECTION 5. AMENDMENT. Section 50-11-06.9 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.9. Criminal history record investigation - When not required. A criminal history record investigation may not be required, under section 50-11-06.8 or section 50-11-02.4, of a family foster care home for children or of a family foster care home for adults licensed or approved on August 1, 1999, for so long as that home remains continuously licensed or approved.

Approved March 14, 2001

Filed March 15, 2001

CHAPTER 424**SENATE BILL NO. 2092**

(Human Services Committee)

(At the request of the Department of Human Services)

FOSTER CARE LAW VIOLATION INJUNCTION

AN ACT to create and enact section 50-11-09.1 of the North Dakota Century Code, relating to district court injunctions to stop or prevent a violation of foster care home laws or rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-11-09.1 of the North Dakota Century Code is created and enacted as follows:

50-11-09.1. District court injunctions. The department may petition the district court for an injunction to stop or prevent a violation of this chapter or of administrative rules adopted under this chapter.

Approved March 14, 2001

Filed March 14, 2001

CHAPTER 425

HOUSE BILL NO. 1441

(Representatives Niemeier, Boucher, Cleary, Kerzman)
(Senator Bercier)

MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE

AN ACT to create and enact a new subsection to section 50-24.1-02.6 and a new section to chapter 50-29 of the North Dakota Century Code, relating to medical assistance benefits and the children's health insurance program; to provide for a legislative council study; to provide for a continuing appropriation; to require maximizations of federal reimbursement; to provide for an effective date; and to provide for an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-24.1-02.6 of the North Dakota Century Code is created and enacted as follows:

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

SECTION 2. A new section to chapter 50-29 of the North Dakota Century Code is created and enacted as follows:

Grants - Gifts - Donations - Continuing appropriation. The department may accept any gift, grant, or donation, whether conditional or unconditional, for the purpose of providing funds for the children's health insurance program. The department may contract with public or private entities and may expend any moneys available to the department to obtain matching funds for the purposes of this chapter. The department shall seek grants from the academy for health research and health policy state coverage initiative and from any other entity that may award such grants. All moneys received as a gift, grant, or donation under this section are appropriated as a standing and continuing appropriation to the department for the purpose of providing funds for the children's health insurance program.

SECTION 3. LEGISLATIVE COUNCIL STUDY. During the 2001-02 interim, the legislative council shall consider studying the coordination of the medical assistance and the children's health insurance programs, including the development of a single application form for both programs, whether the children's health insurance program should be administered by the state or the counties, the effects of eliminating the asset eligibility requirement for the medical assistance program, the standardization of the definition of "income" for all programs administered by the department of human services, and the feasibility and desirability of seeking a federal waiver to allow the children's health insurance program plan to provide coverage for a family through an employer-based insurance policy if an employer-based insurance policy is more cost-effective than the traditional plan coverage for the children. 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 4. FEDERAL REIMBURSEMENT. The department of human services shall seek an amendment to its state plan to maximize federal reimbursement through the program to provide health assistance to low-income children funded through title XXI of the federal Social Security Act, for the removal of the asset test for the medical assistance program.

SECTION 5. EFFECTIVE DATE - EXPIRATION DATE. Section 1 of this Act becomes effective upon certification by the department of human services to the governor and the legislative council that the state plan amendments to the children's health insurance program have received federal approval. In no case, however, may section 1 of this Act become effective before January 1, 2002. If section 1 of this Act becomes effective, the section is effective through June 30, 2003, and after that date is ineffective.

Approved April 26, 2001

Filed April 26, 2001

CHAPTER 426

HOUSE BILL NO. 1472

(Representatives Sandvig, Cleary, Niemeier)
(Senators Heitkamp, D. Mathern, T. Mathern)

BREAST AND CERVICAL CANCER MEDICAL ASSISTANCE

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance for breast and cervical cancer; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medical assistance for breast or cervical cancer. The department of human services may provide medical assistance for women screened and found to have breast or cervical cancer in accordance with the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000 [Pub. L. 106-354; 114 Stat. 1381; 42 U.S.C. 1396a et seq.]. The department shall establish an income eligibility limit that may not exceed two hundred percent of the poverty line for payments made under this section. For purposes of this section, poverty line means the official income poverty line as defined by the United States office of management and budget and revised annually in accordance with 42 U.S.C. 9902(2), applicable to a family of the size involved.

SECTION 2. APPROPRIATION - COMMUNITY HEALTH TRUST FUND TRANSFER. There is appropriated out of any moneys in the community health trust fund in the state treasury, not otherwise appropriated, the sum of \$114,755, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$429,365, or so much of the sum as may be necessary, to the department of human services for the purpose of providing medical assistance coverage for breast and cervical cancer for the biennium beginning July 1, 2001, and ending June 30, 2003. The funds appropriated from the community health trust fund must be transferred to the department of human services operating fund as requested by the director of the department of human services.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 2003, and after that date is ineffective.

Approved April 13, 2001
Filed April 16, 2001

CHAPTER 427**HOUSE BILL NO. 1115**

(Human Services Committee)

(At the request of the Department of Human Services)

BASIC CARE PERSONAL CARE OPTION

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to a personal care option for individuals residing in basic care facilities; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Personal care option. The department of human services may implement a personal care option benefit program. Personal care option benefits may only be made available to qualifying individuals who reside in basic care facilities. As used in this section, "basic care facility" has the meaning provided in section 23-09.3-01.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 13, 2001
Filed April 13, 2001

CHAPTER 428**SENATE BILL NO. 2403**

(Senators Kilzer, Christmann, T. Mathern)

**ORAL MAXILLOFACIAL AND ORTHODONTIC CARE
MEDICAID ELIGIBLE**

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the provision of medically necessary oral maxillofacial services and associated orthodontic care through the medicaid program; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Oral maxillofacial services - Medical necessity. The department of human services shall make oral maxillofacial surgical services and orthodontic services in conjunction with, or in lieu of, such surgical services available through the medicaid program to anyone who is a medicaid recipient if such services are reasonably likely to correct or mitigate a congenital or acquired deformity associated with a significant functional impairment in drinking, eating, swallowing, or speaking.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 19, 2001
Filed April 19, 2001

CHAPTER 429

HOUSE BILL NO. 1117

(Human Services Committee)

(At the request of the Department of Human Services)

TARGETED CASE MANAGEMENT

AN ACT to amend and reenact sections 50-24.3-01 and 50-24.3-03 of the North Dakota Century Code, relating to the provision of targeted case management by the department of human services; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.3-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-01. ~~Assessment mechanism - Establishment~~ Targeted case management. The department of human services shall establish a mechanism to assess, prior to admission to a skilled nursing facility, intermediate care facility, or a hospital swing-bed facility approved to furnish skilled or intermediate care services, the health and social needs of each person making application for admission to the facility targeted case management service for disabled and elderly individuals eligible for benefits under chapter 50-24.1 who are at risk of requiring long-term care services to ensure that an individual is informed of alternatives available to address the individual's long-term care needs.

SECTION 2. AMENDMENT. Section 50-24.3-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-03. Department of human services - Powers and duties. The department of human services has the following powers and duties which it may delegate to any entity which provides assessment services targeted case management services approved by the department:

1. To seek cooperation from other public and private agencies entities in the community which offer services to disabled and elderly persons individuals with disabilities or the elderly.
2. To provide information and education to the general public regarding availability of the assessment program targeted case management.
3. To accept referrals from an interested party including individuals, families, human services program professionals, and nursing home facility personnel, and acute care facility personnel.
4. To assess the health and social needs of, and provide targeted case management to, referred individuals who wish to receive this service.
5. To identify available noninstitutional services to meet the needs of referred individuals.

6. To prepare ~~recommendations for individuals receiving assessment program services as to the need for skilled nursing care, or intermediate care as provided in a facility, or other care which is available in the community~~ an individual care plan for each individual receiving targeted case management services.
7. To inform referred individuals of the extent to which ~~home~~ long-term care services are available, including institutional and community-based services are available, and of ~~their~~ the individual's opportunity to choose, in consultation with an attending physician ~~and, family member members,~~ and other interested parties, among the appropriate alternatives that may be available.
8. To monitor the results of targeted case management and report to each legislative assembly on these results and the cost-effectiveness of these services.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2003, and after that date is ineffective.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 14, 2001
Filed March 15, 2001

CHAPTER 430

SENATE BILL NO. 2097

(Human Services Committee)

(At the request of the Department of Human Services)

NURSING HOME REPORTING REQUIREMENTS

AN ACT to amend and reenact of section 50-24.4-08 and subsection 1 of section 50-24.4-23 of the North Dakota Century Code, relating to reporting requirements for nursing homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-24.4-23 of the North Dakota Century Code is amended and reenacted as follows:

1. No later than October first of each year, each nursing home ~~which~~ that receives medical assistance payments from the department shall:
 - a. ~~Provide~~ Except for state-owned facilities, provide the department with a copy of its audited report that meets the reporting standards of the American institute of certified public accountants and includes an audited statement of the rate or rates charged to private-paying residents. The examination by the certified public accountant must be conducted in accordance with generally accepted auditing standards as promulgated and adopted by the American institute of certified public accountants;
 - b. Provide the department with a statement of ownership for the facility or a certification that ownership has not changed since the most recent statement given pursuant to this subsection;
 - c. Provide the department with ~~separate,~~ audited financial statements as specified in subdivision a of this subsection for every other facility owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - d. Upon request, provide the department with ~~separate,~~ audited financial statements as specified in subdivision a of this subsection for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;
 - e. Provide the department with copies of leases, purchase agreements, appraisals, financing arrangements, and other documents related to the lease or purchase of the nursing facility, or a certification that the content of any such document remains unchanged since the most recent statement given pursuant to this subsection;
 - f. Upon request, provide the department with copies of leases, purchase agreements, and other documents related to the

acquisition of equipment, goods, and services which are claimed as allowable costs; and

- g. Permit access by the department to the certified public accountant's audit workpapers which support the audited financial statements required in subdivisions a, c, and d of this subsection.

SECTION 2. AMENDMENT. Section 50-24.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-08. Notice of increases to private-paying residents. No increase in nursing home rates for private-paying residents is effective unless the nursing home notifies the resident or person responsible for payment of the increase in writing thirty days before the increase takes effect. A nursing home may adjust its rates without giving the notice required by this section when the purpose of the rate adjustment is to reflect a necessary change in the category of care provided to a resident. If the department fails to set rates at least forty days prior to the beginning of a rate year, the time required for giving notice is decreased by the number of days by which the department was late in setting the rates, except when a facility fails to file a cost report by October first.

Approved April 17, 2001
Filed April 17, 2001

CHAPTER 431

HOUSE BILL NO. 1196

(Representatives Devlin, Boucher, Severson)
(Senators Andrist, Fischer, Solberg)

NURSING FACILITY ALTERNATIVE LOAN FUND AND BED MORATORIUM

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~~
 - c. ~~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, 2004) 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, 2004) 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, 2004) 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.

¹⁹⁴ **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.

¹⁹⁴ Section 23-09.3-01.1 was also amended by section 1 of Senate Bill No. 2098, chapter 237.

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, 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 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 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.

¹⁹⁵ **SECTION 10. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹⁹⁵ Section 23-16-01.1 was also amended by section 2 of Senate Bill No. 2098, chapter 237.

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

- ~~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, 2004 - 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;~~
 - c. ~~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, 2004 - 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 McVille 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

rebasement 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.

Approved April 19, 2001
Filed April 19, 2001

CHAPTER 432

HOUSE BILL NO. 1109

(Human Services Committee)

(At the request of the Department of Human Services)

ASSISTED LIVING FACILITY FEES AND LICENSING

AN ACT to create and enact a new section to chapter 50-24.5 and a new subsection to section 50-24.5-02 of the North Dakota Century Code, relating to registration fees, requirements, and complaints to the department of human services regarding assisted living facilities; to amend and reenact subsection 2 of section 23-09-01, subsection 1 of section 23-09.3-01, and sections 50-24.5-01 and 50-24.5-04 of the North Dakota Century Code, relating to requiring assisted living facilities to be licensed as boardinghouses, definitions, and limits on cost of services provided; to repeal section 23-09.3-03 of the North Dakota Century Code, relating to choice of pharmacy services; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-09-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Boardinghouse" includes every building or structure, or any part thereof, with accommodations for four or more boarders, which is kept, used, maintained, advertised, or held out to the public as a place where food is furnished to regular boarders for periods of one week or more. The term does not include a facility providing personal care directly or through contract as defined in section 23-09.3-01 ~~or 50-24.5-04~~.

SECTION 2. AMENDMENT. Subsection 1 of section 23-09.3-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. "Basic care facility" means a residence, not licensed under chapter 23-16 by the department, that provides room and board to five or more individuals who are not related by blood or marriage to the owner or manager of the residence and who, because of impaired capacity for independent living, require health, social, or personal care services, but do not require regular twenty-four-hour medical or nursing services and:
 - a. Makes response staff available at all times to meet the twenty-four-hour per day scheduled and unscheduled needs of the individual; or
 - b. Is kept, used, maintained, advertised, or held out to the public as an Alzheimer's, dementia, or special memory care facility.

¹⁹⁶ **SECTION 3. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. (Effective through June 30, 2001) Definitions. In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.
2. "Assisted living" means an environment where a person lives in an apartment-like unit and receives services on a twenty-four-hour basis to accommodate that person's needs and abilities to maintain as much independence as possible.
3. "Basic care facility" means a facility defined in section 23-09.3-01 which is not owned or operated by the state.
4. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
5. "Congregate housing" means housing shared by two or more persons not related to each other which is not provided in an institution.
6. "County agency" means the county social service board.
7. "Department" means the department of human services.
8. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
9. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
(2) Is at least eighteen years of age and is disabled or blind;
 - b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], provided that a person who was eligible to receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and who was receiving benefits under title XVI before January 1, 1995, is not ineligible because that person is not eligible to receive benefits under title XIX;
 - c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:

¹⁹⁶ Section 50-24.5-01 was also amended by section 1 of Senate Bill No. 2093, chapter 433.

- (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or a licensed basic care facility, or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
- d. Is determined to be eligible pursuant to rules adopted by the department.
10. "Institution" means an establishment that makes available some treatment or services beyond food or shelter to four or more persons who are not related to the proprietor.
11. "Living independently" includes living in congregate housing. The term does not include living in an institution.
12. "Qualified service provider" means a county agency or independent contractor who agrees to meet standards for services and operations established by the department.
13. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
14. "Would be eligible to receive the cash benefits except for income" refers to a person whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] which the person would receive if the person had no income, plus forty-five dollars.

(Effective July 1, 2001) Definitions. In this chapter, unless the context otherwise requires:

- 1. "Activities of daily living" means bathing, dressing, toileting, transferring, eating, bed mobility, medication management, and personal hygiene.
- 2. "Aged" means at least sixty-five years of age.
- ~~2.~~ 3. "Assisted living facility" means any building or structure containing 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. Serves 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.

series of living units operated as one business entity to provide services for five or more individuals who are aged or disabled adults and who are not related by blood or marriage to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that makes available individualized support services to accommodate an individual's needs and abilities to maintain as much independence as possible. It does not include a facility that is licensed as a basic care facility or a congregate housing facility.

- ~~3.~~ 4. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
- ~~4.~~ 5. "Congregate housing" means housing shared by two or more ~~persons~~ individuals not related to each other which is not provided in an institution.
- ~~5.~~ 6. "County agency" means the county social service board.
- ~~6.~~ 7. "Department" means the department of human services.
- ~~7.~~ 8. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].
- ~~8.~~ 9. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
 - (2) Is at least eighteen years of age and is disabled or blind;

- b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], provided that ~~a person~~ an individual who was eligible to receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and who was receiving benefits under title XVI before January 1, 1995, is not ineligible because that ~~person~~ individual is not eligible to receive benefits under title XIX;
 - c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or an assisted living facility; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
 - d. Is determined to be eligible pursuant to rules adopted by the department.
10. "Individualized support services" means services designed to provide assistance to adults who may have physical or cognitive impairments and who require at least a moderate level of assistance with one or more activities of daily living.
- ~~9.~~ 11. "Institution" means an establishment that makes available some treatment or services beyond food or shelter to five or more ~~persons~~ individuals who are not related to the proprietor.
12. "Instrumental activities of daily living" means activities to support independent living including housekeeping, shopping, laundry, transportation, and meal preparation.
- ~~40.~~ 13. "Living independently" includes living in congregate housing. The term does not include living in an institution.
14. "Living unit" means a portion of an assisted living facility occupied as the living quarters of an individual who has entered into a lease agreement with the assisted living facility.
- ~~44.~~ 15. "Proprietor" means a ~~person~~ an individual responsible for day-to-day administration and management of a facility.
- ~~42.~~ 16. "Qualified service provider" means a county agency or independent contractor who agrees to meet standards for services and operations established by the department.
17. "Related by blood or marriage to the owner or manager" means an individual who is a spouse or former spouse of the owner or manager or is a parent, stepparent, grandparent, stepgrandparent, child, stepchild, grandchild, stepgrandchild, brother, sister, half-brother, half-sister,

stepbrother, or stepsister of the owner or manager or the owner or manager's spouse or former spouse.

43. 18. "Related to the proprietor" means ~~a person~~ an individual who is a proprietor's spouse or former spouse, or a parent, stepparent, grandparent, stepgrandparent, child, stepchild, grandchild, stepgrandchild, brother, sister, half-brother, half-sister, stepbrother, or stepsister of a proprietor or proprietor's spouse or former spouse.
44. 19. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
20. "Tenant" means an adult individual who has entered into a lease agreement with an assisted living facility.
45. 21. "Would be eligible to receive the cash benefits except for income" refers to ~~a person~~ an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] which the ~~person~~ individual would receive if the ~~person~~ individual had no income, plus ~~forty-five~~ sixty dollars.

SECTION 4. A new subsection to section 50-24.5-02 of the North Dakota Century Code is created and enacted as follows:

Establish a method to receive complaints related to assisted living facilities and to forward the complaints to the appropriate agency for investigation.

SECTION 5. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Registration of assisted living facilities.

1. An individual, institution, organization, limited liability company, or public or private corporation keeping, operating, conducting, managing, maintaining, advertising, or using the term "assisted living" in its advertising shall register annually with the department.
2. An assisted living facility shall pay to the department an annual registration fee of seventy-five dollars for each facility. Registration fees collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly.
3. The department shall establish rules governing the annual registration of an assisted living facility to regulate the application for, approval, denial, revocation, and requirements of registration. The department shall involve the facilities in the rulemaking process.
4. An individual, institution, organization, limited liability company, or public or private corporation may not operate or market its facility or services as an assisted living facility unless it has registered with the department

as an assisted living facility and that registration has been approved by the department.

5. After the fifty-ninth day following the notification of noncompliance with annual registration, the department may assess a fine of up to fifty dollars per day against any individual, institution, organization, limited liability company, or public or private corporation that provides assisted living services or uses the term assisted living in its marketing without a registration approved by the department. Fines collected under this section must be deposited in the department of human services operating fund in the state treasury. Any expenditure from the fund is subject to appropriation by the legislative assembly.
6. Religious orders providing assistance with activities of daily living or instrumental activities of daily living to vowed members residing in the order's retirement housing are not subject to this chapter.

SECTION 6. AMENDMENT. Section 50-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 7. REPEAL. Section 23-09.3-03 of the North Dakota Century Code is repealed.

SECTION 8. EFFECTIVE DATE. This Act becomes effective on July 1, 2001.

Approved April 13, 2001
Filed April 16, 2001

CHAPTER 433

SENATE BILL NO. 2093

(Human Services Committee)

(At the request of the Department of Human Services)

VULNERABLE PERSONS AID DEFINITIONS

AN ACT to amend and reenact subdivision e of subsection 2 of section 50-24.5-01 of the North Dakota Century Code, relating to the definitions for the aid to vulnerable aged, blind, and disabled persons program; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁷ **SECTION 1. AMENDMENT.** Subdivision e of subsection 2 of section 50-24.5-01 of the North Dakota Century Code, as effective July 1, 2001, is amended and reenacted as follows:

- e. Serves five or more adult residents, unrelated to the proprietor, on a specified premises not licensed under chapter ~~23-20~~ 23-16 or 25-16, which meets the requirements of the national fire protection association 101 Life Safety Code, as applicable.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2001.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 6, 2001
Filed March 6, 2001

¹⁹⁷ Section 50-24.5-01 was also amended by section 3 of House Bill No. 1109, chapter 432.

CHAPTER 434

SENATE BILL NO. 2129 (Human Services Committee) (At the request of the Attorney General)

ABANDONED INFANTS

AN ACT to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to abandoned infants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Abandoned infant - Hospital procedure - Reporting immunity.

1. As used in this section:
 - a. "Abandoned infant" means an abandoned infant as defined in section 27-20-02 and which has been left at a hospital in an unharmed condition.
 - b. "Hospital" means a facility licensed under chapter 23-16.
2. A parent of an infant may abandon the infant at any hospital. An agent of the parent may leave an abandoned infant at a hospital with the parent's consent. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a hospital.
3. A hospital shall accept an infant abandoned or left under this section. The hospital may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the hospital's return address. Neither the parent nor the agent is required to provide any information.
4. The hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the abandoned infant. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.
5. The hospital may provide the parent or the agent with any relevant information, including:
 - a. Information about the safe place for abandoned infant programs;

- b. Information about adoption and counseling services; and
 - c. Information about whom to contact if reunification is sought.
6. Within twenty-four hours of receiving an abandoned infant under this section, the hospital shall report to the department, as required by section 50-25.1-03, that an abandoned infant has been left at the hospital. The report may not be made before the parent or the agent leaves the hospital.
7. The hospital and its employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
8. Upon receiving a report of an abandoned infant left at a hospital under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or the agent. If it appears the abandoned infant was harmed, the department shall initiate an assessment of the matter as required by law.
9. If an individual claiming to be the parent or the agent contacts the department and requests to be reunited with the abandoned infant, the department may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department seeking information only, the department may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in an abandoned infant case. The individual is under no obligation to respond to the request for information, and the department may not attempt to compel response to investigate the identity or background of the individual.

Approved March 28, 2001
Filed March 28, 2001

CHAPTER 435**SENATE BILL NO. 2095**

(Human Services Committee)

(At the request of the Department of Human Services)

**CHILDREN'S HEALTH INSURANCE INCOME
PROVISIONS**

AN ACT to amend and reenact subsection 1 of section 50-29-02 of the North Dakota Century Code, relating to implementation of the income provisions of the children's health insurance program by the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-29-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants, where adjusted gross income or loss means the adjusted gross income or loss as computed for an individual for federal income tax purposes under the Internal Revenue Code, based on the average of the previous three years of adjusted gross income, which means the adjusted gross income as computed for an individual for federal income tax purposes under the Internal Revenue Code lower of either:
 - a. The previous one year of adjusted gross income or loss, less any earned or unearned income on the tax return, plus any current earned or unearned income; or
 - b. The average of the previous three years of adjusted gross income or loss, less the average of earned or unearned income for each of the previous three years, plus any current earned or unearned income;

Approved April 19, 2001

Filed April 19, 2001

CHAPTER 436**SENATE BILL NO. 2174**

(Senator T. Mathern)

MEDICAL ASSISTANCE STUDY

AN ACT to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. MEDICAL ASSISTANCE - LEGISLATIVE COUNCIL STUDY.

The legislative council shall consider studying the feasibility of altering North Dakota medical assistance requirements to permit the disregard of income of the spouse of a disabled individual up to the amount of the cap established under section 1924(d)(3)(C) of the Social Security Act [42 U.S.C. 1396r-5(d)(3)(C)]. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

Approved March 19, 2001

Filed March 19, 2001

CHAPTER 437**SENATE BILL NO. 2354**

(Senators Krauter, Erbele, Heitkamp)
(Representatives Fairfield, Hunskor, Renner)

ALTERNATIVES-TO-ABORTION SERVICES STUDY

AN ACT to provide for a legislative council study of an alternatives-to-abortion services program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - ALTERNATIVES-TO-ABORTION SERVICES PROGRAM. During the 2001-02 interim, the legislative council shall consider studying the feasibility and desirability of an alternatives-to-abortion services program that would provide information, counseling, and support services to assist women to choose childbirth and to make informed decisions regarding the choice of adoption or parenting. The study must include a review of how federal funds received under title X of the Public Health Service Act of 1970 are spent in the state and a review of the continuum of care and access to services across the state. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly.

Approved May 4, 2001
Filed May 4, 2001

CHAPTER 438

SENATE BILL NO. 2307

(Senators Grindberg, Fischer, Robinson)
(Representatives S. Kelsh, Koppang, Kroeber)

STATEWIDE REIMBURSEMENT SYSTEM REPORT

AN ACT to require the department of human services and developmental disabilities services providers to make recommendations regarding a statewide reimbursement system and to report to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES AND DEVELOPMENTAL DISABILITIES SERVICES PROVIDERS - RECOMMENDATION - REPORT TO LEGISLATIVE COUNCIL. The department of human services, in cooperation with developmental disabilities services providers representing each of the eight human service regions, shall prepare a joint recommendation for consideration by the fifty-eighth legislative assembly regarding a new statewide developmental disability services provider reimbursement system. During the 2001-02 interim, the department of human services shall report quarterly to the legislative council regarding the progress in preparing a joint recommendation under this section.

Approved April 9, 2001
Filed April 10, 2001

CHAPTER 439

HOUSE BILL NO. 1114

(Political Subdivisions Committee)

(At the request of the Department of Human Services)

HUMAN SERVICES STUTSMAN COUNTY LAND SALE

AN ACT to authorize the department of human services to sell certain land in Stutsman County, North Dakota; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of land authorized. The department of human services may sell the land described in subsection 1 for the price and on the terms as determined by the department of human services and may convey the land described in subsection 2 to the city of Jamestown, North Dakota, for two hundred dollars per acre or the most recent appraised value, whichever is higher. The land to be sold is a part of the grounds of the state hospital described as follows:

1. A tract of land located within the SW 1/4 of Section 1, Township 139 North, Range 64 West of the Fifth Principal Meridian, Stutsman County, North Dakota, being more particularly described as follows:

Commencing at the southwest corner of said Section 1; thence S90 degrees 00'00"E, along the south line of the SW 1/4 of said Section 1, 75.00 feet to the point of beginning; thence N0 degrees 27'26"W, parallel with the west line of the SW 1/4 of said Section 1, 1,204.23 feet to a point on the south line of an existing parcel; thence N89 degrees 50'00"E, along the south line of said existing parcel, 44.60 feet; thence N1 degrees 42'11"E, along the easterly line of said existing parcel, 1,003.47 feet to a point on the southerly right-of-way line of Interstate Highway 94; thence southeasterly, along a 5 degrees 00'00" spiral right-of-way curve, said curve having a chord bearing of S72 degrees 51'18"E and a chord length of 81.38 feet, a spiral length of 81.38 feet to the beginning of a circular right-of-way curve, said curve having a chord bearing of S82 degrees 10'15"E and a chord length of 900.88 feet; thence along said circular right-of-way curve an arc length of 904.21 feet; thence S2 degrees 09'28"W, 2062.12 feet to a point on the south line of the SW 1/4 of said Section 1; thence N90 degrees 00'00"W, along the south line of the SW 1/4 of said Section 1, 957.43 feet to the point of beginning.

Bearings for the above description are based on an assumed bearing of N90 degrees 00'00"W along the south line of said Section 1. Said tract contains 47.37 acres more or less.

2. A tract of land located within the NE 1/4 of Section 1, Township 139 North, Range 64 West of the Fifth Principal Meridian, Stutsman County, North Dakota, being more particularly described as follows:

Commencing at a point 1,710 feet south of the Northwest corner of the NE 1/4 of Section 1, Township 139 North, Range 64 West, to

the point of beginning; thence East 600 feet; thence North 480 feet; thence West 600 feet; thence South 480 feet to the point of beginning, all of said lines running parallel to the section lines.

3. Sections 54-01-05.2 and 54-01-05.5 do not apply to the transfer of the land described in subsection 2.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 5, 2001
Filed April 5, 2001