

NORTH DAKOTA LONG TERM CARE ASSOCIATION

LEGISLATIVE REPORT

2023

June 2023

Greetings!

It is our pleasure to present the final report of the 68th Legislative Assembly. This report highlights legislation impacting basic care, assisted living and nursing facilities.

The technological advancements brought about by the COVID-19 pandemic brought great opportunity for members to attend any hearing and listen to what legislators were saying about long term care.

Highlights of the session include increasing the personal needs allowance by \$35 for all basic care and nursing facility residents, enhancing basic care facility funding, funding the nursing facility valued based purchasing program, creating an office of immigration to facilitate processing of legal immigrants to enhance North Dakota's workforce, additional dollars for guardianship services, and study of basic care, adult residential care and assisted living. Immediately following this page is the summary of our 2023 member legislative priorities and the final results.

Thank you for your grassroots advocacy, your voices were heard. We launched a successful lobbying effort and together achieved remarkable results. Thank you for your active involvement in the Association and for achieving many legislative victories.

With kindest regards,



Cynthia Tredwell, *Chair*



Shelly Peterson, *President*

2023 Legislative Priorities



PRIORITY	BILL NUMBER	OUTCOME
1. Increase basic care resident personal needs allowance from \$100 to \$135 per month.	SB 2012	PASSED!
2. Rebase basic care limits using the most recent cost report for July 1, 2023 rates.	SB 2012	PASSED!
3. Adopt new methodology for basic care setting limits, the median plus 18% for direct care and the median plus 12% for indirect.	SB 2012	PASSED!
4. Support basic care inflationary adjustments of at least 4% each year of the biennium.	SB 2012	Partial - 3.5/3.5%
5. Support a \$10 per day pass through for basic care rates effective 7-1-23 and 7-1-24 to help payment issues not addressed in the 2022-2023 study report.	SB 2012	Half - \$5 per day
6. Support continued study of the Basic Care Payment Program and study the Adult Residential Program for dementia and head injury services.	SB 2012	PASSED!
7. Support the basic care bed moratorium through July 2025.	HB 1290	PASSED!
8. Increase nursing facility personal needs allowance from \$65 to \$100 per month.	SB 2012	PASSED!
9. Support the nursing facility bed moratorium, 48 month bed layaway program and allowing 6 years to put a nursing facility bed into service once it is sold.	HB 1290	PASSED!
10. Support a \$16 million Quality Enhancement Payment for nursing facilities.	SB 2012	PASSED!
11. Repeal the NDCC related to resident refunds when a rate is finalized.	HB 1322	PASSED!
12. Support a ND Office of Immigration to facilitate the processing of legal immigrants to enhance North Dakota's workforce.	SB 2142	PASSED!
13. Support additional dollars for guardianship.	SB 2015	PASSED!
14. Support guardians having clear authority to consent for a ward to be treated with prescribed mood stabilizers for antipsychotic medication.	SB 2225	PASSED!

Table of Contents

PAGE	BILL NUMBER	LEGISLATION BY TOPIC
5	HB 1014	Industrial Commission Budget
5	HB 1018	Department of Commerce Budget Bill
6	HB 1045	Life Safety Inspection of Initial Health Care Projects
6	HB 1210	Allows PACE to be Exempt from Sales Tax
6	HB 1284	Liability Limitations to Charitable Organizations
7	HB 1290	Basic Care - Nursing Facility Moratorium
7	HB 1322	Refunds when Nursing Facility Rates are Finalized
7	HB 1389	Expand Eligibility for Residents at the ND Veterans Home
8	HB 1418	Membership of the Brain Injury Advisory Council
8	HB 1434	Medicaid Fraud Control Unit
9	HB 1438	Property Tax Exemption for Non-Profit Hospitals and Nursing Homes
9	HB 1476	Study of Contract Nursing
9	HB 1478	Self Certification for an Individual Admitted into a Hospice Program
9	HB 1502	Access to Hospital Care
10	HB 1540	Childcare Assistance
10	SB 2003	Attorney General's Budget
11	SB 2012	Department of Health & Human Services Appropriation Bill
14	SB 2015	OMB Budget Bill
14	SB 2114	Board of Nursing - Establish an Alternative to Discipline Program
15	SB 2125	Health Care Directives
15	SB 2142	Creation of an Office of Legal Immigration
16	SB 2155	Federally Qualified Health Center Grants
16	SB 2222	Conservatorship
16	SB 2224	Guardianship Proceedings
17	SB 2225	Involuntary Treatment of a Ward with Prescribed Medication
17	SB 2227	Membership and Duties of the Health Council
18	SB 2249	Occupational Boards
18	SB 2265	Dual Special Needs Plan
19	SB 2274	COVID-19 Vaccination Status
19	SB 2344	RN Student Loan Repayment Program
20	SB 2345	Taskforce on Guardianship Monitoring

**HB
1014**

Industrial Commission Budget

This is where the housing incentive fund is located. Provides \$13.75 million to create affordable single and multi-family housing. The housing incentive fund is a special revolving fund at the Bank of ND. This biennium, at least 10% of the fund must be to assist developing communities to address an unmet housing need or alleviate a housing shortage.

**HB
1018**

Department of Commerce Budget Bill

This state agency administers a number of programs to enhance North Dakota's workforce. The agency has a total budget of \$323.4 million dollars with \$62.1 coming from the general fund. The agency has 63.8 FTE's.

Workforce Programs received \$28.5 million dollars. Some of the one-time funding includes \$5 million for tourism marketing, \$25 million for tourism destination development initiative, \$600,000 for motion picture production and recruitment grant, \$785,000 for the community service Americorps program, \$2.0 million for rural workforce housing grant program, \$12 million for workforce talent attraction initiative, \$12.5 million for workforce investment grant program, \$2 million for new Americans workforce training grants, \$1.55 million for parks and recreation grants, \$14,081,719 for energy conservation grant programs and \$3,258,084 for heating and cooling grant programs. Established programs received \$1,006,896 for operation intern programs, \$10 million for legacy investment technology loans, and \$120 million for federal funds for weatherization and energy assistance programs.

During the 2023-24 interim, the department of commerce shall report to the legislative management regarding the status of each grant program, including funding spent to date, the number of individuals or businesses awarded funding, the name and amount of funding awarded to each individual and business, the date funding was awarded, criteria used when awarding funding, and a detailed listing of how the funding has been used. The department of commerce shall provide one report by December 31, 2023, and no fewer than two reports during the period beginning January 1, 2024, and ending October 31, 2024.



HB 1045

Life Safety Inspections of Initial Health Care Projects

The department of health and human services is responsible for reviewing plans for construction and renovation of hospitals, nursing homes and basic care facilities to assure they meet all construction and healthcare life safety standards. The department must make an initial determination on a project within a specified time frame based upon the estimated cost of the project. Initially three construction categories were identified and HB 1045 identified a fourth category.

- A project of no more than one million dollars, shall be reviewed within twenty-eight days of receipt of a complete application;
- A project of more than one million dollars but no more than four million dollars, shall be reviewed within forty-two days of receipt of a complete application;
- A project of more than four million dollars, and less than fifteen million dollars, shall be reviewed within fifty-six days of receipt of a complete application;
- A project of more than fifteen million dollars will choose one of two options for review of their plans. DHHS will inform the provider of the time necessary to review their plan, if they are not satisfied with the time frame they have the option to use a third-party reviewer.

HB 1210

Allows PACE to be Exempt from Sales Tax

This legislation allows two additional entities to receive a sales and use tax exemption, providers who have a contract with the DHHS as a program of all-inclusive care for the elderly, (PACE) and those who receive grant funds through the Dept. of Transportation which are used for enhanced mobility of seniors and individuals with disabilities.

HB 1284

Relating to Liability Limitations to Charitable Organizations

NDCC 32-03.3-02 Addresses the liability of charitable organizations.

A charitable organization may be only held liable for money damages for a personal injury or property damage proximately caused by the negligence or wrongful act or omission of an employee acting within the employee's scope of employment.

The liability of the charitable organization under this chapter is limited to a total of \$375,000 per person and one million dollars for any number of claims arising from any single occurrence. The charitable organization may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages. The liability limits under this subsection must be adjusted annually as follows:

- a. On July 1, 2025, a total of \$406,250 per person and \$1,625,000 for any single occurrence.
- b. On July 1, 2026, a total of \$437,500 per person and \$1,750,000 for any single occurrence.
- c. On July 1, 2027, a total of \$465,750 per person and \$1,875,000 per occurrence.

On July 1, 2029 the liability of the charitable organization is limited to a total of \$500,000 per person and two million dollars for any number of claims arising from any single occurrence.

HB 1290

Basic Care – Nursing Facility Moratorium

This legislation extends the basic care and nursing facility moratorium through July 31, 2025. A few exceptions continue for the basic care moratorium. Basic care beds can be added IF:

1. A nursing facility converts nursing facility beds to basic care.
2. An entity demonstrates to the department that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to participate in any program established by the department for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act.

If the department grants approval of new basic care beds to an entity, the approved entity shall license the beds within forty-eight months from the date of approval.

HB 1322

Refunds when Nursing Facility Rates are Finalized

This legislation amends 50-24.4-17 regarding adjustments to nursing facility rates. The current statute says a cumulative change of more than one dollar from the desk rate shall be refunded to the private pay. This was removed and refunds will be determined by rule. It is anticipated the rules will not require refunds to the private pay when changes between desk and audit rates occur.

HB 1389

Expand Eligibility for Residents at the ND Veterans Home

This bill slightly enlarges the pool of eligible residents while still limiting it to individuals whose long term care costs are covered by federal funding.

It slightly expands ND's definition of who is eligible to live at the Veterans Home. This includes a narrow set of National Guard members who meet certain criteria – while still limiting it to individuals whose stay would be covered by the federal per diem.

It changes “honorably discharged” to “discharged or released under other than dishonorable conditions.” The NDNG believes this is an important change, citing the scenario of a person who sustained injuries during training and was discharged for the injury; in this situation, the categorization of the discharge would commonly be something other than honorable. And individuals in this group could later be eligible to enroll with and receive care from the VA for on-going issues or issues that arise later in life connected to the injury that occurred while they were in the National Guard.

It changes “North Dakota” to “United States” when referring to the National Guard to allow for the situation when a ND resident served in the Nation Guard of a neighboring state.

The bill also updates language such as changing “soldiers” to “service members” and it adds “reserve.”

HB 1418

Membership of the Brain Injury Advisory Council

Expands the council from 5 to 9 members to 8 to 13 voting members. The governor appoints all members. It must include at least two brain injury survivors and two family members of a brain injury survivor. Other appointments are made by the house speaker and senate pro tempore. Non-voting members were expanded to include an additional individual representing the adult and aging population.

HB 1434

Medicaid Fraud Control Unit

The Medicaid Fraud Control Unit, (MFCU), was established in 2019. North Dakota is the last state in the nation to establish a MFCU. Medicaid is health care coverage for low income families and individuals. North Dakota spends approximately \$3 billion a biennium on Medicaid. About 70,000 households and 125,000 individuals are covered by Medicaid. More than 29,000 providers are enrolled in Medicaid to provide healthcare. It is believed fraud per year nationally is 1-2% of Medicaid expenditures or \$15 million per year in North Dakota, (1%). MFCU can investigate a case when there is billing fraud by a Medicaid provider, if a Medicaid recipient is abused, neglected, or exploited financially by a provider or if a provider, that accepts Medicaid payments, abuses, neglects, exploits, or harms a patient, whether that patient received Medicaid or not. MFCU investigates both civil and criminal cases. HB 1434 clarifies that the information received pursuant to a subpoena is confidential but can be shared with other law enforcement agencies and investigative partners. Further it clarifies that MFCU can receive exempt and confidential records pursuant to an administrative subpoena.

**HB
1438**

Property Tax Exemption for Non-Profit Hospitals and Nursing Homes

Property belonging to institutions of public charities, including public hospitals and nursing homes, currently receive an exemption of their building and land valuation. Vacant land owned by the nursing home or hospital, not in use, is typically not exempt. HB 1438 clarifies that up to fifty acres of undeveloped land owned by a public hospital or nursing home pursuant to Section 23-16-01 under the control of a religious or charitable institution for the purpose of a future building belonging to the public hospital or nursing home is tax exempt. The exemption expires 10 years after the taxable year in which the property was acquired by the public hospital or nursing home if construction has not commenced. This is effective for taxable years beginning after December 31, 2022.

**HB
1476**

Study of Contract Nursing

During the 2023-24 interim, the legislative management shall consider studying the impact of entities that receive Medicaid and Medicaid expansion funding utilizing contract nursing agencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**HB
1478**

Self Certification for a Individual Admitted into a Hospice Program for the use of Medical Marijuana

Allows an individual admitted into a hospice program to submit to DHHS a copy of their medical records showing they have been admitted into a hospice program which will allow DHHS to use medical records in place of a written certification to approve or deny an application for use of medical marijuana. DHHS shall issue a registry identification card within 14 calendar days of approving an application under this section. DHHS shall waive the registration fee for a qualifying patient application admitted into a hospice program. Further DHHS may waive the requirement for a registered caregiver to obtain a criminal history record check if the caregiver is solely assisting a registered qualifying patient who is admitted into the hospice program.

**HB
1502**

Access to Hospital Care

A hospital may not deny health care treatment or services to an individual based on that individual's severe acute respiratory syndrome coronavirus 2, identified as SARS-CoV-2 (COVID-19) vaccination status.

HB 1540

Childcare Assistance

The legislature approved \$65.6 million focused at making childcare more affordable and available to parents. Most of the funding will subsidize childcare for parents with lower income and incentives childcare businesses to care for more infants and toddlers. It is hoped this funding will boost the childcare sector and allow more stay-at-home parents to reenter the workforce.

Specific appropriations and programs include:

- \$22,000,000 for the purpose of investing in the child care assistance program to serve more working families;
- \$15,000,000 for the purpose of enhanced child care assistance program payments for infant and toddler care;
- \$3,000,000, which is considered a one-time funding item, for the purpose of quality tiers in the child care assistance program;
- \$2,300,000 for the purpose of waiving a fee to a family whose income does not exceed thirty percent of the state median income for a family of the same size;
- \$500,000 for the purpose of providing child care assistance program application assistance and outreach;
- \$5,000,000 for the purpose of employer-led child care cost-share program;
- \$7,000,000 for the purpose of grants and shared services;
- \$1,800,000 for the purpose of partnerships care during nontraditional hours;
- \$2,000,000 for the purpose of stipends for worker training;
- \$3,000,000 for the purpose of quality infrastructure for providers;
- \$1,000,000 for the purpose of streamlining background checks project.

SB 2003

Attorney General's Budget

The Medicaid Fraud Unit received three additional staff, an additional attorney, investigator and paralegal.

Department of Health & Human Services Appropriation Bill

SB 2012 is the comprehensive Department of Health & Human Services appropriation bill. The bill provides funding and support for health and long term care for lower income individuals in North Dakota. The total budget is \$5,308,690,780 with 2265.33 FTE's.

Nursing facilities received \$734,744,655 in funding for the 23-25 biennium, compared to \$623,949,930 for the 21-23, an increase of \$110,794,725, (17.8% increase).

Basic care facilities received \$72,877,129 in the 23-25 biennium, compared to \$50,893,290 in the 21-23 biennium, an increase of \$21,983,839, (43.2% increase).

Highlights of the bill include:

SECTION 2 - \$4.5 million program integrity audits of nursing facilities and hospitals. One-time funding, as recoveries are expected to fund the program in the future.

SECTION 3 - Funding of \$3.5 million to award a grant to a clinically integrated network. The grant will support a majority of the independent critical access hospitals in North Dakota. By June 30, 2025 they must develop a strategic plan and accomplish specific goals.

SECTION 10 - Provide \$1,867,500 for the 988 crisis hotline program. Provides \$600,000 for a study of basic care rates. Provides \$750,000 for the health care task force.

SECTION 11 - Provide \$500,000 from the health care trust fund for basic care facility bad debt expense.

SECTION 12 - Provide \$2.65 million to implement a virtual behavioral health crisis care program for rural law enforcement. Provide \$300,000 for crisis organizations that provide crisis services to young adults. Provide \$285,000 to Ministry on the Margins, a volunteer economical ministry organization.

SECTION 13 - \$500,000 for gambling disorder prevention services.

SECTION 14 - \$12,500,000 for the design of a new state hospital.

SECTION 15 - \$1,950,000 for the purpose of providing a one-time grant to establish a behavioral health facility in the northwest human service center region.

SECTION 16 - Provides \$750,000 from the community health trust fund for expenses of the health care task force.

SECTION 20 - \$4,672,536 for permanent supportive housing grants. The department of health and human services shall develop a funding methodology to distribute the funding to qualified entities that utilize best practices for permanent supportive housing provide recovery-oriented and person-centered services, submit process and outcome measures to the department, and authorize the department to conduct onsite visits to review program operations.

SECTION 21 - \$12,500,000 for the design of a new state hospital. As part of the design process, the department of health and human services shall consider statewide acute psychiatric needs, including the establishment of acute psychiatric facilities in Dickinson, Williston, Minot, Devils Lake, and Grand Forks and shall consider collaborating and entering partnerships with local mental health and substance use disorder providers. The department shall present a report to the sixty-ninth legislative assembly regarding options for the new state hospital.

SECTION 22 - \$802,616,809, for the medical assistance expansion program. The expenditures for individuals eligible for the medical assistance expansion program may not exceed this amount.

The managed care organization under contract with the department to manage the medical assistance expansion program shall reimburse providers within the same provider type and specialty at consistent levels and with consistent methodology and may not provide incentive, quality, or supplemental payments to providers, unless part of a value-based program approved by the department. The managed care organization may consider urban and rural providers as different provider types.

The department of health and human services shall ensure providers within the same provider type and specialty are reimbursed at consistent levels and with consistent methodology and shall ensure the capitation rates under risk contracts are actuarially sound and are adequate to meet managed care organization contractual requirements regarding availability of services, assurance of adequate capacity and services, and coordination and continuity of care.

Managed care organization premium payments must be built using the assumption that rates paid to providers under the medical assistance expansion program may not exceed one hundred forty-five percent of Medicare reimbursement. The subsection applies to any medical assistance expansion program provider fee schedule that becomes effective on or after January 1, 2025.

SECTION 23 – The department of health and human services shall develop and maintain a state internet website that provides information and links to social services, financial assistance, parenting information, maternal and childbirth life services, planning guidance, care centers and agencies, and other available public and private resources for expectant families and new parents.

SECTION 24 – The department of health and human services shall make quarterly reports available that detail the status of the department’s budget and the utilization rates of programs. The reports must be made available within 30 days of the close of each quarter.

SECTION 28 - There is created a North Dakota legislative health care task force. The task force shall meet at least once each quarter and may request, obtain, review, and analyze information relating to North Dakota health care, including data, reports, audits, and other information as requested by the task force. The department of health and human services shall provide staff services for the task force. The task force shall submit a report of its activities and any recommendations to improve health care in the state to the legislative management by October first of each year. The chairman of the task force must be a member of the legislative assembly appointed by the chairman of the legislative management. The chairman of the task force may invite guests to participate in task force activities. The task force consists of 21 members specified in statute with the discretion of the chairperson of the legislative management adding additional members.

SECTION 34 - The department shall administer Medicaid waivers to provide in-home services to children with extraordinary medical needs and to children up to the age of eighteen diagnosed with an autism spectrum disorder who would otherwise meet institutional level of care. The department may prioritize applicants for the waiver for children with extraordinary medical needs by degree of need.

SECTION 36 – Basic Care Payment Rates.

1. The department shall determine the limits every four years by July first, beginning with July 1, 2023.
2. The department shall establish the limits by using the median rates from the most recent data available. The direct care limit must be the median plus eighteen percent. The indirect care limit must be the median plus twelve percent.
3. For the rate year beginning July 1, 2023, the department shall increase rates and limits 3.5% for inflation. For the rate year beginning July 1, 2024, the department shall increase rates and limits 3.5% for inflation.
4. The department shall provide a rate increase in the amount of five dollars per day for the period beginning July 1, 2023, and ending June 30, 2025, after which the increase is not effective. This rate increase may not be included in any calculation of inflation increase.
5. The department shall establish an uncompensated care expense of three hundred sixty-five days.

SECTION 42 - Providers that receive funding from the department of health and human services shall submit process and outcome measures, as required by the department, to the department for programs and services supported by state funding during the biennium to evaluate the administration of the programs and services.

SECTION 43 - The department of health and human services shall select at least one human service center to begin the process of becoming a certified community behavioral health clinic to provide continuous community-based behavioral health services for children and adults.

SECTION 47 - It is the intent of the sixty-eighth legislative assembly that the department of health and human services seeks a deficiency appropriation from the sixty-ninth legislative assembly for any expenditures that exceed appropriated amounts as a result of underfunding, utilization rates, discontinuation of the federal Medicaid continuous enrollment requirement, value-based purchasing for nursing facilities, reduction in federal medical assistance percentage, and unexpected contract cost increases that exceed ten percent, during the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 48 - Funding for human service provider inflation increases of 3% for each year of the biennium. DD providers are funded an inflation adjustment of 2% annually. The provider inflation increase in this section does not apply to nursing and basic care facilities or prospective payment system hospitals that have different inflation rates.

SECTION 49 - Funding for developmental disability provider rate adjustments. Adjustments must provide for the equivalent of a one dollar per hour increase for direct care staff and the equivalent of a one dollar per hour increase for indirect program support staff of licensed developmental disability providers. Developmental disability providers shall provide a report to the department of health and human services as determined by the department. The increase to direct care staff and related indirect program support staff does not apply to qualified service provider rates as established under the long-term care program.

SECTION 52 - The legislative management shall consider studying the feasibility and desirability of the legislative assembly enacting the social work licensure compact.

SECTION 54 - The legislative management shall consider studying the payment rates for intermediate care facilities, including options to increase the rates.

In the budget but not identified within a sub-section:

- Increase the basic care resident personal needs allowance from \$100 to \$135 per month effective July 2023.
- \$8 million per year for the nursing facility value-based quality program with implementation in 2024.
- Funding for the nursing facility pricing model and second and third year phase-in of the fair rental model. Nursing facility rebasing on 1-1-24 rates and skilled nursing facility market basket annual rate adjustments.
- Increase the nursing facility resident personal needs allowance from \$65 to \$100 per month effective July 2023.

**SB
2015**

OMB Budget Bill

Contained within SB 2015 is an appropriation for those organizations that provide guardianship services to those without means to provide for themselves. The appropriation was increased from \$2.4 million, (21-23 biennium), to \$7.1 million, (23-25 biennium). These dollars will continue to flow from OMB to the ND Associations of Counties to the ultimate service provider who has been appointed by the district court.

**SB
2114**

Board of Nursing – Establish an Alternative to Discipline Program

This legislation allows for the establishment of an Alternative to Discipline, (ATD), program for nurses. The ATD program would provide a non-disciplinary approach to ensuring safety to practice for nurses with substance use of mental health issues.

With the onset of the COVID-19 pandemic the NDBON observed a surge in potential violation reports, (PVRs), nurse self-reports of DUIs and other substance issues, and disciplinary

determinations for nurses related to substance use and mental health concerns. This surge compounded the already critical nursing workforce shortage as nurses with substance use and mental health concerns were removed from practice in a disciplinary manner to ensure public safety. Approximately 44 U.S. states and territories have ATD programs to manage substance use and mental health issues for nursing professional.

SB 2125

Health Care Directives

Currently, North Dakota Century Code Section 23-06.5-06 states that in order for a Health Care Directive to be validly signed by the principal to be effective, the agent(s) must accept their appointments in writing. The statutory requirement that the agent must accept their appointments in writing has been removed.

SB 2142

Creation of an Office of Legal Immigration

This legislation creates an office of legal immigration within the department of commerce. The department will have two FTE's and is allowed to use another \$2 million dollars authorized within the department of commerce's budget bill. The duties of the office include:

1. Shall develop and implement a statewide strategy to support businesses in recruiting and retaining foreign labor, including immigrants already in the United States and integration of immigrants into the state to promote economic opportunities for immigrant communities.
2. Shall advise and make recommendations to the governor, legislative assembly, and state agencies regarding immigrant integration and foreign labor issues.
3. Shall develop a pilot program to support businesses pursuing or employing legal immigrants and to support communities to develop immigration integration plans and activities.
4. May contract with other state agencies to develop and administer programs or services related to immigration integration and access to basic needs that promote entrance and movement throughout the workforce.
5. May contract with an organization with expertise related to the goals of the office of legal immigration.

During the 2023-24 interim, the department of commerce shall conduct a study to determine immigration opportunities in the state, goals of the office of legal immigration, performance indicators to measure progress and success of immigration goals, and a structure for a pilot program to support businesses and communities pursuing legal immigration, and to develop a fee-based system for services to be implemented in the 2025-27 biennium. The study must include input from employers in the state. The department of commerce shall report its findings and recommendations to the sixty-ninth legislative assembly.

**SB
2155**

Federally Qualified Health Center Grants

The sum of \$2 million is provided to DHHS for the purpose of providing grants to federally qualified health centers.

The department of health and human services shall award grants from the funds appropriated in this section to federally qualified health centers in North Dakota to continue, expand, and improve federally qualified health center services to low-income populations. The grant amount for each center must be proportional to the amount of discounts granted to patients of the center for the most recent calendar year to the total amount of discounts granted by all centers in North Dakota during the most recent calendar year as reported on the federal uniform data system report in conformance with the bureau of primary health care program expectations policy information notice 98-23, except one federally qualified health center may receive no more than 50 percent of the total amount of grants awarded under this subsection.

During the 2023-24 interim, the legislative management shall consider studying the expansion of federally qualified health care centers. The study must include consideration of increasing the number of federally qualified health care centers in the state and improving federally qualified health care center collaboration with local public health units. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SB
2222**

Conservatorship

For the past 8 years the guardianship workgroup has identified and recommended a number of statutory changes to improve and strengthen procedures in cases involving guardianship for incapacitated adults and conservatorship cases. SB 2222 clarifies procedures in conservatorship cases to require court approval of any sale of real property, to provide factors for determining reasonable compensation and to add a new section authorizing an appointment of an emergency conservator.

**SB
2224**

Guardianship Proceedings

This legislation clarifies the procedures in guardianship cases, provides for factors for determining reasonable compensation for a guardian's services, authorizes an extension of emergency guardianships, and adds a new section authorizing the appointment of a guardian for a minor about to become an adult. All changes were recommended by the guardianship workgroup. This group was created in 2013 to evaluate and improve procedures in cases involving guardianship for incapacitated adults, minors and in conservative cases.

SB 2225

Involuntary Treatment of a Ward with Prescribed Medication

This bill establishes a procedure for judicial authorization prior to involuntary treatment of a ward with prescribed medication. In 2017, legislation was passed allowing guardians with full medical authority to consent to involuntary treatment with prescribed medication without a court order. During the 2017 legislative session, there was three main areas of concern with the proposed legislation: (1) overbroad authority granted to guardians; (2) lack of specific findings and judicial oversight prior to authorization; and (3) potential for abuse.

These concerns were addressed by the guardianship committee and addressed in SB 2225. The changes would only require prior approval for involuntary treatment with mood stabilizers and antipsychotic medications, as opposed to all medications, as they are the ones most frequently sought to be used involuntarily and were perceived to have the most significant risks and side effects. SB 2225 provides safeguards to the ward consistent with those in the mental health statutes while ensuring consistent use of the medication once approved. A request for this authority may be made in the initial petition seeking guardianship or in a separate proceeding after the guardianship has been established.

SB 2227

Membership and Duties of the Health Council

This legislation restores and updates the membership of the state health council. The council would collaborate with various health officials and providers to advise the state on best public health practices and respond to public health emergencies. It ensures the coordination of the department of health and human services division with all other health activities of the state. The council would collaborate and support rather than establish and enforce, thus no enforcement authority.

The council would consist of:

- One member representing tribal health, appointed by the director of the Indian affairs commission for a term of at least one year.
- One member representing the university of North Dakota school of medicine and health sciences, appointed by the dean of the school for a term of at least one year.
- One member representing the university of North Dakota, appointed by the president of the university for a term of at least one year.
- One member representing North Dakota state university, appointed by the president of the university for a term of at least one year.
- One local health officer from a public health unit, appointed by the state health officer for a term of at least one year.
- Seven members appointed by the state health officer as provided under this subdivision for terms of three years. The state health officer shall identify statewide entities representing each of the following interests and shall request each entity submit the name

of one individual to represent the entity.

- (1) An entity representing pharmacists.
- (2) An entity representing physicians.
- (3) An entity representing hospitals.
- (4) An entity representing public health unit administrators.
- (5) An entity representing nurses.
- (6) An entity representing long-term care facilities.
- (7) An entity representing dietitians.

**SB
2249**

Relates to Occupational Boards

The labor commissioner shall gather information regarding the continuing education requirements and the practice of licensing out-of-state practitioners for each board, the education standards and practices board, and the state board of law examiners. The commissioner shall analyze the information to develop and update a strategy for more efficient continuing education requirements and more efficient practices for licensing out-of-state practitioners. As necessary, the commissioner may recommend introduction of legislation to implement this strategy.

During the 2023-24 interim, the labor commissioner shall hold meetings with each occupational board under title 43, the education standards and practices board, and the state board of law examiners. The topics addressed at the meetings must include administration of the boards, continuing education, and the licensure of out-of-state applicants, with a goal of establishing a strategy to license out-of-state practitioners within three business days of application and to revise continuing education requirements to recognize the contributions of employers and the opportunities afforded by evolving technology.

During the 2023-24 interim, the labor commissioner shall provide the legislative management with periodic reports on the status of the commissioner's implementation of this section.

The labor commissioner may recommend introduction of legislation for the sixty-ninth legislative assembly which provides for streamlining of licensure of out-of-state practitioners, and revision of continuing education requirements.

**SB
2265**

Dual Special Needs Plan

By January 1, 2025, the department must implement at least one dual special needs plan for Medicare and Medicaid dual-eligible Medicaid recipients. The department shall establish standards for care coordination services the dual special needs plan must provide to recipients.

The DHHS authorized one FTE to implement the Medicaid dual special needs plan.

North Dakota Medicaid has about 15,000 members who are dually eligible for both Medicaid and Medicare. This bill would create the option for dually eligible members to participate in a dual special needs plan, (DSNP). The department would establish contracts with one or more insurers who would offer a Medicare Advantage plan specifically for dually eligible individuals, otherwise known as DSNP.

**SB
2274**

COVID-19 Vaccination Status

A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

The term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

**SB
2344**

RN Student Loan Repayment Program

The sum of \$48,000, is provided to the department of health and human services for the purpose of funding four slots for registered nurses under the health care professional student loan repayment program, for the biennium beginning July 1, 2023, and ending June 30, 2025.



Taskforce on Guardianship Monitoring

The North Dakota supreme court shall establish a task force on guardianship monitoring to address matters of guardianship accountability and further protections of individuals under guardianship. The task force on guardianship monitoring must include representatives from the guardianship monitoring program and protection and advocacy project and individuals representing guardianship service providers, family guardians, district court judges, and attorneys.

The task force shall recommend the regulations necessary to enhance the guardianship monitoring program to investigate suspected guardian mismanagement or illegal behavior. The regulations must include:

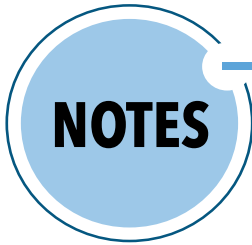
- a. Appropriate certification, training, and background requirements for the guardian investigator position relating to specialized training in guardianship services, financial management, investigations involving allegations of neglect, abuse, and exploitation of vulnerable adults, and training with the national guardianship association's guardianship and conservator auditor and monitor investigator program;
- b. Procedures for investigating referrals from a judicial officer, the division of the department of health and human services that oversees vulnerable adult services, protection and advocacy, social workers, the ombudsman program, the Medicaid fraud control unit, and any entity that oversees or provides services for vulnerable adults;
- c. Procedures relating to the investigation of a single guardian or an entire guardianship service provider managed by a guardianship investigator; and
- d. Any findings, recommendations, or improvements issued to the district court for review.

The task force on guardianship monitoring shall make the recommendations to the supreme court. Upon receiving the recommendations, the supreme court may adopt rules implementing the recommendations.

The judicial branch was authorized one FTE and funding of \$290,000 for a position to administer the guardianship monitoring program.

An unrelated issue on social work licensure was added to SB 2345. Under the board of social work licensure – NDCC 43-41-09 the board may:

- Suspend the use of an examination for licensure.
- Waive examination requirements and create a process under which an applicant may apply for a waiver to licensure examination requirements.
- Create alternative requirements that do not require an examination to ascertain the qualifications and fitness of a candidate for a license to engage in the practice of social work.



NOTES

NOTES





1900 North 11th Street, Bismarck, ND 58501
(701) 222-0660 • www.NDLTCA.org

2023



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Tim Kennedy, Secretary/Treasurer

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Bethel Lutheran Nursing & Rehabilitation Center, Williston,
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