

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2012

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 human services; to create and enact a new section to chapter 50-09, a new section to chapter
3 50-24.3, and a new section to chapter 50-24.4 of the North Dakota Century Code, relating to
4 the county share of foster care costs, the duty of nursing facilities to assure preadmission
5 assessment of medicaid recipients, and the limits on geropsychiatric nursing facilities; to amend
6 and reenact sections 25-03.1-04, 50-24.3-01, 50-24.3-03, subsection 5 of section 50-24.4-10,
7 and section 50-24.4-13 of the North Dakota Century Code, relating to public treatment facilities,
8 the provision of targeted case management, preadmission assessments, operating cost limits
9 for nursing homes, and to exceptions to case mix nursing home rates; to amend and reenact
10 section 4 of chapter 561 of the 1991 Session Laws, as amended by section 18 of chapter 2 of
11 the 1993 Session Laws, section 9 of chapter 34 of the 1995 Session Laws, and section 16 of
12 chapter 12 of the 1997 Session Laws, relating to appropriation for projects at westwood park; to
13 repeal section 25-04-20 of the North Dakota Century Code, relating to the westwood park
14 assets management committee; to provide for the transfer of appropriations between agencies
15 and institutions; to provide for reports to the budget section; to provide for a legislative council
16 study; to provide legislative intent regarding basic care rates; and to declare an emergency.

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

18 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
19 funds as may be necessary, are hereby appropriated out of any moneys in the general fund in
20 the state treasury, not otherwise appropriated, and from special funds derived from federal
21 funds and other income, to the department of human services and its various divisions, for the
22 purpose of defraying their expenses, for the biennium beginning July 1, 1999, and ending
23 June 30, 2001, as follows:

24 Subdivision 1.

1		MANAGEMENT AND COUNCILS	
2	Salaries and wages		\$10,573,612
3	Operating expenses		39,387,796
4	Equipment		2,780,785
5	Grants		727,369
6	Loan fund - DD		<u>1,840,956</u>
7	Total all funds		\$55,310,518
8	Less estimated income		<u>40,813,727</u>
9	Total general fund appropriation		\$14,496,791
10	Subdivision 2.		
11		ECONOMIC ASSISTANCE	
12	Salaries and wages		\$8,786,134
13	Operating expenses		12,162,839
14	Equipment		26,000
15	Capital improvements		2,543
16	Grants - assistance payments		118,918,381
17	Grants - medical assistance		<u>678,805,038</u>
18	Total all funds		\$818,700,935
19	Less estimated income		<u>618,743,557</u>
20	Total general fund appropriation		\$199,957,378
21	Subdivision 3.		
22		PROGRAM AND POLICY	
23	Salaries and wages		\$9,771,984
24	Operating expenses		12,604,936
25	Equipment		166,325
26	Capital improvements		1,619
27	Grants		<u>126,451,941</u>
28	Total all funds		\$148,996,805
29	Less estimated income		<u>105,625,287</u>
30	Total general fund appropriation		\$43,371,518
31	Subdivision 4.		

Fifty-sixth
Legislative Assembly

1	NORTHWEST HUMAN SERVICE CENTER	
2	Total all funds	\$7,738,383
3	Less estimated income	<u>3,449,360</u>
4	Total general fund appropriation	\$4,289,023
5	NORTH CENTRAL HUMAN SERVICE CENTER	
6	Total all funds	\$14,342,296
7	Less estimated income	<u>6,876,846</u>
8	Total general fund appropriation	\$7,465,450
9	LAKE REGION HUMAN SERVICE CENTER	
10	Total all funds	\$7,353,203
11	Less estimated income	<u>2,983,149</u>
12	Total general fund appropriation	\$4,370,054
13	NORTHEAST HUMAN SERVICE CENTER	
14	Capital improvements	\$1,271,335
15	Human service center operations	<u>17,580,906</u>
16	Total all funds	\$18,852,241
17	Less estimated income	<u>10,423,054</u>
18	Total general fund appropriation	\$8,429,187
19	SOUTHEAST HUMAN SERVICE CENTER	
20	Capital improvements	\$151,825
21	Human service center operations	<u>18,365,509</u>
22	Total all funds	\$18,517,334
23	Less estimated income	<u>10,672,110</u>
24	Total general fund appropriation	\$7,845,224
25	SOUTH CENTRAL HUMAN SERVICE CENTER	
26	Total all funds	\$9,332,090
27	Less estimated income	<u>4,209,971</u>
28	Total general fund appropriation	\$5,122,119
29	WEST CENTRAL HUMAN SERVICE CENTER	

Fifty-sixth
Legislative Assembly

1	Total all funds	\$17,996,234
2	Less estimated income	<u>10,507,579</u>
3	Total general fund appropriation	\$7,488,655
4	BADLANDS HUMAN SERVICE CENTER	
5	Total all funds	\$8,803,927
6	Less estimated income	<u>4,502,332</u>
7	Total general fund appropriation	\$4,301,595
8	STATE HOSPITAL	
9	Capital improvements	\$1,699,665
10	Operations	<u>48,609,561</u>
11	Total all funds	\$50,309,226
12	Less estimated income	<u>15,767,334</u>
13	Total general fund appropriation	\$34,541,892
14	DEVELOPMENTAL CENTER	
15	Capital improvements	\$195,390
16	Operations	<u>39,281,922</u>
17	Total all funds	\$39,477,312
18	Less estimated income	<u>30,018,365</u>
19	Total general fund appropriation	\$9,458,947
20	Total all funds - subdivision 4	\$192,722,246
21	Total estimated income - subdivision 4	\$99,410,100
22	Total general fund appropriation - subdivision 4	\$93,312,146
23	Grand total general fund appropriation S.B. 2012	\$351,137,833
24	Grand total special fund appropriation S.B. 2012	\$864,792,671
25	Grand total all funds S.B. 2012	\$1,215,930,504

26 **SECTION 2. LANDS AND MINERALS TRUST FUND.** The amount of \$1,840,956, or
27 so much of the sum as may be necessary, as appropriated in the developmentally disabled
28 facility loan fund line item in section 1 of this Act, may be expended by the department of
29 human services from the lands and minerals trust fund for the purpose of making payments of
30 principal and interest to the common schools trust fund on any loans made from it pursuant to

1 the developmentally disabled loan fund program nos. 2 and 3 for the biennium beginning
2 July 1, 1999, and ending June 30, 2001.

3 **SECTION 3. DEVELOPMENTAL DISABILITIES REVOLVING LOAN FUND.** There
4 may be expended by the department of human services, on or before June 1, 2001, from the
5 cash balance of, any payments deposited in, the revolving loan fund created under section
6 6-09.6-01, the sum of \$1,192,700, or so much of the sum as may be necessary, which is
7 appropriated in section 1 of this Act.

8 **SECTION 4. TRANSFER.** Subject to the provisions of chapter 54-16, the director of
9 the department of human services may transfer appropriation authority between agencies and
10 institutions included in subdivisions 1 through 4 of section 1 of this Act.

11 **SECTION 5. CORRELATION OF RESOURCES FOR DEPARTMENTAL CLIENTS.**
12 Notwithstanding section 4 of this Act, the director of the department of human services may
13 transfer appropriation authority and authorized positions between agencies and institutions
14 included within subdivision 4 of section 1 of this Act to correlate fiscal and staff resources with
15 the flow of institutional residents and human service center clients between community-based
16 programs and institutions. The transfers from human service centers require prior consultation
17 with the regional human service center advisory boards.

18 **SECTION 6. LEGISLATIVE INTENT - FULL-TIME EQUIVALENT EMPLOYEES -**
19 **REPORTS TO THE BUDGET SECTION AND THE LEGISLATIVE COUNCIL.** It is the intent
20 of the legislative assembly that the human service centers, the state hospital, and the
21 developmental center report to the budget section and the legislative council, or its designee,
22 on the hiring of any additional full-time equivalent positions in addition to those authorized by
23 the legislative assembly in subdivision 4 of section 1 of this Act for the biennium beginning
24 July 1, 1999, and ending June 30, 2001.

25 **SECTION 7. AMENDMENT.** Section 25-03.1-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **25-03.1-04. Voluntary Screening and admission to a public treatment facility.**
28 Under rules adopted by the department, ~~an application for screening and admission of an~~
29 individual to a public treatment facility for observation, diagnosis, care, or treatment ~~as a~~
30 ~~voluntary patient may be made by any person who is mentally ill or chemically dependent or~~
31 ~~who has symptoms of these illnesses~~ for mental illness or chemical dependency must be

1 ~~performed by a regional human service center. An application for admission as a voluntary~~
2 ~~patient may be made on behalf of a minor who is mentally ill or chemically dependent or who~~
3 ~~has symptoms of those illnesses, by the~~ This screening must be performed in the region where
4 the individual is physically located. Upon the request of a court, a law enforcement official, a
5 qualified mental health professional, the individual's legal guardian, a minor's parent or legal
6 ~~guardian~~ custodian, or the individual requesting services, the regional human service center
7 shall conduct a screening. The application must be submitted to a regional human services
8 ~~center, or, in an emergency, to the state hospital. Upon receipt of an application the request,~~
9 the regional human service center ~~must~~ shall arrange for ~~an evaluation~~ a screening of the
10 ~~applicant~~ individual and must, if appropriate, treat the applicant, or refer the applicant to the
11 appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent
12 or ~~the~~ director shall immediately designate a physician, psychiatrist, psychologist, or mental
13 health professional to examine the ~~patient~~ individual.

14 **SECTION 8.** A new section to chapter 50-09 of the North Dakota Century Code is
15 created and enacted as follows:

16 **County share of foster care costs.**

- 17 1. For all periods after January 1, 1998, each county shall reimburse the state
18 agency, upon claim being made therefor by the state agency, for that county's
19 share of one-fourth of the amount expended in the state in excess of any amount
20 provided by the federal government under title IV-E for payments on behalf of
21 children approved and granted foster care for children or subsidized adoption,
22 without regard to that child's eligibility for benefits under title IV-E.
- 23 2. Each county's share of all counties' shares must be calculated under a formula
24 established by the state agency through consultation with county representatives.
25 The formula must:
- 26 a. Include consideration of the most recent census data or official census
27 estimates of the number of youth in each county;
- 28 b. Include consideration of recent expenditures for foster care for youth from
29 each county; and
- 30 c. Be established by policy, and not by rule.

1 **SECTION 9. AMENDMENT.** Section 50-24.3-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-24.3-01. Assessment mechanism - Establishment - Targeted case**
4 **management.** The department of human services shall establish a mechanism to assess,
5 prior to admission to a ~~skilled nursing facility, intermediate care facility,~~ or a hospital swing-bed
6 facility ~~approved to furnish skilled or intermediate care services,~~ the health and social needs of
7 each ~~person~~ individual making application for admission to the facility while eligible for benefits
8 under chapter 50-24.1 or while making application for benefits under chapter 50-24.1. The
9 department may provide targeted case management services for disabled and elderly
10 individuals at risk of entering nursing facilities or hospital swing-bed facilities to assure that the
11 individual's care alternatives are evaluated and considered.

12 **SECTION 10. AMENDMENT.** Section 50-24.3-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **50-24.3-03. Department of human services - Powers and duties.**

- 15 1. ~~The~~ In providing assessment services and targeted case management, the
16 department of human services ~~has the following powers and duties which it may~~
17 ~~delegate to any entity which provides assessment services approved by the~~
18 ~~department:~~
- 19 4. ~~a.~~ Seek cooperation from other public and private agencies in the
20 community which offer services to disabled and elderly ~~persons;~~ individuals;
- 21 2. ~~b.~~ Provide information and education to the general public regarding
22 availability of the assessment program ~~and targeted case management;~~
- 23 3. ~~c.~~ Accept referrals from individuals, families, human services
24 professionals ~~and, nursing home facility personnel, and acute care facility~~
25 ~~personnel;~~
- 26 4. ~~d.~~ Assess the health and social needs of, and provide targeted case
27 management to, referred individuals;
- 28 5. ~~e.~~ Identify available noninstitutional services to meet the needs of
29 referred individuals;
- 30 6. ~~f.~~ Make recommendations for individuals receiving assessment
31 program services or targeted case management services as to the need for

1 skilled nursing facility care, or intermediate care as provided in a facility, or
2 other care which is available in the community.;

3 7. g. ~~To inform~~ Inform referred individuals of the extent to which home and
4 community-based services are available; and of ~~their~~ the individual's
5 opportunity to choose, in consultation with an attending physician ~~and~~, family
6 ~~member~~ members, and a case manager, among the appropriate alternatives
7 that may be available; and

8 h. Monitor the results of targeted case management and preadmission
9 assessment.

10 2. The department may contract with, and delegate to, any person to provide targeted
11 case management services, including assessment services.

12 **SECTION 11.** A new section to chapter 50-24.3 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Facility's duties - Preadmission assessment.** Each nursing facility and hospital
15 swing-bed facility shall assure that each individual requiring an assessment under section
16 50-24.3-01 receives that assessment before admission. The assessment must be used to
17 determine the type of services necessary to maintain each individual and to determine which
18 long-term care alternatives, if any, could meet those needs. The assessment may not be used
19 as a condition of admission to the facility.

20 **SECTION 12. AMENDMENT.** Subsection 5 of section 50-24.4-10 of the 1995
21 Supplement to the North Dakota Century Code is amended and reenacted as follows:

22 5. The department shall establish a composite index or indices ~~by determining the~~
23 ~~appropriate economic change indicators~~ based on the average of the increase in
24 the Data Resources, Incorporated, nursing home input price index and the
25 increase in the consumer price index for all urban wage earners and clerical
26 workers (all items, United States city average) to be applied to specific operating
27 cost categories or combination of operating cost categories.

28 **SECTION 13. AMENDMENT.** Section 50-24.4-13 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **50-24.4-13. Exclusion.** Until procedures for determining operating cost payment rates
31 according to mix of resident needs are established for nursing homes that exclusively provide

1 residential services for ~~the nongeriatric physically handicapped~~ individuals with physical
2 disabilities or units within nursing homes which exclusively provide geropsychiatric services,
3 such nursing homes or units within nursing homes may not be included in the calculation of the
4 percentiles of any group. Each of these nursing homes or units within nursing homes shall
5 receive ~~their~~ its actual allowed historical operating cost per diem adjusted by a percentage
6 amount equal to the increase, if any, in the national or state economic change index, made
7 available under section 50-24.4-10, and which the department determines to be relevant to
8 residential services for ~~the nongeriatric physically handicapped~~ individuals with physical
9 disabilities or geropsychiatric services.

10 **SECTION 14.** A new section to chapter 50-24.4 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Limits on geropsychiatric facilities.** The number of units within nursing homes
13 which exclusively provide geropsychiatric services may not exceed one, and admission to a
14 nursing home which exclusively provides geropsychiatric services may only be granted after
15 the state hospital has performed an evaluation of the individual being admitted. After a
16 geropsychiatric unit has been established within a nursing home, the state hospital may not
17 offer geropsychiatric services through a separate geropsychiatric unit.

18 **SECTION 15. AMENDMENT.** Section 4 of chapter 561 of the 1991 Session Laws as
19 amended by section 18 of chapter 2 of the 1993 Session Laws, by section 9 of chapter 34 of
20 the 1995 Session Laws, and by section 16 of chapter 12 of the 1997 Session Laws is amended
21 and reenacted as follows:

22 **SECTION 4. PROCEEDS - APPROPRIATION.** The proceeds from the sale of land,
23 property, and equipment at westwood park must be deposited in the lands and minerals trust
24 fund. There is hereby appropriated \$200,000, or so much thereof as may be necessary, from
25 the lands and minerals trust fund, to the department of human services for capital
26 improvements or demolition of existing buildings at westwood park for the period beginning
27 July 1, 1991, and ending June 30, ~~1999~~ 2001.

28 **SECTION 16. LEGISLATIVE INTENT - BASIC CARE RATES.** It is the intent of the
29 legislative assembly that rates effective July 1, 1999, and July 1, 2000, for basic care facilities
30 include a three percent operating margin on direct care costs and include property costs as
31 pass-through costs, not subject to limitations. The department may adopt interim final rules

1 without a finding that emergency rulemaking is necessary to implement this intent. Any interim
2 final rules so adopted may take effect on a date no earlier than the date of first filing with the
3 legislative council of the notice of proposed adoption of a rule.

4 **SECTION 17. LEGISLATIVE COUNCIL STUDY - WELFARE FRAUD -**
5 **COST-EFFECTIVENESS.** The legislative council shall consider studying welfare fraud
6 detection efforts and the related cost/benefit during the 1999-2000 interim.

7 **SECTION 18. TRADITIONAL MEDICAID GRANTS - BUDGET SECTION**
8 **APPROVAL.** The department of human services shall periodically report to the budget section
9 regarding the status of funding for traditional medicaid grants and receive prior budget section
10 approval before exceeding the amount appropriated for traditional medicaid grants during the
11 biennium beginning July 1, 1999, and ending June 30, 2001.

12 **SECTION 19. LEGISLATIVE COUNCIL STUDY - HUMAN SERVICE CENTER**
13 **SERVICES - SERIOUSLY MENTALLY ILL.** The legislative council shall consider studying
14 during the 1999-2000 interim community services provided for the seriously mentally ill
15 including human service center services and the number of clients served.

16 **SECTION 20. LEGISLATIVE COUNCIL STUDY - OPTIONAL MEDICAID SERVICES.**
17 The legislative council shall consider studying during the 1999-2000 interim the services
18 provided by the state in its medical assistance program, including optional medical assistance
19 services and the impact to the state and its citizens of providing those services.

20 **SECTION 21. LEGISLATIVE COUNCIL STUDY - RESIDENTIAL TREATMENT**
21 **CENTERS AND RESIDENTIAL CHILD CARE FACILITIES.** The legislative council shall
22 consider studying during the 1999-2000 interim residential treatment centers and residential
23 child care facilities, including occupancy rates, the number of out-of-state residents, and the
24 need for additional facilities.

25 **SECTION 22. LEGISLATIVE INTENT - MEDICAL ASSISTANCE - CERTIFIED**
26 **NURSE MIDWIVES.** It is the intent of the legislative assembly that the department of human
27 services reimburse through the medical assistance program certified nurse midwives at a rate
28 of at least eighty-five percent of the fee paid physicians for the same service.

29 **SECTION 23. ALCOHOL AND DRUG EDUCATION PROGRAM - EXPENDITURE -**
30 **LIMITATIONS.** The moneys appropriated in the grants line item in subdivision 3 of section 1 of
31 this Act for the native American youth alcohol and drug abuse education program may not be

1 spent for the services provided by the tribes to administer the program. The local grant
2 recipient is required to provide match equal to the grant amount with funding or in-kind service.

3 **SECTION 24. ESTIMATED INCOME.** The estimated income line item in subdivision 3
4 of section 1 of this Act includes the sum of \$200,000, or much of the sum as may be necessary,
5 from the children's services coordinating committee for the purpose of defraying the expenses
6 related to the native American youth alcohol and drug abuse education program.

7 **SECTION 25. REPEAL.** Section 25-04-20 of the 1997 Supplement to the North
8 Dakota Century Code is repealed.

9 **SECTION 26. EMERGENCY.** The appropriation contained in subdivision 4 of section 1
10 of this Act for the state hospital includes \$1,050,000 from the general fund to replace a boiler,
11 which is declared to be an emergency measure and those funds are available immediately
12 upon filing of this Act with the secretary of state. Section 16 of this Act is declared to be an
13 emergency measure.