

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2012**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act providing an appropriation for defraying the expenses of the department of
2 human services; to create and enact a new section to chapter 50-06 of the North Dakota
3 Century Code, relating to a behavioral health services quarterly report; to amend and reenact
4 sections 6-09-47, 50-06-16, 50-06-32.1, and 50-06-37 of the North Dakota Century Code,
5 relating to the medical facility infrastructure loan fund, rulemaking authority, the expiration date
6 on the autism spectrum disorder voucher program pilot project, and the assessment used for
7 the developmental disabilities system reimbursement project; to repeal section 3 of chapter 84
8 of the 2013 Session Laws, relating to the medical facility infrastructure fund balance transfer; to
9 provide an exemption; to provide a limitation relating to a program of all inclusive care for the
10 elderly; to provide payments to counties out of enhanced federal payment; to provide advance
11 payments to select enrolled providers; to provide reports to the legislative management; to
12 provide for legislative management studies; to provide an appropriation; to provide an effective
13 date; and to declare an emergency.

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

15 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
16 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
17 treasury, not otherwise appropriated, and from special funds derived from federal funds and
18 other income, to the department of human services for the purpose of defraying the expenses of
19 its various divisions, for the biennium beginning July 1, 2015, and ending June 30, 2017, as
20 follows:

21 Subdivision 1.

22 MANAGEMENT

23 Adjustments or

24 Base Level Enhancements Appropriation

Sixty-fourth
Legislative Assembly

1	Salaries and wages	\$23,949,306	\$5,307,754	\$29,257,060
2	Operating expenses	67,749,348	25,838,164	93,587,512
3	Capital assets	<u>12,000</u>	<u>14,000</u>	<u>26,000</u>
4	Total all funds	\$91,710,654	\$31,159,918	\$122,870,572
5	Less estimated income	<u>53,608,032</u>	<u>17,232,729</u>	<u>70,840,761</u>
6	Total general fund	\$38,102,622	\$13,927,189	\$52,029,811

7 Subdivision 2.

8 PROGRAM AND POLICY

9			Adjustments or	
10		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
11	Salaries and wages	\$52,422,982	\$5,738,890	\$58,161,872
12	Operating expenses	107,894,413	(2,670,378)	105,224,035
13	Capital assets	0	10,000	10,000
14	Grants	458,913,620	5,739,753	464,653,373
15	Grants - medical assistance	<u>1,910,060,462</u>	<u>486,902,962</u>	<u>2,396,963,424</u>
16	Total all funds	\$2,529,291,477	\$495,721,227	\$3,025,012,704
17	Less estimated income	<u>1,587,974,557</u>	<u>391,287,908</u>	<u>1,979,262,465</u>
18	Total general fund	\$941,316,920	\$104,433,319	\$1,045,750,239

19 Subdivision 3.

20 FIELD SERVICES

21			Adjustments or	
22		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
23	Human service centers	\$182,433,538	\$16,456,866	\$198,890,404
24	Institutions	<u>130,697,211</u>	<u>14,378,471</u>	<u>145,075,682</u>
25	Total all funds	\$313,130,749	\$30,835,337	\$343,966,086
26	Less estimated income	<u>126,067,783</u>	<u>6,627,9591</u>	<u>132,695,734</u>
27	Total general fund	\$187,062,966	\$24,207,386	\$211,270,352

28 Subdivision 4.

29 BILL TOTAL

30			Adjustments or	
31		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>

Sixty-fourth
Legislative Assembly

1	Grand total general fund	\$1,166,482,508	\$142,567,894	\$1,309,050,402
2	Grand total special funds	<u>1,767,650,372</u>	<u>415,148,588</u>	<u>2,182,798,960</u>
3	Grand total all funds	\$2,934,132,880	\$557,716,482	\$3,491,849,362
4	Full-time equivalent positions	2,201.08	10.00	2,211.08

5 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

6 **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
7 items approved by the sixty-fourth legislative assembly for the 2013-15 biennium and the 2015-
8 17 one-time funding items included in the appropriation in section 1 of this Act:

9	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
10	Mainframe migration	\$810,000	\$0
11	Building demolition - life skills and transition center	220,000	0
12	State hospital capital projects	864,714	0
13	Grants	925,000	0
14	Critical access hospital grants	9,600,000	0
15	Electronic health records	2,500,000	0
16	Early childhood services grants	400,000	0
17	Developmental disabilities equipment	0	10,000
18	Heating plant repairs and upgrades - State hospital	0	1,156,000
19	Heating plant repairs and upgrades - Life skills and transition center	0	75,000
20	Window replacement - Life skills and transition center	0	44,000
21	Equipment over \$5,000 - State hospital	0	275,000
22	Equipment over \$5,000 - Life skills and transition center	0	200,000
23	Extraordinary repairs - State hospital	0	1,000,000
24	Extraordinary repairs - Life skills and transition center	<u>0</u>	<u>1,250,000</u>
25	Total all funds	\$15,319,714	\$4,010,000
26	Less estimated income	<u>10,686,093</u>	<u>10,000</u>
27	Total general fund	\$4,633,621	\$4,000,000

28 The 2015-17 one-time funding amounts are not a part of the entity's base budget for the
29 2017-19 biennium. The department of human services shall report to the appropriations
30 committees of the sixty-fifth legislative assembly on the use of this one-time funding for the
31 biennium beginning July 1, 2015, and ending June 30, 2017.

1 **SECTION 3. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.** Notwithstanding
2 section 54-16-04, the department of human services may transfer appropriation authority
3 between line items within each subdivision of section 1 of this Act and between subdivisions
4 within section 1 of this Act for the biennium beginning July 1, 2015, and ending June 30, 2017.
5 The department shall notify the office of management and budget and the legislative council of
6 any transfer made pursuant to this section. The department shall report to the budget section
7 after June 30, 2016, any transfers made in excess of \$50,000 and to the appropriations
8 committees of the sixty-fifth legislative assembly regarding any transfers made pursuant to this
9 section.

10 **SECTION 4. EXEMPTION.** The amount appropriated for the replacement of the medicaid
11 management information system and related projects in chapter 50 of the 2007 Session Laws
12 and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11.
13 Any unexpended funds from these appropriations approved under section 54-44.1-11 for
14 continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15
15 biennium are available for the completion of the medicaid management information system and
16 related projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

17 **SECTION 5. EXEMPTION.** The amount appropriated for the modification of the
18 department's eligibility systems in chapter 578 of the 2011 Special Session Laws is not subject
19 to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved
20 under section 54-44.1-11 for continuation into the 2013-15 biennium are available for the
21 completion of the modification of the eligibility systems project during the biennium beginning
22 July 1, 2015, and ending June 30, 2017.

23 **SECTION 6. EXEMPTION - LEISURE, RECREATIONAL, AND EDUCATIONAL**
24 **PROGRAMS.** The grants line item in Subdivision 2 of Section 1 of this Act includes \$150,000
25 for providing grants for services to provide leisure, recreational, and educational programs for
26 individuals with intellectual or developmental disabilities in the northeast and southeast human
27 service regions. The requirements of chapter 54-44.4 do not apply to the selection of a grantee,
28 the grant award, or payments made under this section.

29 **SECTION 7. DEPARTMENT OF HUMAN SERVICES - PROGRAM OF ALL INCLUSIVE**
30 **CARE FOR THE ELDERLY - LIMITATION.** The department of human services may not expand

1 the program of all inclusive care for the elderly during the biennium beginning July 1, 2015 and
2 ending June 30, 2017, into a community that is not operating a program site on August 1, 2015.

3 **SECTION 8. ADVANCE PAYMENTS - ADJUSTMENTS - EXEMPTION.** The department of
4 human services may provide advance payments to select enrolled providers related to the
5 implementation of the new Medicaid management information system for the period beginning
6 with the effective date of this Act and ending June 30, 2015. The department may spend funds
7 appropriated from the general fund in its grants - medical assistance line item in subdivision 2 of
8 section 1 of this Act for making these advance payments if sufficient funding from the general
9 fund is not available from the department's 2013-15 biennium appropriation. The department
10 shall adjust 2015-17 biennium payments to the enrolled providers to recoup the advance
11 payments. The amount appropriated from special funds in the grants - medical assistance line
12 item in subdivision 2 of section 1 of chapter 12 of the 2013 Session Laws is not subject to
13 section 54-44.1-11, and any unspent funds relating to the federal funds share of any advance
14 payments may be continued and used for paying the federal share of medical assistance
15 payments for the biennium beginning July 1, 2015, and ending June 30, 2017.

16 **SECTION 9. AMENDMENT.** Section 6-09-47 of the North Dakota Century Code is amended
17 and reenacted as follows:

18 **6-09-47. (~~Effective through July 31, 2017~~) Medical facility infrastructure loan**
19 **program fund - Continuing appropriation - Audit and costs of administration.**

- 20 1. The Bank of North Dakota shall administer a loan program to provide loans to medical
21 facilities to conduct construction that improves the health care infrastructure in the
22 state or improves access to existing nonprofit health care providers in the state. The
23 construction project may include land purchases and may include purchase, lease,
24 erection, or improvement of any structure or facility to the extent the governing board
25 of the health care facility has the authority to authorize such activity.
- 26 2. In order to be eligible under this loan program, the applicant must be the governing
27 board of the health care facility which shall submit an application to the Bank. The
28 application must:
- 29 a. Detail the proposed construction project, which must be a project of at least one
30 million dollars and which is expected to be utilized for at least thirty years;
- 31 b. Demonstrate the need and long-term viability of the construction project; and

- 1 c. Include financial information as the Bank may determine appropriate to determine
2 eligibility, such as whether there are alternative financing methods.
- 3 3. The governor shall establish a task force to review loan applications under this section
4 and to make recommendations to the Bank on the loan applications. The task force
5 must include representation of medical providers and medical facilities from the
6 oil-producing counties in the state. The task force shall work with the Bank to establish
7 criteria for eligibility for a loan under the program. The criteria established by the task
8 force and the Bank must give priority to applicants that are located in oil-producing
9 counties.
- 10 4. A loan provided under this section:
- 11 a. May not exceed the lesser of fifteen million dollars or seventy-five percent of the
12 actual cost of the project;
- 13 b. Must have an interest rate equal to one percent; and
- 14 c. Must provide a repayment schedule of no longer than twenty-five years.
- 15 5. A recipient of a loan under this section shall complete the financed construction project
16 within twenty-four months of approval of the loan. Failure to comply with this
17 subsection may result in forfeiture of the entire loan received under this section.
- 18 6. The medical facility infrastructure fund is a special fund in the state treasury. This fund
19 is a revolving fund. All moneys ~~in~~transferred into the medical facility infrastructure fund,
20 interest on moneys in the fund, and collections of principal and interest on loans from
21 the fund are appropriated to the Bank on a continuing basis for the purpose of
22 providing loans under this section.
- 23 7. Funds in the medical facility infrastructure fund may be used for loans as provided
24 under this section and to pay the costs of administration of the fund. Annually, the
25 Bank may deduct a service fee for administering the medical facility infrastructure fund
26 maintained under this section.
- 27 8. The medical facility infrastructure fund must be audited in accordance with section
28 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on
29 behalf of the fund must be paid from the fund.
- 30 9. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund.
31 ~~After deduction of fees and costs as provided in this section, the Bank shall make an~~

1 annual transfer of repayment funds deposited in the medical facility infrastructure fund-
2 to the state treasurer for deposit in the strategic investment and improvements fund.

3 ~~(Effective August 1, 2017, through July 31, 2043) Medical facility infrastructure loan-~~
4 ~~program -- Continuing appropriation -- Audit and costs of administration.~~

5 1. The Bank of North Dakota shall service loans made under the medical facility-
6 infrastructure loan program. The repayment schedule of these loans may not exceed
7 twenty-five years.

8 2. Funds in the medical facility infrastructure fund may be used for loans as provided
9 under this section and to pay the costs of administration of the fund. Annually, the
10 Bank may deduct a service fee for administering the medical facility infrastructure fund-
11 maintained under this section.

12 3. The medical facility infrastructure fund must be audited in accordance with section-
13 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on-
14 behalf of the fund must be paid from the fund.

15 4. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund-
16 After deduction of fees and costs as provided in this section, the Bank shall make an
17 annual transfer of repayment funds deposited in the medical facility infrastructure fund-
18 to the state treasurer for deposit in the strategic investment and improvements fund.

19 **SECTION 10.** A new section to chapter 50-06 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Behavioral health services quarterly report.**

22 The department of human services shall publish a quarterly report of all behavioral health
23 services provided by or supported by the department. The report must include each type of
24 behavioral health service, the number of clients served for each service, and the amount of
25 state and federal funds budgeted and spent for each service. Data must be identified for
26 behavioral health services by human service region and by mental health services provided to
27 children, mental health services provided to adults, and substance abuse services.

28 **SECTION 11. AMENDMENT.** Section 50-06-16 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **50-06-16. Rulemaking authority.**

2 The department may adopt rules necessary to carry out the responsibilities of the
3 department in conformity with any statute administered or enforced by the department. All rules
4 adopted must be published in the North Dakota Administrative Code. Rules adopted by
5 agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter
6 remain in effect until such time as they are specifically amended or repealed. The department is
7 not required to adopt rules to establish the process for the administration of funds appropriated
8 to the department in an appropriation identified by the legislative assembly as a one-time
9 funding item.

10 **SECTION 12. AMENDMENT.** Section 50-06-32.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **50-06-32.1. (~~Effective through June 30, 2015~~) Autism spectrum disorder voucher**
13 **program pilot project - Legislative management report - Appeal.**

- 14 1. The department of human services shall establish a voucher program pilot project
15 beginning July 1, 2014, to assist in funding equipment and general educational needs
16 related to autism spectrum disorder for individuals below two hundred percent of the
17 federal poverty level from age three to under age eighteen who have been diagnosed
18 with autism spectrum disorder. The program may include funding for assistive
19 technology; video modeling videos or equipment; language-generating devices;
20 training and educational material for parents; parenting education; sensory equipment;
21 tutors; safety equipment; travel tools; self-care equipment; timers; visual
22 representation systems; respite care; specialized daycare; language comprehension
23 equipment; and registration and related expenses for workshops and training to
24 improve independent living skills, employment opportunities, and other executive or
25 social skills.
- 26 2. The department shall adopt rules addressing management of this voucher program
27 pilot project and establishing the eligibility requirements and exclusions for this
28 voucher program pilot project. The program may not provide a voucher for early
29 intensive behavioral intervention, including applied behavioral analysis, intensive early
30 interventional behavioral therapy, intensive behavioral intervention, the Lovaas
31 method, the Denver model, LEAP (learning experiences - an alternative program for

1 preschoolers and parents), TEACCH (treatment and education of autistic and related
2 communication handicapped children), pivotal response training, or discrete trial
3 training.

4 3. A decision on a voucher application which is issued by the department under this
5 section may be appealed as provided under chapter 28-32.

6 4. The department of human services shall report to the legislative management
7 regarding the autism spectrum disorder program pilot project.

8 **SECTION 13. AMENDMENT.** Section 50-06-37 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **50-06-37. Developmental disabilities system reimbursement project.**

11 The department of human services, in conjunction with developmental disabilities service
12 providers, shall develop a prospective or related payment system with an independent rate
13 model utilizing the support intensity scale.

14 1. The department shall establish a steering committee consisting of representatives
15 from all interested providers and department representatives. The steering committee
16 shall guide the development of the new payment system including assisting a
17 consultant to conceptualize, develop, design, implement, and evaluate a new payment
18 system.

19 2. The department shall contract with a consultant by September 1, 2011, to develop, in
20 collaboration with the steering committee, the payment system and the resource
21 allocation model tying funding to support intensity scale assessed needs of clients
22 aged sixteen and older and to a state-approved assessment that assesses needs of
23 clients younger than sixteen years of age.

24 3. After the prospective or related payment system rates are developed, the new rates
25 must be tested on a sampling of clients and providers, the sample to be determined by
26 the steering committee, allowing sufficient time to capture provider cost, client-realized
27 need, and service provision data. The consultant shall provide the appropriate
28 sampling number to sufficiently test the rates, types of services, and needs of clients
29 with the intent to include as many providers as fiscally feasible.

- 1 4. The department shall contract with a team of support intensity scale assessors by
- 2 September 1, 2011. The team shall begin assessing immediately the identified client
- 3 pilot group identified by the consultant contracted in subsection 2.
- 4 5. Once testing is complete, the data must be analyzed by the consultant and the
- 5 consultant shall make any needed rate adjustments, resource allocation modifications,
- 6 or process assumptions.
- 7 6. Beginning in June 2012, the department and the steering committee shall report
- 8 development activities and status information to an interim legislative committee.
- 9 7. Implementation of any system developed under this chapter may not occur before the
- 10 implementation of the department's new medicaid management information system.

11 **SECTION 14. ROBINSON RECOVERY CENTER FUNDING.** Notwithstanding the

12 designation of funding for the Robinson recovery center in the appropriation for the department

13 of human services in section 1 of this Act, the department may reprocure the contract for

14 methamphetamine treatment services if the current contractor is unable to provide the full

15 capacity of services anticipated under the current contract for the biennium beginning July 1,

16 2015, and ending June 30, 2017. Funding otherwise designated for the Robinson recovery

17 center may be used to support the costs of the reprocured contract.

18 **SECTION 15. PAYMENTS TO THE COUNTY FOR LOCAL EXPENSES OF**

19 **ADMINISTRATION OF THE MEDICAID PROGRAM.** Within the limits of legislative

20 appropriation, the department may reimburse counties for part of the local expenses of

21 administration for determining eligibility for services under chapter 50-24.1, an amount that

22 represents all or part of an increase in payments from the federal government to the department

23 for administration of the medicaid program.

24 **SECTION 16. APPROPRIATION.** Special funds derived from federal funds and other

25 income, are appropriated to the department of human services for the purpose of reimbursing

26 counties under section 15 of this Act for part of the local expenses of administration of the

27 medicaid program under chapters 50-01.2 and 50-24.1, for the biennium beginning July 1,

28 2015, and ending June 30, 2017.

29 **SECTION 17. APPROPRIATION - 2013-15 BIENNIUM.** There is appropriated out of special

30 funds derived from federal funds, not otherwise appropriated, the sum of \$87,000,000, or so

31 much of the sum as may be necessary, to the department of human services for the purpose of

1 defraying medical assistance grant costs, for the period beginning with the effective date of this
2 Act and ending June 30, 2015.

3 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - MENTAL HEALTH HOTLINE**

4 **SERVICES.** During the 2015-16 interim, the legislative management shall consider studying the
5 various telephone contact numbers supported by state appropriations to access information
6 regarding services and programs available and determine if multiple numbers are necessary to
7 respond appropriately to the residents of the state. The legislative management shall report its
8 findings and recommendations, along with any legislation required to implement the
9 recommendations, to the sixty-fifth legislative assembly.

10 **SECTION 19. REPORT TO LEGISLATIVE MANAGEMENT - ADULT PROTECTIVE**

11 **SERVICES PROGRAM.** During the 2015-16 interim, the department of human services shall
12 report to the legislative management regarding the adult protective services program, including
13 the effectiveness of the program, information on services and outcomes, and funding by human
14 service region and in total.

15 **SECTION 20. LEGISLATIVE MANAGEMENT STUDY - AUTISM SERVICES.** During the
16 2015-16 interim, the legislative management shall consider studying services to children with
17 autism. The study must include a review of services currently provided by the department of
18 human services, the superintendent of public instruction, and other state and local agencies,
19 and an evaluation of the effectiveness of the continuum of care, transition between programs,
20 and outcomes. The study must also identify current funding for these programs and projected
21 funding needs in future bienniums by funding source. The legislative management shall report
22 its findings and recommendations, along with any legislation required to implement the
23 recommendations, to the sixty-fifth legislative assembly.

24 **SECTION 21. LEGISLATIVE MANAGEMENT STUDY - LIFE SKILLS AND TRANSITION**

25 **CENTER.** During the 2015-16 interim, the legislative management shall consider studying the
26 use of the structures and property of the life skills and transition center to determine the best
27 and most efficient use of the properties. If conducted, the study must review the potential to
28 transfer clients from the life skills and transition center to under-utilized facilities on the state
29 hospital campus or to a community-based setting. The study must also review potential
30 alternative uses of structures on the life skills and transition center campus. The legislative

1 management shall report its finding and recommendations, together with any legislation
2 necessary to implement the recommendations, to the sixty-fifth legislative assembly.

3 **SECTION 22. BEHAVIORAL HEALTH SERVICES - LEGISLATIVE MANAGEMENT**

4 **REPORTS.** During the 2015-16 interim, the department of human services shall present its
5 quarterly behavioral health services reports to the legislative management.

6 **SECTION 23. EFFECTIVE DATE.** Section 10 of this Act becomes effective on January 1,
7 2016.

8 **SECTION 24. EFFECTIVE DATE.** Sections 15 and 16 of this Act become effective on the
9 effective date of the centers for medicare and medicaid services' certification that the
10 department's eligibility system has met the seven conditions and standards for the receipt of
11 enhanced match.

12 **SECTION 25. EMERGENCY.** The medical assistance-grants line item in subdivision 2 of
13 section 1 and sections 8 and 17 of this Act are declared to be an emergency measure.

14 **SECTION 26. REPEAL.** Section 3 of Chapter 84 of the 2013 Session Laws is repealed.