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Sixty-fifth
Legislative Assembly
of North Dakota

Introduced by

Appropriations Committee

FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2015

A BILL for an Act to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to provide appropriations to the department of human services for behavioral health services; to create and enact a new section to chapter 12-44.1 and two new sections to chapter 54-23.3 of the North Dakota Century Code, relating to management of inmate population, a community behavioral health plan as a term of parole or an alternative to incarceration, and prioritization of admission of inmates; to provide for legislative management studies; to provide for a legislative management justice reinvestment oversight committee; and to provide for reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of corrections and rehabilitation for the purpose of defraying the expenses of the department of corrections and rehabilitation, for the biennium beginning July 1, 2017, and ending June 30, 2019, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Adult services	$205,626,019	$16,734,336	$222,360,355
Youth services	30,654,707	85,802	30,740,509
Total all funds	$236,280,726	$16,820,138	$253,100,864
Less estimated income	33,236,706	5,527,454	38,764,160
Total general fund	$203,044,020	$11,292,684	$214,336,704
Full-time equivalent positions	836.29	9.00	845.29

SECTION 2. HEALTH INSURANCE INCREASE. The appropriation in section 1 of this Act includes the sum of $2,155,572, of which $2,016,105 is from the general fund, for increases in employee health insurance premiums from $1,130 to $1,241 per month.

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

One-Time Funding Description	2015-17	2017-19
Security camera upgrade	$202,500	$0
Equipment	470,400	167,000
Extraordinary repairs	719,267	0
Information technology upgrades	150,000	0
DOCSTARS maintenance	150,000	0
License plate issue	4,900,000	0
Electronic medical records system	0	935,907
Justice reinvestment initiative	0	500,000
Total all funds	$6,592,167	$1,602,907
Less estimated income	5,126,000	1,602,907
Total general fund	$1,466,167	$0

The 2017-19 biennium one-time funding amounts are not a part of the entity's base budget for the 2019-21 biennium. The department of corrections and rehabilitation shall report to the appropriations committees of the sixty-sixth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 4. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES. There is appropriated from special funds derived from federal funds and other income, the sum of $7,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing the community behavioral health program, for the biennium beginning July 1, 2017, and ending June 30, 2019. The department is authorized six full-time equivalent positions to implement the community behavioral health program.

SECTION 5. APPROPRIATION - REPORT TO LEGISLATIVE MANAGEMENT - DEPARTMENT OF HUMAN SERVICES.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $500,000, or so much of the sum as may be necessary, to the department of human services for the purposes of contracting with a public or private entity to create, initiate, and facilitate the implementation of a strategic plan to increase the availability of all types of behavioral health services in all regions of the state, for the biennium beginning July 1, 2017, and ending June 30, 2019.
2. During the 2017-18 interim, the department of human services and the contracting entity shall make annual reports to the legislative management on the status of the creation and implementation of this strategic plan, including recommendations regarding legislation needed for full implementation.

SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The estimated income line item in section 1 of this Act includes $935,907 of one-time funding from the strategic investment and improvements fund for an electronic medical records system.

SECTION 7. MISSOURI RIVER CORRECTIONAL CENTER - HOUSING UNIT PURCHASE. The appropriation in section 1 of this Act includes the sum of $844,000 for the purchase of a thirty-six bed housing unit at the Missouri River correctional center.

SECTION 8. A new section to chapter 12-44.1 of the North Dakota Century Code is created and enacted as follows:

Management of inmate population.

1. The governing body of a correctional facility, in cooperation with law enforcement, state's attorneys, and the judiciary in the judicial district in which the correctional facility is located, shall develop an inmate population plan to prioritize admissions and inmate retention based on the correctional facility's authorized budget.
2. The inmate population plan must take into consideration:
   a. The governing body's authorized budget;
   b. The inmate's offense;
   c. Whether the inmate has been charged, adjudicated, or sentenced;
   d. Whether the inmate presents a risk of flight or is a danger to others or self;
   e. The inmate's medical needs and mental and behavioral health needs; and
   f. Whether the inmate is subject to mandatory incarceration.

3. The inmate population plan must include alternatives to physical custody of individuals under charge or conviction of an offense. Potential alternatives to physical custody include:
   a. Placement in a community setting;
   b. Work release;
   c. Home detention;
   d. Electronic home detention;
   e. Global positioning system monitoring;
   f. Medical, psychiatric, and drug and alcohol treatment;
   g. Employment;
   h. Pretrial risk assessment; and
   i. Pretrial supervision.
4. This section does not apply when there are exigent circumstances that affect a correctional facility's operations and inmate population, including acts of God and mass arrests.
5. The department of corrections and rehabilitation shall provide technical assistance relating to the implementation of this section to the governing body of a correctional facility upon request from the governing body.

SECTION 9. A new section to chapter 54-23.3 of the North Dakota Century Code is created and enacted as follows:

Community behavioral health program - Reports to legislative management and governor.

1. The department of corrections and rehabilitation shall establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions, as a term and condition of parole under chapter 12-59, and as a sentencing alternative under section 12.1-32-02.
2. In developing the program under this section, the department of corrections and rehabilitation shall collaborate with the department of human services to:
   a. Establish a referral and evaluation process for access to the program.

b. Establish eligibility criteria that includes consideration of recidivism risk and behavioral health condition severity.

c. Establish discharge criteria and processes, with a goal of establishing a seamless transition to postprogram services to decrease recidivism.

d. Develop program oversight, auditing, and evaluation processes that must include:

(1) Oversight of case management services through the department of human services;

(2) Outcome and provider reporting metrics; and

(3) Annual reports to the legislative management and the governor on the status of the program.

e. Establish a system through which:

(1) The department of human services:

(a) Contracts with and pays behavioral health service providers; and

(b) Supervises, supports, and monitors referral caseloads and the provision of services by contract behavioral health service providers.

(2) Contract behavioral health service providers accept all eligible referrals, provide individualized care delivered through integrated multidisciplinary care teams, and continue services on an ongoing basis until discharge criteria are met.

(3) Contract behavioral health service providers receive payments on a per-month per-referral basis. The payment schedule must be based on a pay-for-performance model that includes consideration of identified outcomes and the level of services required.

(4) Contract behavioral health service providers bill third-parties for services and direct payment to the general fund.

3. The department of human services may adopt rules as necessary to implement this program.

SECTION 10. A new section to chapter 54-23.3 of the North Dakota Century Code is created and enacted as follows:

Prioritization of admission of inmates - Report to legislative management.

The department of corrections and rehabilitation may refuse to admit inmates sentenced to the physical custody of the department when the admission of inmates will exceed the maximum operational capacity of the penitentiary and its affiliated facilities and result in the department exceeding its authorized legislative appropriation for contracting for housing inmates in other correctional facilities. For purposes of this section, maximum operational capacity of the department means the total number of inmates that may be imprisoned at the same time in the penitentiary and its affiliated facilities. The department shall develop a prison population management plan to prioritize admissions based on sentences and the availability of space in the penitentiary and its affiliated facilities. The department shall report annually to the legislative management on the prison population management plan and inmate admissions and the number of inmates the department has not admitted after sentencing.

SECTION 11. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL JUSTICE SYSTEM BEHAVIORAL HEALTH NEEDS. During the 2017-18 interim, the legislative management shall consider continuing its study of alternatives to incarceration, with a focus on the behavioral health needs of individuals in the criminal justice system. The study must include receipt of reports on the status, effectiveness, and sustainability of the community behavioral health program for individuals in the criminal justice system which must include caseload data, any recognized savings to the department of corrections and rehabilitation, an overview of the training requirements for contract behavioral health service providers, and recommendations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 12. LEGISLATIVE MANAGEMENT STUDY - TOMPKINS REHABILITATION CENTER. During the 2017-18 interim, the legislative management shall consider studying the operation, management, conditions, caseload, and physical plant of the Tompkins rehabilitation center at the state hospital. The study must include the potential transition of the Tompkins rehabilitation center, including the transfer of the building, employees, and supervision and management of all operations and caseload of the Tompkins rehabilitation center, from the department of human services and the state hospital to the department of corrections and rehabilitation. The legislative management shall report its findings and recommendations,

together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 13. DEPARTMENT OF CORRECTIONS AND REHABILITATION - YOUTH CORRECTIONAL CENTER STUDY - BUDGET SECTION REPORT. During the 2017-18 interim, the department of corrections and rehabilitation, in consultation with the department of human services, the protection and advocacy project, and the supreme court, shall study the potential for increased community-based treatment services for youth offenders, youth correctional center staffing requirements, and the efficiency and adequacy of the youth correctional center facilities. The study must consider the potential to raze and replace the current facilities at the youth correctional center. The department of corrections and rehabilitation shall report the results of the study to the budget section of the legislative management by December 31, 2018.

SECTION 14. JUSTICE REINVESTMENT OVERSIGHT COMMITTEE - REPORT TO THE LEGISLATIVE MANAGEMENT.

1. During the 2017-18 interim, the justice reinvestment oversight committee is created and composed of eight members as follows:
   a. The governor's general counsel;
   b. The director of the department of human services;
   c. The director of the behavioral health division of the department of human services;
   d. The director of the department of corrections and rehabilitation;
   e. The chief justice of the supreme court, or a designee of the chief justice;
   f. The attorney general, or a designee of the attorney general;
   g. One member of the house of representatives, appointed by the majority leader of the house of representatives; and
   h. One member of the senate, appointed by the majority leader of the senate.
2. The committee shall study the implementation of justice reinvestment policies in the state and periodically report to the legislative management. The governor's office shall provide staff services to the committee.

3. Before July 1, 2018, the committee shall report its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative management.