

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1012  
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of human services; to provide an appropriation to the state department of health; to provide an appropriation to the legislative council; to provide an appropriation to the office of management and budget; to create and enact a new section to chapter 1-02, two new sections to chapter 50-06, and a new section to chapter 50-24.1 of the North Dakota Century Code, relating to person-first language, substance use disorder treatment voucher system grants, a behavioral health bed management system, and medical assistance coverage of interpreter services; to create and enact a new paragraph to subdivision I of subsection 1 of section 50-11.1-22 of the North Dakota Century Code as created by section 8 of House Bill No. 1416, as approved by the sixty-seventh legislative assembly, relating to the North Dakota early childhood council membership; to amend and reenact sections 50-06-42, 50-11.1-14, 50-24.1-02.7, 50-24.1-31, and 50-24.1-37 of the North Dakota Century Code, relating to the substance use disorder voucher program, early childhood workforce development fees, Medicaid coverage for workers with disability coverage and families of children with disabilities, and the Medicaid expansion program; to repeal section 50-24.1-18.1 of the North Dakota Century Code, relating to consumer-directed health maintenance services; to provide an exemption; to provide a statement of legislative intent; to provide for a report; to provide for a study; to provide for a transfer; to provide for the conveyance of land; to provide an application; to provide for retroactive application; to provide an effective date; to provide an expiration date; and to declare an emergency.

**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 human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

Subdivision 1.

MANAGEMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$20,222,500	(\$882,643)	\$19,339,857
Operating expenses	134,438,862	83,747,426	218,186,288
Capital assets	<u>50,000</u>	<u>25,000</u>	<u>75,000</u>
Total all funds	\$154,711,362	\$82,889,783	\$237,601,145
Less estimated income	<u>90,021,088</u>	<u>49,909,553</u>	<u>139,930,641</u>
Total general fund	\$64,690,274	\$32,980,230	\$97,670,504

Subdivision 2.

PROGRAM AND POLICY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$68,994,873	\$53,731,256	\$122,726,129
Operating expenses	150,961,583	20,314,902	171,276,485
Capital assets	10,000	0	10,000

Grants	452,041,904	15,404,936	467,446,840
Grants - medical assistance	<u>2,742,157,720</u>	<u>295,998,870</u>	<u>3,038,156,590</u>
Total all funds	\$3,414,166,080	\$385,449,964	\$3,799,616,044
Less estimated income	<u>2,232,568,138</u>	<u>272,982,735</u>	<u>2,505,550,873</u>
Total general fund	\$1,181,597,942	\$112,467,229	\$1,294,065,171

Subdivision 3.

FIELD SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Human service centers	\$204,701,143	(\$34,917,117)	\$169,784,026
Institutions	<u>137,476,480</u>	<u>(6,942,407)</u>	<u>130,534,073</u>
Total all funds	\$342,177,623	(\$41,859,524)	\$300,318,099
Less estimated income	<u>127,314,955</u>	<u>(13,041,660)</u>	<u>114,273,295</u>
Total general fund	\$214,862,668	(\$28,817,864)	\$186,044,804

Subdivision 4.

COUNTY SOCIAL SERVICE FINANCING

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
County social services	<u>\$173,700,000</u>	<u>\$16,217,386</u>	<u>\$189,917,386</u>
Total all funds	\$173,700,000	\$16,217,386	\$189,917,386
Less estimated income	<u>173,700,000</u>	<u>14,976,995</u>	<u>188,676,995</u>
Total general fund	\$0	\$1,240,391	\$1,240,391

Subdivision 5.

TOTAL - SECTION 1

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,461,150,884	\$117,869,986	\$1,579,020,870
Grant total special funds	<u>2,623,604,181</u>	<u>324,827,623</u>	<u>2,948,431,804</u>
Grant total all funds	\$4,084,755,065	\$442,697,609	\$4,527,452,674
Full-time equivalent positions	2,230.23	19.10	2,249.33

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Technology projects	\$13,785,658	\$67,641,747
Capital projects - life skills and transition center	4,277,165	0
Capital projects - state hospital	2,493,500	0
Capital projects - southeast human service center	0	724,000
Developmental disabilities provider stabilization grants	0	125,000
Medically complex children provider funding	977,603	0
Hyperbaric oxygen therapy grant	335,000	0
State hospital study	200,000	0
Nursing facility payment methodology	<u>0</u>	<u>7,200,000</u>
Total all funds	\$22,068,926	\$75,690,747
Less estimated income	<u>20,556,323</u>	<u>51,457,531</u>
Total general fund	\$1,512,603	\$24,233,216

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The department of human services shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 3. APPROPRIATION - 2019-21 BIENNIUM - DEPARTMENT OF HUMAN SERVICES - FIRE PROTECTION AGREEMENTS - EXEMPTION.** There is appropriated out of any moneys in the department of human services operating fund in the state treasury, not otherwise appropriated, the sum of \$333,333, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a city located in a county of fewer than 25,000 individuals and provides prevention and extinguishment of fires at the North Dakota state hospital, for the period beginning with the effective date of this Act and ending June 30, 2021. The funding appropriated in this section is a one-time funding item. The requirements of chapter 54-44.4 do not apply to the selection of a grant recipient, the grant award, or payments made under this section. The department of human services may not enter any future agreement with a political subdivision for fire protection services.

**SECTION 4. APPROPRIATION - STATE DEPARTMENT OF HEALTH.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$281,715, or so much of the sum as may be necessary, and the sum of \$281,715 from special funds derived from grants, donations, and other income, to the state department of health for the purpose of providing a grant to the task force on the prevention of sexual abuse of children for staff and programming materials focused on primary prevention activities, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 5. APPROPRIATION - LEGISLATIVE MANAGEMENT STUDY - STATEWIDE ACUTE PSYCHIATRIC AND RESIDENTIAL CARE NEEDS.**

1. During the 2021-22 interim, the legislative management shall study the acute psychiatric hospitalization and related step down residential treatment and support needs of individuals with mental illness. The legislative management shall create an acute psychiatric treatment committee consisting of eight members to conduct the study. The legislative management chairman shall designate the committee chairman and vice chairman and the legislative council shall provide staff services for the committee. The committee must complete the study by October 1, 2022.
2. As part of the study, the committee shall gather input from stakeholders and other groups, including private hospitals, the department of human services, and mental health advocates.
3. The study must review options for a long-term plan for acute psychiatric hospitalization and related step down residential treatment and support needs in the state and short-term options during the next two bienniums to contract with private provider acute psychiatric care facilities to provide treatment services in four or more cities in the state, workforce needs of such specific locations, and options to replace the existing state hospital facility with one or more treatment facilities focused on forensic psychiatric evaluation and treatment.
4. The committee, with the approval of the legislative management, may obtain consulting services to determine the total number of acute care beds needed in the state and to develop recommendations for private provider contracts, treatment requirements and outcome measures, locations in the state, including private and public facilities, the future use of facilities at the state hospital campus including the LaHaug building, and other items identified in subsection 3. The consulting services may also develop conceptual drawings for recommendations for a new state hospital.
5. The department of human services shall provide to the consultants and the committee a complete description of other outpatient and inpatient private and public behavioral health services, including substance use disorder facilities, existing in the state to prevent acute behavioral health hospitalization and to support patients following discharge from psychiatric hospitalization and related residential care.

6. The department of human services shall seek Medicaid plan amendments or Medicaid waivers to allow federal funding reimbursement for services provided in institutions for mental diseases to Medicaid beneficiaries between the ages of twenty-one and sixty-four.
7. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.
8. 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 legislative council for consulting services for the study identified in this section, for the period beginning with the effective date of this section, and ending June 30, 2023. The funding appropriated in the section is considered a one-time funding item.

**SECTION 6. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - CAPITOL BUILDING FUND.** There is appropriated out of any moneys in the capitol building fund in the state treasury, not otherwise appropriated, the sum of \$25,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of utilizing a consultant to determine the compliance of the capitol building with 2010 Americans with Disabilities Act standards, for the biennium beginning July 1, 2021, and ending June 30, 2023. The funding appropriated in this section is considered a one-time funding item.

**SECTION 7. SPENDING RESTRICTION - 2021-23 BIENNIUM - FEDERAL MEDICAL ASSISTANCE PERCENTAGE.** The department of human services may not spend any general fund savings resulting from federal enhancements or adjustments that cause the federal medical assistance percentage to exceed the rates used by the sixty-seventh legislative assembly for budgeting purposes for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 8. FUNDING TRANSFERS - EXEMPTION - AUTHORIZATION - REPORT.** Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department of human services shall notify the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2022, any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-eighth legislative assembly regarding any transfers made pursuant to this section.

**SECTION 9. FUNDING TRANSFERS - EXEMPTION - AUTHORIZATION - REPORT.** Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority from line items within subdivisions 1, 2, and 3 of section 1 of this Act to subdivision 4 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department of human services shall notify the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2022, any transfer made in excess of \$50,000 and to the appropriations committees of the sixty-eighth legislative assembly regarding any transfers made pursuant to this section.

**SECTION 10. FULL-TIME EQUIVALENT POSITION - AGING SERVICES - LEGISLATIVE INTENT.** Section 1 of this Act includes one full-time equivalent position for the administration of services resulting from a federal department of justice lawsuit settlement. This position is authorized only for the biennium beginning July 1, 2021, and ending June 30, 2023, and may not be included in the department's base budget for the biennium beginning July 1, 2023, and ending June 30, 2025. It is the intent of the sixty-seventh legislative assembly that future legislative assemblies retain and exercise unfettered discretion to appropriate funds as they deem appropriate without regard to the federal department of justice lawsuit settlement.

**SECTION 11. TRANSFER OF APPROPRIATION AUTHORITY.** Section 1 of this Act includes appropriation authority for the department of human services for the biennium beginning July 1, 2021,

and ending June 30, 2023. On September 1, 2022, in accordance with provisions of House Bill No. 1247, as approved by the sixty-seventh legislative assembly, the office of management and budget shall transfer remaining appropriation authority contained in section 1 of this Act, and any remaining appropriation authority for the department of human services in other bills approved by the sixty-seventh legislative assembly, to the department of health and human services. The appropriation authority in section 1 of this Act and appropriation authority for the department of human services from any other bill that is transferred to the department of health and human services must be maintained and reported separately from other appropriation authority transferred to the department of health and human services.

**SECTION 12. ESTIMATED INCOME - FEDERAL CORONAVIRUS RELIEF FUND.** The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$2,457,638 from the federal coronavirus relief fund for senior nutrition services and the sum of \$1,750,000 from the federal coronavirus relief fund for the community behavioral health program.

**SECTION 13. ESTIMATED INCOME - HUMAN SERVICE FINANCE FUND.** The estimated income line item in subdivision 4 of section 1 of this Act includes the sum of \$187,223,092 from the human service finance fund for state-paid economic assistance and social and human services.

**SECTION 14. ESTIMATED INCOME - COMMUNITY HEALTH TRUST FUND.** The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$31,500,000 from the community health trust fund for defraying expenses in the medical services division.

**SECTION 15. ESTIMATED INCOME - HEALTH CARE TRUST FUND.** The estimated income line item in subdivision 2 of section 1 of this Act includes the sum of \$1,000,000 from the health care trust fund and \$1,150,538 from federal funds for nursing facility operating margin adjustments.

**SECTION 16. CAPITAL PAYMENTS.** During the biennium beginning July 1, 2021, and ending June 30, 2023, the department of human services is authorized to expend funds for the payment of special assessments at the state hospital and life skills and transition center.

**SECTION 17. CAPITAL PROJECTS - EMERGENCY COMMISSION APPROVAL.** During the biennium beginning July 1, 2021, and ending June 30, 2023, the department of human services is authorized to proceed with the demolition of the chapel, administrative building, and employee building and associated tunnels at the state hospital. Pursuant to section 8 of this Act, the director of the office of management and budget may transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act. The department may transfer funds for the demolition of the identified buildings and associated tunnels and for emergency capital projects. Notwithstanding section 54-27-12, the department of human services may spend up to \$5,000,000 for emergency projects under this section and may seek emergency commission approval to spend more than \$5,000,000 under this section.

**SECTION 18. PERMANENT SUPPORTIVE HOUSING GRANTS.** Subdivision 2 of section 1 of this Act includes the sum of \$4,672,536 from the general fund for permanent supportive housing grants. The department of 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 19. EMERGENCY STABILIZATION GRANTS - DEVELOPMENTAL DISABILITIES WAIVER.**

1. Subdivision 2 of subsection 1 of this Act includes the sum of \$125,000 from the general fund for the purpose of providing emergency stabilization grants to developmental disability in-home support providers to support the sustainability of newly licensed providers within the developmental disability provider network. To be eligible to receive an emergency stabilization grant, a licensed developmental disability in-home support provider must be in operation as of October 1, 2020, with an initial license date of October 15, 2015, or later, and comply with

grant requirements established by the department of human services. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or payments made under this section.

2. The department of human services shall include in-home support providers in future appendix K applications, to allow eligibility for retainer payments in a manner equivalent to day support services.

**SECTION 20. REFUGEE RESETTLEMENT SERVICES - LEGISLATIVE MANAGEMENT REPORT.** Subdivision 2 of section 1 of this Act includes the sum of \$6,069,408 of federal funds for the refugee resettlement program. The department of human services shall collaborate with applicable federal and private placement agencies to develop a plan to resettle refugees in at least five geographically diverse communities in the state outside of the existing resettlement communities with a goal of resettling twenty-five percent of new refugees outside of existing resettlement communities. During the 2021-22 interim, the department of human services shall provide a report to the legislative management regarding refugee resettlement services.

**SECTION 21. EXPENDITURES MAY NOT EXCEED APPROPRIATION - MEDICAL ASSISTANCE EXPANSION PROGRAM - APPLICATION.**

1. Subdivision 2 of section 1 of this Act includes the sum of \$703,317,464, of which \$80,934,488 is from the general fund, for the medical assistance expansion program for the biennium beginning July 1, 2021, and ending June 30, 2023. The expenditures for individuals eligible for the medical assistance expansion program may not exceed this amount. For purposes of this section:
  - a. Expenditures do not include those made for individuals identified as medically frail and who receive services through the traditional Medicaid program administered by the department of human services for which there is a separate appropriation of \$10,184,568 included in subdivision 2 of section 1 of this Act.
  - b. Expenditures do not include prescription drugs for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$29,460,720 included in subdivision 2 of section 1 of this Act.
  - c. Expenditures do not include coverage for individuals ages nineteen and twenty for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$12,705,466 included in subdivision 2 of section 1 of this Act.
2. The department of human services may exceed appropriations for increases in medical assistance expansion program caseload and for the addition of coverage consistent with the traditional Medicaid 1915(i) state plan.
3. 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. Critical access hospitals may not be paid less than one hundred percent of Medicare allowable costs.
4. The managed care organization and the department of human services shall ensure payments to Indian or Tribal 638 health care providers, federally qualified health centers, and rural health clinics meet the federally required minimum levels of reimbursement.

5. The department of 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.
6. The department of human services and the Medicaid expansion managed care organization shall ensure the appropriate contract amendment is adopted for coverage through December 31, 2021. The contract amendment shall stay within the appropriation and the requirements of chapter 54-44.4 do not apply.

**SECTION 22. EXPENDITURES MAY NOT EXCEED APPROPRIATION - MEDICAL ASSISTANCE EXPANSION PROGRAM - APPLICATION.**

1. Subdivision 2 of section 1 of this Act includes the sum of \$703,317,464, of which \$80,934,488 is from the general fund, for the medical assistance expansion program for the biennium beginning July 1, 2021, and ending June 30, 2023. The expenditures for individuals eligible for the medical assistance expansion program may not exceed this amount. For purposes of this section:
  - a. Expenditures do not include those made for individuals identified as medically frail and who receive services through the traditional Medicaid program administered by the department of human services for which there is a separate appropriation of \$10,184,568 included in subdivision 2 of section 1 of this Act.
  - b. Expenditures do not include prescription drugs for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$29,460,720 included in subdivision 2 of section 1 of this Act.
  - c. Expenditures do not include coverage for individuals ages nineteen and twenty for the medical assistance expansion program population which is administered by the department of human services through its fee-for-service Medicaid program for which there is a separate appropriation of \$12,705,466 included in subdivision 2 of section 1 of this Act.
2. The department of human services may exceed appropriations for increases in medical assistance expansion program caseload and for the addition of coverage consistent with the traditional Medicaid 1915(i) state plan.
3. 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 shall reimburse all North Dakota substance use providers of American society of addiction medicine level 2.5 at consistent levels and with consistent methodology. The managed care organization may consider urban and rural providers as different provider types. Critical access hospitals may not be paid less than one hundred percent of Medicare allowable costs.
4. The managed care organization and the department of human services shall ensure payments to Indian or Tribal 638 health care providers, federally qualified health centers, and rural health clinics meet the federally required minimum levels of reimbursement.
5. The department of 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.

**SECTION 23.** A new section to chapter 1-02 of the North Dakota Century Code is created and enacted as follows:

**Person-first language.**

The provisions of this code, unless the context otherwise requires, must be construed in person-first language and any new enactments of this code must be written in person-first language.

**SECTION 24.** A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

**Substance use disorder treatment voucher system grants.**

1. A licensed substance abuse treatment program, excluding regional human service centers and hospital or medical clinic-based programs for medical management of withdrawal, may apply for a competitive substance use disorder treatment voucher system grant. A licensed substance abuse treatment program is eligible for a one-time grant award. To receive a grant, a licensed substance abuse treatment program shall:
  - a. Submit an application in the form and manner prescribed by the department;
  - b. Enter a grant agreement with the department;
  - c. Use grant funds for a licensed substance abuse treatment program with fewer than seventeen beds in an underserved area, as determined by the department, in the state's substance abuse treatment system;
  - d. Use the grant funds to support the provision of substance use disorder treatment in underserved areas of the state's substance abuse treatment system;
  - e. Provide and disclose information needed to comply with the department's data collection requirements; and
  - f. Operate in compliance with grant requirements.
2. The department, within legislative appropriations, may distribute up to two grants under this section to licensed substance abuse treatment programs.
3. The department may recapture grant funds distributed to a licensed program found by the department to be out of compliance with the requirements established by the grant program, including ending or reducing the operation of the substance use disorder treatment services in the underserved area.
4. The department may not collect property, equipment, or supplies purchased with grant funds from the licensed substance abuse treatment program after successful completion of the terms of the grant.
5. The grant term must be for five years.

**SECTION 25. AMENDMENT.** Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-42. Substance use disorder treatment voucher system.**

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by



licensed substance abuse treatment programs, excluding regional human service centers, and hospital- or medical clinic-based programs for medical management of withdrawal, and any institution for mental diseases in accordance with subsection 2.

2. The department shall deny a licensed substance abuse treatment program's substance use disorder treatment voucher system application and deny reimbursement by the substance use disorder treatment voucher system if the licensed substance abuse treatment program is an institution for mental diseases and reimbursement is requested for residential beds added on or after July 1, 2020.
3. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

**SECTION 26. AMENDMENT.** Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

**50-06-42. Substance use disorder treatment voucher system.**

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, hospital- or medical clinic-based programs for medical management of withdrawal, and any institution for mental diseases in accordance with subsection 2.
2. The department shall deny a licensed substance abuse treatment program's substance use disorder treatment voucher system application and deny reimbursement by the substance use disorder treatment voucher system if the licensed substance abuse treatment program is an institution for mental diseases and reimbursement is requested for residential beds added on or after July 1, 2020.
3. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.
4. The department shall allocate funding appropriated for the substance use disorder treatment voucher as follows:
  - a. No more than forty-five percent of the appropriated amount may be allocated for residential substance use disorder services administered by licensed substance abuse treatment programs with more than sixteen beds.
  - b. The remaining appropriation must be allocated for residential programs with sixteen or fewer beds, nonresidential outpatient, and ancillary substance use disorder services administered by licensed substance abuse treatment programs.

**SECTION 27.** A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

**Behavioral health bed management system.**

The department shall establish and maintain a behavioral health bed management system to improve utilization of behavioral health bed capacity. Public and private providers of residential or inpatient behavioral health services shall participate in and report daily to the department the information and documentation necessary to maintain the behavioral health bed management system in the form and manner prescribed by the department.

**SECTION 28. AMENDMENT.** Section 50-11.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**50-11.1-14. Workforce development.**

1. The department may establish a statewide system to build systematic early childhood workforce voluntary training which may include distance learning formats, a professional registry, certificates, and specializations.
2. The department may charge reasonable fees for all training and development courses to offset costs. All fees collected under this section must be paid to the department or the department's authorized agent and must be used to defray the cost of providing training and development courses to providers and staff members of early childhood services.

**SECTION 29.** A new paragraph to subdivision I of subsection 1 of section 50-11.1-22 of the North Dakota Century Code, as created by section 8 of House Bill No. 1416, as approved by the sixty-seventh legislative assembly, is created and enacted as follows:

A special education director:

**SECTION 30. AMENDMENT.** Section 50-24.1-02.7 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-02.7. Workers with disabilities coverage.**

The department shall establish and implement a buyin program to provide medical assistance to an individual who, except for substantial gainful activity, meets the definition of disabled under the supplemental security income program under title XVI of the federal Social Security Act, who is at least sixteen but less than sixty-five years of age, and who is gainfully employed. The program ~~must~~:

1. ~~Be~~Must be made available to an individual with a disability who is a member of a household with a net income less than two hundred twenty-five percent of the most recently revised official poverty line published by the federal office of management and budget applicable to the household size;
2. ~~Allow~~Must allow up to an additional ten thousand dollars in assets;
3. ~~Require~~Must require the payment of a premium that is based upon a sliding scale which may not be less than two and one-half percent nor more than seven and one-half percent of the individual's gross countable income;
4. ~~Include~~Must include a one-time program enrollment fee of one hundred dollars; ~~and~~
5. ~~Provide~~Must provide that the failure of an enrolled individual to pay premiums for three months may result in the termination of enrollment in the program; ~~and~~
6. May not require the payment of a premium or enrollment fee or disenroll an individual for failure to pay a premium or enrollment fee for workers with disabilities coverage during a

federally declared emergency if collection of the premium or enrollment fee may impact the receipt of federal funds.

**SECTION 31. AMENDMENT.** Section 50-24.1-31 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-31. Optional medical assistance for families of children with disabilities.**

1. The department shall establish and implement a buyin program under the federal Family Opportunity Act enacted as part of the Deficit Reduction Act of 2005 [Pub. L. 109-171; 120 Stat. 4; 42 U.S.C. 1396] to provide medical assistance and other health coverage options to families of children with disabilities and whose net income does not exceed two hundred fifty percent of the federal poverty line published by the federal office of management and budget applicable to the household size.
2. The department may not require the payment of a premium or disenroll an individual for failure to pay a premium for families of children with disabilities coverage during a federally declared emergency if collection of the premium may impact the receipt of federal funds.

**SECTION 32. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-37. Medicaid expansion - Legislative management report. (~~Effective through July 31, 2024~~ - Contingent repeal - [See note](#))**

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.
2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. Except for pharmacy services, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.
4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.
5. Provider reimbursement rate information received by the department under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.

**SECTION 33. AMENDMENT.** Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.1-37. Medicaid expansion - Legislative management report. (Contingent repeal - [See note](#))**

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals

under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.

2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. Except for pharmacy services and coverages for individuals ages nineteen and twenty, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.
4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. ~~This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.~~
5. Provider reimbursement rate information received by the department under this section is confidential, ~~except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section~~ an open record.

**SECTION 34.** A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

**Interpreter services.**

Medical assistance coverage, including Medicaid expansion, must include payment for sign and oral language interpreter services for assistance in providing covered health care services to a recipient of medical assistance who has limited English proficiency or who has hearing loss and uses interpreting services. The department shall adopt rules to implement this section.

**SECTION 35. REPEAL.** Section 50-24.1-18.1 of the North Dakota Century Code is repealed.

**SECTION 36. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION CENTER.** The state of North Dakota, by and through the department of human services, may convey real property associated with the life skills and transition center in Grafton to the Grafton parks and recreation department. The department of human services may convey a portion of two parcels of land commonly referred to as "the bowl" on the terms and conditions determined appropriate by the department and the attorney general. Sections 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

**SECTION 37. CONVEYANCE OF LAND AUTHORIZED - LIFE SKILLS AND TRANSITION CENTER.** The state of North Dakota, by and through the department of human services, may convey real property associated with the life skills and transition center in Grafton to the Grafton fire department. The department of human services may convey a parcel of land, 7.45 acres, more or less, located in part of lot 1, block 1, state school first addition to the city of Grafton, which is located within the southwest  $\frac{1}{4}$  of the southwest  $\frac{1}{4}$  of section 13, township 157 north, range 53 west, on the terms and conditions determined appropriate by the department and attorney general. Sections 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

**SECTION 38. LEASE OF LAND - STATE HOSPITAL.** The department of human services and national guard may enter an agreement to lease up to twenty acres of real property associated with the state hospital for the national guard to construct a new training and storage facility.

**SECTION 39. PROVIDER PROCESS AND OUTCOME MEASURES.** Providers that receive funding from the department of human services shall submit process and outcome measures, as

required by the department, to the department of human services for programs and services supported by state funding during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 40. QUALIFIED RESIDENTIAL TREATMENT PROVIDERS.** The department of human services shall adopt rules, on or before October 1, 2021, establishing a new ratesetting process and requirements for foster care maintenance rates for qualified residential treatment providers based on the appropriation approved by the sixty-seventh legislative assembly.

**SECTION 41. COMMUNITY BEHAVIORAL HEALTH PROGRAM.** Pursuant to section 8 of this Act, the director of the office of management and budget may transfer appropriation authority between line items within subdivisions 1, 2, and 3 of section 1 of this Act for the biennium beginning July 1, 2021, and ending June 30, 2023, as requested by the department of human services. The department may transfer funds for the continuation of the community behavioral health program pursuant to subsection 2 of section 54-23.3-10.

**SECTION 42. EXEMPTION.** The amount appropriated for the Medicaid management information system technology stack upgrade in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the Medicaid management information system technology stack upgrade during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 43. EXEMPTION.** The amount appropriated for the modification of the department of human services' eligibility systems in chapter 578 of the 2011 Special Session Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium, then the 2015-17 biennium, then the 2017-19 biennium, and then the 2019-21 biennium are available for the completion of the modification of the eligibility systems project during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 44. EXEMPTION.** The amount appropriated for the development of the child care licensing and data system in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21 biennium are available for the completion of the child care licensing and data system during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 45. EXEMPTION.** The amount appropriated for the development of the health information network in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21 biennium are available for the completion of the health information network during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 46. EXEMPTION.** The sum of \$200,000 from the general fund appropriated for the department's operating expenses for the school behavioral health program in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the school behavioral health pilot projects during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 47. EXEMPTION.** The sum of \$150,000 from the general fund appropriated for the department's operating expenses for behavioral health recovery home grants in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation may be used for behavioral health recovery home grants during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 48. EXEMPTION.** The sum of \$750,000 from the general fund appropriated to the department of human services for the purpose of providing suicide prevention grants in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the suicide prevention grants during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 49. EXEMPTION.** The sum of \$3,000,000 from the general fund appropriated to the department of human services for the purpose of providing a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the community behavioral health program during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 50. EXEMPTION.** The sum of \$335,000 from the general fund appropriated to the department of human services for the purpose of providing a grant to an entity to develop a hyperbaric oxygen therapy pilot program in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the grant to an entity to develop a hyperbaric oxygen therapy pilot program during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 51. EXEMPTION.** The sum of \$572,000 from the strategic investment and improvements fund appropriated to the department of human services for the purpose of a roof replacement project at the state hospital in chapter 37 of the 2019 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for the completion of the roof replacement project at the state hospital during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 52. EXEMPTION.** The amount appropriated for the development of the electronic visit verification project in chapter 11 of the 2017 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2019-21 biennium are available for the completion of the electronic visit verification project during the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 53. LEGISLATIVE INTENT - UTILIZATION RATE ADJUSTMENT.** It is the intent of the sixty-seventh legislative assembly that the department of human services seek a deficiency appropriation from the sixty-eighth legislative assembly for any expenditures that exceed appropriated amounts as a result of utilization rates, nursing home costs associated with the establishment of the new rate structure as provided in House Bill No. 1090, or developmental disability provider reimbursement rate adjustments, during the biennium beginning July 1, 2021, and ending June 30, 2023, if funding is not sufficient to pay actual expenses.

**SECTION 54. DEVELOPMENTAL DISABILITY PROVIDER RATES.** By July 1, 2021, the department of human services, in consultation with the developmental disabilities payment steering committee, shall identify \$6,950,000 in reductions to be made to payment rates for intermediate care facilities and residential services for individuals with developmental disabilities, for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 55. LEGISLATIVE INTENT - STATE FISCAL RECOVERY FUND OR OTHER FUNDS - TRANSITION OF INDIVIDUALS FROM LIFE SKILLS AND TRANSITION CENTER.** It is the intent of the sixty-seventh legislative assembly that the department of human services seek an appropriation during any special session of the sixty-seventh legislative assembly from the state fiscal recovery fund received through H.R. 1319 of the 117th Congress, also known as the federal American Rescue Plan Act, or from any eligible federal or other funds made available to the department, for the purpose of transitioning individuals from the life skills and transition center to community-based providers.

**SECTION 56. LEGISLATIVE INTENT - SUPPORTED EMPLOYMENT FUNDING.** It is the intent of the sixty-seventh legislative assembly that funding appropriated from the general fund for supported employment in section 1 of this Act be used to continue contracts with existing evidence-based supported employment providers during the biennium beginning July 1, 2021, and ending June 30, 2023, and that any funding available through the federal Medicaid 1915(i) state plan amendment be utilized before funding appropriated from the general fund.

**SECTION 57. LEGISLATIVE INTENT - CONSULTANTS.** It is the intent of the sixty-seventh legislative assembly that the department of human services and state department of health utilize federal funds available to the departments to obtain consulting services to facilitate the merger of the department of human services and state department of health as provided for in House Bill No. 1247 as approved by the sixty-seventh legislative assembly for the biennium beginning July 1, 2021, and ending June 30, 2023.

**SECTION 58. LEGISLATIVE INTENT - PROVIDER RATE INCREASE.** Section 1 of this Act includes funding for human service provider inflation increases of two percent the first year and one-quarter of one percent the second year of the biennium beginning July 1, 2021, and ending June 30, 2023. It is the intent of the sixty-seventh legislative assembly that future special sessions of the sixty-seventh legislative assembly consider an additional second year inflationary increase during the 2021-23 biennium based on any extensions of the enhanced federal Medicaid assistance percentage and a review of budget needs of all areas of the department of human services.

**SECTION 59. REPORT TO LEGISLATIVE MANAGEMENT - EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT PROGRAM.** During the 2021-22 interim, the department of human services shall conduct a study of the early and periodic screening, diagnostic, and treatment program and prepare a report. The department of human services may contract with a consultant to assist in the study and the preparation of the report. The report shall include data on the number, ages, and geographic locations of children receiving screening, diagnostic, and treatment services; the capacity of the program to ensure all children who require screening, diagnostic, and treatment services are identified and receive services; data on the disposition of referrals of children who are screened and eligible for diagnostic and treatment services, including how many receive services and how many do not receive those services by county; an assessment of the program's efforts to provide comprehensive screening and treatment for children as required by federal law; an assessment of the deficits of the program's efforts to provide comprehensive screening and treatment as required by federal law; recommendations to ensure or expand services so that all eligible children are adequately served by the program; and additional data needed to assess the program accountability and efficiency. Before October 1, 2022, the department of human services shall provide the report to the legislative management.

**SECTION 60. REPORT TO LEGISLATIVE MANAGEMENT - REVISED PAYMENT METHODOLOGY FOR BASIC CARE FACILITIES.** The department of human services, in collaboration with basic care providers and other representatives of the basic care industry, shall develop a report for payment methodology revisions for basic care facilities that must include recommendations for:

1. Methods of reimbursement for basic care facility cost categories, including direct care, indirect care, room and board, and property; and
2. The feasibility of standardizing payments for basic care facilities in the same peer group.

Before October 1, 2022, the department shall present the report to the legislative management regarding the revised payment methodology. The estimated costs related to the implementation of the payment methodology revisions must be included in the department's 2023-25 biennium budget request submitted to the sixty-eighth legislative assembly.

**SECTION 61. LEGISLATIVE MANAGEMENT REPORT - FOUR-YEAR OLD PROGRAM - EARLY CHILDHOOD GRANTS.** During the 2021-22 interim, the department of human services shall provide reports to the legislative management regarding the status of four-year old program approvals, the North Dakota early childhood council, and the early childhood grant for best in class four-year old experiences.

**SECTION 62. SUBSTANCE USE DISORDER TREATMENT VOUCHERS - REPORT TO BUDGET SECTION.** During the 2021-22 interim, the department of human services behavioral health division shall submit quarterly reports to the budget section on the status of the substance use disorder treatment voucher system program, including data on the utilization of the program, data on program expenditures, and an estimate of the number of months of funding remaining in the program.

**SECTION 63. TRANSFER OF EMPLOYEES.** The department of human services may use the identified twenty-seven full-time equivalent child care licensing positions of the human service zone transferred to the department pursuant to chapter 391 of the 2019 Session Laws for child care licensing, quality control, and early childhood administration.

**SECTION 64. RETROACTIVE APPLICATION.** Section 25 of this Act applies retroactively to July 1, 2020.

**SECTION 65. EFFECTIVE DATE.** Sections 22 and 33 of this Act become effective January 1, 2022.

**SECTION 66. EXPIRATION DATE.** Section 24 of this Act is effective through July 1, 2027, and after that date is ineffective.

**SECTION 67. EMERGENCY.** The sum of \$2,457,638 from the federal coronavirus relief fund included in subdivision 2 of section 1 for senior nutrition services, sections 3, 5, 30, 31, and 54 of this Act, and section 22 of Senate Bill No. 2086, as approved by the sixty-seventh legislative assembly, are declared to be an emergency measure.



\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1012 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 76                      Nays 13                      Absent 5

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 36                      Nays 10                      Absent 1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State