

**FIRST ENGROSSMENT  
with House Amendments**

Sixtieth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2012**

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of  
2 human services; to provide statements of legislative intent; to provide for a legislative council  
3 report; to provide for legislative council studies; to provide for transfers; to create and enact a  
4 new section to chapter 23-01, chapter 23-39, and a new section to chapter 50-24.1 of the North  
5 Dakota Century Code, relating to programs for children with special health care needs and  
6 chiropractic medicaid payments; to amend and reenact sections 25-17-02, 25-17-03,  
7 26.1-45-13, 50-06-01.2, 50-06-01.4, and 50-06-24, subsection 6 of section 50-06.2-02,  
8 subsection 5 of section 50-06.2-03, subsection 3 of section 50-06.2-04, sections 50-06.2-06  
9 and 50-24.4-15, subsection 4 of section 50-24.5-02, and subsection 2 of section 50-24.5-03 of  
10 the North Dakota Century Code, relating to rulemaking and to the provision of medical food for  
11 individuals with metabolic disorders, the structure of the department of human services,  
12 guardianship services, and to nursing home property-related costs; and to repeal chapter 50-10  
13 of the North Dakota Century Code, relating to aid to crippled children.

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

15 **SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this  
16 section represent the base level funding component appropriated to the department of human  
17 services in section 3 of this Act as follows:

18 Subdivision 1.

19 MANAGEMENT

20 Salaries and wages	\$10,708,738
21 Operating expenses	60,968,708
22 Capital assets	<u>2,756</u>
23 Total all funds - Base level	\$71,680,202







Sixtieth  
Legislative Assembly

1	Less estimated income	<u>1,106,107,509</u>
2	Total general fund	\$431,637,025
3	Subdivision 3.	
4	HUMAN SERVICE CENTERS AND INSTITUTIONS	
5	Northwest human service center	\$7,511,691
6	North central human service center	16,822,684
7	Lake region human service center	9,845,092
8	Northeast human service center	22,144,727
9	Southeast human service center	26,120,436
10	South central human service center	14,717,673
11	West central human service center	20,729,869
12	Badlands human service center	9,814,944
13	State hospital	64,692,846
14	Developmental center	<u>47,756,612</u>
15	Total all funds - Subdivision 3	\$240,156,574
16	Less estimated income - Subdivision 3	<u>112,840,547</u>
17	Total general fund - Subdivision 3	\$127,316,027
18	Grand total general fund appropriation - S.B. 2012	\$579,212,277
19	Grand total special funds appropriation - S.B. 2012	\$1,241,457,021
20	Grand total all funds appropriation - S.B. 2012	\$1,820,669,298

21           **SECTION 4. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.**

22 Notwithstanding section 54-16-04, the department of human services may transfer  
23 appropriation authority between line items within each subdivision of section 3 of this Act and  
24 between subdivisions within section 3 of this Act for the biennium beginning July 1, 2007, and  
25 ending June 30, 2009. The department shall notify the office of management and budget of  
26 any transfer made pursuant to this section. The department shall report to the budget section  
27 after June 30, 2008, any transfers made in excess of \$50,000 and to the appropriations  
28 committees of the sixty-first legislative assembly regarding any transfers made pursuant to this  
29 section.

30           **SECTION 5. LEGISLATIVE COUNCIL STUDY - CONTINUOUS MEDICAID**

31 **ELIGIBILITY FOR CHILDREN.** The legislative council shall consider studying, during the

1 2007-08 interim, the feasibility and desirability of allowing annual rather than monthly eligibility  
2 reviews for children under nineteen years of age who are either categorically or optionally  
3 categorically needy under the medical assistance program. The legislative council shall report  
4 its findings and recommendations, together with any legislation required to implement the  
5 recommendations, to the sixty-first legislative assembly.

6 **SECTION 6. DEPARTMENT OF HUMAN SERVICES STUDY - REBASING MEDICAL**  
7 **SERVICES PAYMENT RATES - REPORT TO LEGISLATIVE ASSEMBLY.** The department  
8 of human services shall determine, during the 2007-08 interim and with the assistance of a  
9 health care consultant, the estimated cost of rebasing payment rates under the medical  
10 assistance program for hospital, physician, ambulance, and chiropractic services to the actual  
11 cost of providing these services for use in preparing the department's budget request for the  
12 2009-11 biennium. The base year used in developing the cost estimate must be the most  
13 recent calendar year for which complete financial information is available to the department.  
14 The department shall report its findings and recommendations to the appropriations committees  
15 of the sixty-first legislative assembly. The department's recommendations may include options  
16 for staggered implementation or earlier implementation date preferences for service providers  
17 that have medical assistance service revenue that is ten percent or more of its total patient  
18 revenue. Any funds appropriated by the sixtieth legislative assembly to the department for  
19 providing the information required by this section may not be spent for other purposes during  
20 the biennium beginning July 1, 2007, and ending June 30, 2009.

21 **SECTION 7. LEGISLATIVE COUNCIL STUDY - NURSING HOME RATE**  
22 **EQUALIZATION.** The legislative council shall consider studying, during the 2007-08 interim,  
23 the feasibility and desirability of continuing the equalization of nursing home payment rates and  
24 the feasibility and desirability of establishing a provider tax or assessment on nursing homes.  
25 The study must include input from representatives of the department of human services, other  
26 appropriate state agencies, and the nursing home industry. The legislative council shall report  
27 its findings and recommendations, together with any legislation required to implement the  
28 recommendations, to the sixty-first legislative assembly.

29 **SECTION 8. LEGISLATIVE COUNCIL STUDY - INFANT DEVELOPMENT**  
30 **PROGRAM.** The legislative council shall consider studying, during the 2007-08 interim, infant  
31 development programs. The study, if conducted, must include a review of the state's lead

1 agency agreement, service coordination, staffing, and funding structure, including the adequacy  
2 of the funding and the equitable distribution of the funds to providers. The legislative council  
3 shall report its findings and recommendations, together with any legislation required to  
4 implement the recommendations, to the sixty-first legislative assembly.

5 **SECTION 9. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES SERVICE**  
6 **PROVIDERS FUNDING INCREASES - EMPLOYEE SALARY INCREASE PRIORITY.** It is the  
7 intent of the sixtieth legislative assembly that developmental disabilities service providers give  
8 priority to using the increased funding being provided for the 2007-09 biennium for increasing  
9 employees' salaries.

10 **SECTION 10. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**  
11 **SIXTY-FIRST LEGISLATIVE ASSEMBLY.** The total general fund appropriation line item in  
12 subdivision 3 of section 3 of this Act includes \$8,244,131 for the one-time funding items  
13 identified in this section. This amount is not a part of the agency's base budget to be used in  
14 preparing the 2009-11 executive budget. The department of human services shall report to the  
15 appropriations committees of the sixty-first legislative assembly on the use of this one-time  
16 funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

17 State hospital

18 Sex offender treatment addition	\$3,100,000
19 Capital improvements	3,062,757
20 Extraordinary repairs	1,153,500
21 Developmental center	
22 Capital improvements	300,000
23 Extraordinary repairs	547,092
24 Equipment	<u>80,782</u>
25 Total	\$8,244,131

26 **SECTION 11. METHAMPHETAMINE TREATMENT SERVICES.** The department of  
27 human services shall use the \$700,000 from the general fund included in the operating  
28 expenses line item in subdivision 2 of section 3 of this Act for increasing the number of  
29 individuals receiving treatment services under the department's existing contract for  
30 methamphetamine treatment services for the biennium beginning July 1, 2007, and ending  
31 June 30, 2009.

1           **SECTION 12. ESTIMATED INCOME - LIMIT - HEALTH CARE TRUST FUND.** The  
2 estimated income line item in subdivision 2 of section 3 of this Act includes \$1,144,080 from the  
3 health care trust fund. The department of human services expenditures from this fund may not  
4 exceed this amount for the biennium beginning July 1, 2007, and ending June 30, 2009.

5           **SECTION 13. LEGISLATIVE INTENT - STATE CHILDREN'S HEALTH INSURANCE**  
6 **PROGRAM.** The funding appropriated in subdivision 2 of section 3 of this Act includes  
7 \$453,000 for a state children's health insurance program outreach program. It is the intent of  
8 the sixtieth legislative assembly that the department of human services provide this funding to  
9 an entity that focuses on statewide community health care initiatives and issues.

10          **SECTION 14.** A new section to chapter 23-01 of the North Dakota Century Code is  
11 created and enacted as follows:

12           **Children with special health care needs - Program administration.** The state  
13 department of health shall administer programs for children with special health care needs as  
14 may be necessary to conform to title 5, part 2, of the federal Social Security Act, as amended  
15 through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.], including providing  
16 services and assistance to children with special health care needs and their families and  
17 developing and operating clinics for the identification, screening, referral, and treatment of  
18 children with special health care needs.

19          **SECTION 15.** Chapter 23-39 of the North Dakota Century Code is created and enacted  
20 as follows:

21           **23-39-01. Definitions.** In this chapter unless the context or subject matter otherwise  
22 requires:

23           1. "County agency" means the county social service boards in this state.

24           2. "Department" means the state department of health.

25           **23-39-02. Administration of services for children with special health care needs.**

26 Services for children with special health care needs must be administered by the department in  
27 conformity with title 5, part 2, of the federal Social Security Act, as amended through July 1,  
28 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.].

29           **23-39-03. Duties of the department.** The department, in administering this chapter,  
30 shall:

- 1        1. Cooperate with the federal government in the development of plans and policies
- 2            for services for children with special health care needs.
- 3        2. Adopt rules and take any necessary action to entitle the state to receive aid from
- 4            the federal government for services for children with special health care needs in
- 5            conformity with title 5, part 2, of the federal Social Security Act and its
- 6            amendments.
- 7        3. Take action, give directions, and adopt rules to carry out the provisions of this
- 8            chapter, including the adoption and application of suitable standards and
- 9            procedures to ensure uniform and equitable treatment of all applicants for services
- 10           for children with special health care needs.
- 11        4. Cooperate with the federal government in matters of mutual concern pertaining to
- 12            services to children with special health care needs, including the adoption of
- 13            methods of administration found necessary by the federal government for the
- 14            efficient operation of the plan for assistance.
- 15        5. Provide necessary qualified employees and representatives.
- 16        6. Establish and enforce a merit system as may be required under the federal Social
- 17            Security Act, as amended through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620;
- 18            42 U.S.C. 701 et seq.].
- 19        7. Make reports in the form and containing the information the federal government
- 20            requires and comply with the provisions, rules, and regulations the federal
- 21            government makes to assure the correctness and verification of a report.
- 22        8. Publish a biennial report and any interim reports necessary.
- 23        9. Provide medical food and low-protein modified food products to individuals with
- 24            phenylketonuria or maple syrup urine disease under chapter 25-17.
- 25        10. Establish eligibility criteria for services under this chapter at one hundred
- 26            eighty-five percent of the poverty line, except for criteria relating to Russell-Silver
- 27            syndrome, phenylketonuria, or maple syrup urine disease treatment services for
- 28            which income is not to be considered when determining eligibility. For purposes of
- 29            this chapter, "poverty line" has the same meaning as defined in section 50-29-01.

30        **23-39-04. Birth report of child with special health care needs made to**  
31 **department.** Within three days after the birth in this state of a child born with a visible

1 congenital deformity, the licensed maternity hospital or home in which the child was born, or the  
2 legally qualified physician or other person in attendance at the birth of the child outside of a  
3 maternity hospital, shall furnish the department a report concerning the child with the  
4 information required by the department.

5 **23-39-05. Birth report of child with special health care needs - Use - Confidential.**

6 The information contained in the report furnished to the department under section 23-39-04  
7 concerning a child with a visible congenital deformity may be used by the department for the  
8 care and treatment of the child pursuant to this chapter. The report is confidential and is solely  
9 for the use of the department in the performance of its duties. The report is not open to public  
10 inspection nor considered a public record.

11 **23-39-06. Duties of county agencies.** A county agency shall:

- 12 1. Cooperate with the department in administering this chapter in its county subject to  
13 rules adopted by the department.
- 14 2. Make surveys and reports regarding children with special health care needs in the  
15 various counties to the department when the department directs and in the way the  
16 department directs.
- 17 3. Provide for the transportation of a child with special health care needs to a clinic  
18 for medical examination and to a hospital or a clinic for treatment.

19 **23-39-07. Russell-Silver syndrome - Services - Definitions.**

- 20 1. The department shall provide payment of a maximum of fifty thousand dollars per  
21 child per biennium for medical food and growth hormone treatment at no cost to  
22 individuals through age eighteen who have been diagnosed with Russell-Silver  
23 syndrome, regardless of income. If the department provides an individual with  
24 services under this section, the department may seek reimbursement from any  
25 governmental program that provides coverage to that individual for the services  
26 provided. The parent of an individual receiving services under this section shall  
27 obtain any health insurance available to the parent on a group basis or through an  
28 employer or union, and that insurance must be the primary payer before payment  
29 under this program.
- 30 2. For purposes of this section:

1           a. "Growth hormone treatment" means a drug prescribed by a physician or other  
2           licensed practitioner for the long-term treatment of growth failure, the supplies  
3           necessary to administer the drug, one out-of-state physician visit per year to  
4           obtain expert consultation for the management of Russell-Silver syndrome,  
5           appropriate in-state physician visits, and the travel expenses associated with  
6           physician visits for the child and one parent.

7           b. "Medical food" means a formula that is intended for the dietary treatment of a  
8           disease or condition for which nutritional requirements are established by  
9           medical evaluation and is formulated to be consumed or administered under  
10          the direction of a physician as well as any medical procedure and supplies  
11          necessary for assimilation of the formula.

12          **SECTION 16. AMENDMENT.** Section 25-17-02 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14          **25-17-02. Rulemaking requirement.** The state health council ~~and the department of~~  
15 ~~human services~~ shall adopt rules necessary to implement this chapter.

16          **SECTION 17. AMENDMENT.** Section 25-17-03 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18          **25-17-03. Treatment for positive diagnosis - Registry of cases.**

19          ~~4.~~ The state department of health shall:

20          a. 1. Follow up with attending physicians cases with positive tests for metabolic  
21           diseases in order to determine the exact diagnosis.

22          ~~b.~~ 2. Refer every diagnosed case of a metabolic disease to a qualified health care  
23           provider for necessary treatment of the metabolic disease.

24          ~~e.~~ 3. Maintain a registry of cases of metabolic diseases.

25          ~~2.~~ ~~The department of human services, as a program provided under chapter 50-10,~~  
26           ~~shall:~~

27          a. 4. Provide medical food at no cost to males under age twenty-two and females under  
28           age forty-five who are diagnosed with phenylketonuria or maple syrup urine  
29           disease, regardless of income. If treatment services under this subsection are  
30           provided to an individual by the department, the department may seek

1 reimbursement from any government program that provides coverage to that  
2 individual for the treatment services provided by the department.

3 ~~b-~~ 5. Offer for sale at cost medical food to females age forty-five and over and to males  
4 age twenty-two and over who are diagnosed with phenylketonuria or maple syrup  
5 urine disease, regardless of income. These individuals are responsible for  
6 payment to the department for the cost of medical food.

7 ~~e-~~ 6. Provide low-protein modified food produces, if medically necessary as determined  
8 by a qualified health care provider, to females under age forty-five and males  
9 under age twenty-two who are receiving medical assistance and are diagnosed  
10 with phenylketonuria or maple syrup urine disease.

11 **SECTION 18. AMENDMENT.** Section 50-06-01.2 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **50-06-01.2. Department of human services - Creation.** ~~The North Dakota~~  
14 department of human services is ~~hereby~~ created to assume the functions, powers, and duties  
15 of the following governmental agencies:

- 16 1. The social service board of North Dakota, including all of the statutory authority  
17 and responsibilities set out in chapters 27-21, 50-06, 50-06.1, 50-09, ~~50-10~~, 50-11,  
18 50-11.1, 50-12, 50-18, 50-19, 50-21, 50-24.1, and 50-25.1.
- 19 2. The mental health and retardation division of the state department of health as  
20 established by chapter 25-10, including the state hospital and any other institutions  
21 under the jurisdiction of the mental health and retardation division.
- 22 3. The division of alcoholism and drug abuse of the state department of health as  
23 established by chapter 54-38.
- 24 4. The state council on developmental disabilities as established by section  
25 25-01-01.1.

26 **SECTION 19. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **50-06-01.4. Structure of the department.** The department includes the state hospital;  
29 the regional human service centers; <sub>1</sub> a vocational rehabilitation unit; <sub>1</sub> and other units or offices  
30 and administrative and fiscal support services as the executive director determines necessary.  
31 The department must be structured to promote efficient and effective operations and,

1 consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the  
2 state in the discharge of the following functions not otherwise by law made the responsibility of  
3 another state agency:

- 4 1. Administration of programs for children and families, including adoption services  
5 and the licensure of child-placing agencies, foster care services and the licensure  
6 of foster care arrangements, child protection services, children's trust fund, state  
7 youth authority, licensure of day care homes and facilities, services to unmarried  
8 parents, refugee services, in-home community-based services, and administration  
9 of the interstate compacts on the placement of children and juveniles.
- 10 2. Administration of programs for persons with developmental disabilities, including  
11 licensure of facilities and services, and the design and implementation of a  
12 community-based service system for persons in need of habilitation.
- 13 3. Administration of aging service programs, including nutrition, transportation,  
14 advocacy, social, ombudsman, recreation, and related services funded under the  
15 Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and  
16 community-based services, licensure of adult family care homes, committee on  
17 aging, and the fund matching program for city or county tax levies for senior citizen  
18 activities and services.
- 19 4. Administration of mental health programs, including planning and implementing  
20 preventive, consultative, diagnostic, treatment, and rehabilitative services for  
21 persons with mental or emotional disorders and psychiatric conditions.
- 22 5. ~~Administration of programs for crippled children, including the provision of services~~  
23 ~~and assistance to crippled children and their families, and the development and~~  
24 ~~operation of clinics for the identification, screening, referral, and treatment of~~  
25 ~~crippled children.~~
- 26 6. Administration of alcohol and drug abuse programs, including establishing quality  
27 assurance standards for the licensure of programs, services, and facilities,  
28 planning and coordinating a system of prevention, intervention, and treatment  
29 services, providing policy leadership in cooperation with other public and private  
30 agencies, and disseminating information to local service providers and the general  
31 public.

1       ~~7.~~ 6. Administration of economic assistance programs, including temporary assistance  
2                   for needy families, food stamps, fuel assistance, child support enforcement,  
3                   refugee assistance, work experience, work incentive, and quality control.

4       ~~8.~~ 7. Administration of medical service programs, including medical assistance for  
5                   needy persons, early and periodic screening, diagnosis and treatment, utilization  
6                   control, and claims processing.

7 The executive director shall consult with and maintain a close working relationship with the  
8 state department of health; with the department of corrections and rehabilitation and the  
9 superintendents of the school for the deaf and the school for the blind to develop programs for  
10 developmentally disabled persons; and with the superintendent of public instruction to  
11 maximize the use of resource persons in regional human service centers in the provision of  
12 special education services. The executive director shall also maintain a close liaison with  
13 county social service agencies.

14               **SECTION 20. AMENDMENT.** Section 50-06-24 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16               **50-06-24. Guardianship services.** The department of human services may create  
17 and coordinate a unified system for the provision of guardianship services to vulnerable adults  
18 who are ineligible for developmental disabilities case management services. The system must  
19 include a base unit funding level at the same level as developmental disability corporate  
20 guardianship rates, provider standards, staff competency requirements, ~~the use of an~~  
21 ~~emergency funding procedure to cover the costs of establishing needed guardianships~~, and  
22 guidelines and training for guardians. ~~The department shall require that the contracting entity~~  
23 ~~develop and maintain a system of volunteer guardians to serve the state.~~ The department shall  
24 adopt rules for guardianship services to vulnerable adults which are consistent with chapters  
25 30.1-26, 30.1-28, and 30.1-29.

26               **SECTION 21.** A new section to chapter 50-24.1 of the North Dakota Century Code is  
27 created and enacted as follows:

28               **Chiropractic medical assistance payments.** The department of human services shall  
29 pay for covered chiropractic manipulation services at the rate of fifty percent of billed services.  
30 Payment for chiropractic manipulation services must be based on the fees submitted by  
31 chiropractors to the department of human services in 2006.

1           **SECTION 22. AMENDMENT.** Section 50-24.4-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **50-24.4-15. Property-related costs.**

- 4           1. The department shall include in the ratesetting system for nursing homes a  
5 payment mechanism for the use of real and personal property which provides for  
6 depreciation and related interest costs. The property cost payment mechanism  
7 must:
- 8           a. Recognize the valuation basis of assets acquired in a bona fide transaction as  
9 an ongoing operation after July 1, 1985, limited to the lowest of:
    - 10           (1) Purchase price paid by the purchaser;
    - 11           (2) Fair market value at the time of sale; or
    - 12           (3) Seller's cost basis, increased by one-half of the increase in the  
13 consumer price index for all urban consumers (United States city  
14 average) from the date of acquisition by the seller to the date of  
15 acquisition by the buyer, less accumulated depreciation.
  - 16           b. Recognize depreciation on land improvements, buildings, and fixed  
17 equipment acquired, as an ongoing operation over the estimated useful  
18 remaining life of the asset as determined by a qualified appraiser.
  - 19           c. Recognize depreciation on movable equipment acquired as an ongoing  
20 operation after August 1, 1995, over a composite remaining useful life.
  - 21           d. Provide for an interest expense limitation determined by the department and  
22 established by rule.
  - 23           e. Establish a per bed property cost limitation considering single and double  
24 occupancy construction.
  - 25           f. Recognize increased lease costs of a nursing home operator to the extent the  
26 lessor has incurred increased costs related to the ownership of the facility, the  
27 increased costs are charged to the lessee, and the increased costs would be  
28 allowable had they been incurred directly by the lessee.
  - 29           g. Recognize any mandated costs, fees, or other moneys paid to the attorney  
30 general through transactions under sections 10-33-144 through 10-33-149.

- 1           2. For rate years beginning after December 31, 2003, the limitations of paragraph 3  
2           of subdivision a of subsection 1 do not apply to the valuation basis of assets  
3           purchased between July 1, 1985, and July 1, 2000. The provisions of this  
4           subsection may not be applied retroactively to any rate year before July 1, 2005.
- 5           3. For rate years beginning after December 31, 2007, the limitations of subdivision e  
6           of subsection 1 do not apply to the valuation basis of assets acquired as a result of  
7           a natural disaster before December 31, 2006. The provisions of this subsection  
8           may not be applied retroactively to any rate year before January 1, 2008.

9           **SECTION 23. REPEAL.** Chapter 50-10 of the North Dakota Century Code is repealed.