

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 for transfers; to create and enact a new section to chapter 23-01
 3 and chapter 23-39 of the North Dakota Century Code, relating to programs for children with
 4 special health care needs; to amend and reenact sections 25-17-02, 25-17-03, 50-06-01.2, and
 5 50-06-01.4 of the North Dakota Century Code, relating to rulemaking and to the provision of
 6 medical food for individuals with metabolic disorders and the structure of the department of
 7 human services; and to repeal chapter 50-10 of the North Dakota Century Code, relating to aid
 8 to crippled children.

9 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

13 Subdivision 1.

14 MANAGEMENT	
15 Salaries and wages	\$10,708,738
16 Operating expenses	60,968,708
17 Capital assets	<u>2,756</u>
18 Total all funds - Base level	\$71,680,202
19 Less estimated income - Base level	<u>52,153,741</u>
20 Total general fund - Base level	\$19,526,461

21 Subdivision 2.

22 PROGRAM AND POLICY	
23 Salaries and wages	\$22,812,481
24 Operating expenses	39,780,685

1	Grand total general fund appropriation - Adjustments/enhancements	\$94,096,292
2	Grand total special funds appropriation - Adjustments/enhancements	\$43,239,761
3	Grand total all funds appropriation - Adjustments/enhancements	\$137,336,053

4 **SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the
5 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
6 treasury, not otherwise appropriated, and from special funds derived from federal funds and
7 other income, to the department of human services for the purpose of defraying the expenses
8 of its various divisions, for the biennium beginning July 1, 2007, and ending June 30, 2009, as
9 follows.

10 Subdivision 1.

11	MANAGEMENT	
12	Salaries and wages	\$11,723,883
13	Operating expenses	32,374,022
14	Capital assets	<u>285</u>
15	Total all funds - Base level	\$44,098,190
16	Less estimated income - Base level	<u>23,085,165</u>
17	Total general fund - Base level	\$21,013,025

18 Subdivision 2.

19	PROGRAM AND POLICY	
20	Salaries and wages	\$25,593,565
21	Operating expenses	65,561,106
22	Capital assets	399
23	Grants	339,435,262
24	Grants - Medical assistance	<u>1,101,375,452</u>
25	Total all funds - Base level	\$1,531,965,784
26	Less estimated income - Base level	<u>1,103,015,555</u>
27	Total general fund - Base level	\$428,950,229

28 Subdivision 3.

29	HUMAN SERVICE CENTERS AND INSTITUTIONS	
30	Northwest human service center	\$7,525,581
31	North central human service center	16,842,742

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1	Lake region human service center	9,853,344
2	Northeast human service center	22,192,605
3	Southeast human service center	26,145,474
4	South central human service center	14,741,738
5	West central human service center	20,768,172
6	Badlands human service center	9,848,996
7	State hospital	64,959,122
8	Developmental center	<u>48,456,612</u>
9	Total all funds - Subdivision 3	\$241,334,386
10	Less estimated income - Subdivision 3	<u>112,779,874</u>
11	Total general fund - Subdivision 3	\$128,554,512
12	Grand total general fund appropriation - S.B. 2012	\$578,517,766
13	Grand total special funds appropriation - S.B. 2012	\$1,238,880,594
14	Grand total all funds appropriation - S.B. 2012	\$1,817,398,360

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

16 Notwithstanding section 54-16-04, the department of human services may transfer
17 appropriation authority between line items within each subdivision of section 3 of this Act and
18 between subdivisions within section 3 of this Act for the biennium beginning July 1, 2007, and
19 ending June 30, 2009. As determined necessary by the director of the department of human
20 services, the director may hire full-time equivalent positions, in addition to those authorized by
21 the legislative assembly within the limits of the appropriation contained in subdivision 3 of
22 section 3 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009. The
23 department shall notify the office of management and budget of any transfer made pursuant to
24 this section. The department shall report to the budget section after June 30, 2008, any
25 transfers made in excess of \$50,000 and to the appropriations committees of the sixty-first
26 legislative assembly regarding any transfers made pursuant to this section.

27 **SECTION 5.** A new section to chapter 23-01 of the North Dakota Century Code is
28 created and enacted as follows:

29 **Children with special health care needs - Program administration.** The state
30 department of health shall administer programs for children with special health care needs as
31 may be necessary to conform to title 5, part 2, of the federal Social Security Act, as amended

1 through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.], including providing
2 services and assistance to children with special health care needs and their families and
3 developing and operating clinics for the identification, screening, referral, and treatment of
4 children with special health care needs.

5 **SECTION 6.** Chapter 23-39 of the North Dakota Century Code is created and enacted
6 as follows:

7 **23-39-01. Definitions.** In this chapter unless the context or subject matter otherwise
8 requires:

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

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

11 **23-39-02. Administration of services for children with special health care needs.**

12 Services for children with special health care needs must be administered by the department in
13 conformity with title 5, part 2, of the federal Social Security Act, as amended through July 1,
14 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.].

15 **23-39-03. Duties of the department.** The department, in administering this chapter,
16 shall:

17 1. Cooperate with the federal government in the development of plans and policies for
18 services for children with special health care needs.

19 2. Adopt rules and take any necessary action to entitle the state to receive aid from
20 the federal government for services for children with special health care needs in
21 conformity with title 5, part 2, of the federal Social Security Act and its
22 amendments.

23 3. Take action, give directions, and adopt rules to carry out the provisions of this
24 chapter, including the adoption and application of suitable standards and
25 procedures to ensure uniform and equitable treatment of all applicants for services
26 for children with special health care needs.

27 4. Cooperate with the federal government in matters of mutual concern pertaining to
28 services to children with special health care needs, including the adoption of
29 methods of administration found necessary by the federal government for the
30 efficient operation of the plan for assistance.

31 5. Provide necessary qualified employees and representatives.

- 1 6. Establish and enforce a merit system as may be required under the federal Social
2 Security Act, as amended through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620;
3 42 U.S.C. 701 et seq.].
- 4 7. Make reports in the form and containing the information the federal government
5 requires and comply with the provisions, rules, and regulations the federal
6 government makes to assure the correctness and verification of a report.
- 7 8. Publish a biennial report and any interim reports necessary.
- 8 9. Provide medical food and low-protein modified food products to individuals with
9 phenylketonuria or maple syrup urine disease under chapter 25-17.
- 10 10. Establish eligibility criteria for services under this chapter at one hundred
11 eighty-five percent of the poverty line, except for criteria relating to Russell-Silver
12 syndrome, phenylketonuria, or maple syrup urine disease treatment services for
13 which income is not to be considered when determining eligibility. For purposes of
14 this chapter, "poverty line" has the same meaning as defined in section 50-29-01.

15 **23-39-04. Birth report of child with special health care needs made to department.**

16 Within three days after the birth in this state of a child born with a visible congenital deformity,
17 the licensed maternity hospital or home in which the child was born, or the legally qualified
18 physician or other person in attendance at the birth of the child outside of a maternity hospital,
19 shall furnish the department a report concerning the child with the information required by the
20 department.

21 **23-39-05. Birth report of child with special health care needs - Use - Confidential.**

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

27 **23-39-06. Duties of county agencies.** A county agency shall:

- 28 1. Cooperate with the department in administering this chapter in its county subject to
29 rules adopted by the department.

- 1 2. Make surveys and reports regarding children with special health care needs in the
2 various counties to the department when the department directs and in the way the
3 department directs.
- 4 3. Provide for the transportation of a child with special health care needs to a clinic for
5 medical examination and to a hospital or a clinic for treatment.

6 **23-39-07. Russell-Silver syndrome - Services - Definitions.**

- 7 1. The department shall provide payment of a maximum of fifty thousand dollars per
8 child per biennium for medical food and growth hormone treatment at no cost to
9 individuals through age eighteen who have been diagnosed with Russell-Silver
10 syndrome, regardless of income. If the department provides an individual with
11 services under this section, the department may seek reimbursement from any
12 governmental program that provides coverage to that individual for the services
13 provided. The parent of an individual receiving services under this section shall
14 obtain any health insurance available to the parent on a group basis or through an
15 employer or union, and that insurance must be the primary payer before payment
16 under this program.
- 17 2. For purposes of this section:
- 18 a. "Growth hormone treatment" means a drug prescribed by a physician or other
19 licensed practitioner for the long-term treatment of growth failure, the supplies
20 necessary to administer the drug, one out-of-state physician visit per year to
21 obtain expert consultation for the management of Russell-Silver syndrome,
22 appropriate in-state physician visits, and the travel expenses associated with
23 physician visits for the child and one parent.
- 24 b. "Medical food" means a formula that is intended for the dietary treatment of a
25 disease or condition for which nutritional requirements are established by
26 medical evaluation and is formulated to be consumed or administered under
27 the direction of a physician as well as any medical procedure and supplies
28 necessary for assimilation of the formula.

29 **SECTION 7. AMENDMENT.** Section 25-17-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **25-17-02. Rulemaking requirement.** The state health council ~~and the department of~~
2 ~~human services~~ shall adopt rules necessary to implement this chapter.

3 **SECTION 8. AMENDMENT.** Section 25-17-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **25-17-03. Treatment for positive diagnosis - Registry of cases.**

6 4. The state department of health shall:

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

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

11 e. 3. Maintain a registry of cases of metabolic diseases.

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

14 a. 4. Provide medical food at no cost to males under age twenty-two and females under
15 age forty-five who are diagnosed with phenylketonuria or maple syrup urine
16 disease, regardless of income. If treatment services under this subsection are
17 provided to an individual by the department, the department may seek
18 reimbursement from any government program that provides coverage to that
19 individual for the treatment services provided by the department.

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

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

28 **SECTION 9. AMENDMENT.** Section 50-06-01.2 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **50-06-01.2. Department of human services - Creation.** The ~~North Dakota~~
2 department of human services is hereby created to assume the functions, powers, and duties of
3 the following governmental agencies:

- 4 1. The social service board of North Dakota, including all of the statutory authority
5 and responsibilities set out in chapters 27-21, 50-06, 50-06.1, 50-09, ~~50-10~~, 50-11,
6 50-11.1, 50-12, 50-18, 50-19, 50-21, 50-24.1, and 50-25.1.
- 7 2. The mental health and retardation division of the state department of health as
8 established by chapter 25-10, including the state hospital and any other institutions
9 under the jurisdiction of the mental health and retardation division.
- 10 3. The division of alcoholism and drug abuse of the state department of health as
11 established by chapter 54-38.
- 12 4. The state council on developmental disabilities as established by section
13 25-01-01.1.

14 **SECTION 10. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-06-01.4. Structure of the department.** The department includes the state hospital;
17 the regional human service centers_;, a vocational rehabilitation unit_;, and other units or offices
18 and administrative and fiscal support services as the executive director determines necessary.
19 The department must be structured to promote efficient and effective operations and, consistent
20 with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the
21 discharge of the following functions not otherwise by law made the responsibility of another
22 state agency:

- 23 1. Administration of programs for children and families, including adoption services
24 and the licensure of child-placing agencies, foster care services and the licensure
25 of foster care arrangements, child protection services, children's trust fund, state
26 youth authority, licensure of day care homes and facilities, services to unmarried
27 parents, refugee services, in-home community-based services, and administration
28 of the interstate compacts on the placement of children and juveniles.
- 29 2. Administration of programs for persons with developmental disabilities, including
30 licensure of facilities and services, and the design and implementation of a
31 community-based service system for persons in need of habilitation.

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- 1 3. Administration of aging service programs, including nutrition, transportation,
2 advocacy, social, ombudsman, recreation, and related services funded under the
3 Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and
4 community-based services, licensure of adult family care homes, committee on
5 aging, and the fund matching program for city or county tax levies for senior citizen
6 activities and services.
- 7 4. Administration of mental health programs, including planning and implementing
8 preventive, consultative, diagnostic, treatment, and rehabilitative services for
9 persons with mental or emotional disorders and psychiatric conditions.
- 10 5. ~~Administration of programs for crippled children, including the provision of services
11 and assistance to crippled children and their families, and the development and
12 operation of clinics for the identification, screening, referral, and treatment of
13 crippled children.~~
- 14 6. Administration of alcohol and drug abuse programs, including establishing quality
15 assurance standards for the licensure of programs, services, and facilities,
16 planning and coordinating a system of prevention, intervention, and treatment
17 services, providing policy leadership in cooperation with other public and private
18 agencies, and disseminating information to local service providers and the general
19 public.
- 20 7. 6. Administration of economic assistance programs, including temporary assistance
21 for needy families, food stamps, fuel assistance, child support enforcement,
22 refugee assistance, work experience, work incentive, and quality control.
- 23 8. 7. Administration of medical service programs, including medical assistance for needy
24 persons, early and periodic screening, diagnosis and treatment, utilization control,
25 and claims processing.

26 The executive director shall consult with and maintain a close working relationship with the
27 state department of health; with the department of corrections and rehabilitation and the
28 superintendents of the school for the deaf and the school for the blind to develop programs for
29 developmentally disabled persons; and with the superintendent of public instruction to maximize
30 the use of resource persons in regional human service centers in the provision of special

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1 education services. The executive director shall also maintain a close liaison with county social
2 service agencies.

3 **SECTION 11. REPEAL.** Chapter 50-10 of the North Dakota Century Code is repealed.