

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1012

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 legislative council studies; to provide statements of legislative
3 intent; and to amend and reenact sections 25-04-05, 50-24.5-04, and 50-30-02 of the North
4 Dakota Century Code, relating to developmental center admission screenings, the personal
5 needs allowance for individuals in basic care facilities, and use of the health care trust fund.

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

7 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the
8 funds as may be necessary, are appropriated out of any moneys in the general fund in the state
9 treasury, not otherwise appropriated, and from special funds derived from federal funds and
10 other income, to the department of human services for the purpose of defraying the expenses
11 of its various divisions, for the biennium beginning July 1, 2009, and ending June 30, 2011, as
12 follows:

13 Subdivision 1.

MANAGEMENT			
		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
17 Salaries and wages	\$11,512,358	\$2,148,542	\$13,660,900
18 Operating expenses	60,110,356	(13,582,286)	46,528,070
19 Capital assets	<u>285</u>	<u>(285)</u>	<u>0</u>
20 Total all funds	\$71,622,999	(\$11,434,02911)	\$60,188,970
21 Less estimated income	<u>50,663,834</u>	<u>(16,622,573)</u>	<u>34,041,261</u>
22 Total general fund	\$20,959,165	\$5,188,544	\$26,147,709

23 Subdivision 2.

24 PROGRAM AND POLICY

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		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$25,411,041	\$18,552,432	\$43,963,473
Operating expenses	67,811,802	4,364,279	72,176,081
Capital assets	399	12,601	13,000
Grants	344,019,216	111,111,588	455,130,804
Grants - Medical assistance	1,117,187,821	189,244,935	1,306,432,756
State administrative	12,488,292	(12,488,292)	0
child support			
Total all funds	\$1,566,918,571	\$310,797,543	\$1,877,716,114
Less estimated income	<u>1,126,663,567</u>	<u>223,418,640</u>	<u>1,350,082,207</u>
Total general fund	\$440,255,004	\$87,378,903	\$527,633,907

Subdivision 3.

HUMAN SERVICE CENTERS AND INSTITUTIONS

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
Northwest human service center	\$7,493,897	\$715,235	\$8,209,132
North central human service center	16,782,604	2,135,169	18,917,773
Lake region human service center	9,817,355	823,712	10,641,067
Northeast human service center	22,107,349	3,509,556	25,616,905
Southeast human service center	26,061,630	3,699,225	29,760,855
South central human service center	14,683,811	573,509	15,257,320
West central human service center	20,687,272	3,675,196	24,362,468
Badlands human service center	9,798,789	964,207	10,762,996
State hospital	57,391,944	9,519,982	66,911,926
Developmental center	<u>46,793,933</u>	<u>6,195,786</u>	<u>52,989,719</u>
Total all funds	\$231,618,584	\$31,811,577	\$263,430,161
Less estimated income	<u>112,757,229</u>	<u>12,094,114</u>	<u>124,851,343</u>
Total general fund	\$118,861,355	\$19,717,463	\$138,578,818

Subdivision 4.

BILL TOTAL

1			Adjustments or	
2		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
3	Grand total general fund	\$580,075,524	\$112,284,910	\$692,360,434
4	Grand total special funds	<u>1,290,084,630</u>	<u>218,890,181</u>	<u>1,508,974,811</u>
5	Grand total all funds	\$1,870,160,154	\$331,175,091	\$2,201,335,245
6	Full-time equivalent positions	2223.38	(6.50)	2216.88

7 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**
8 **SIXTY-SECOND LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time
9 funding items approved by the sixtieth legislative assembly for the 2007-09 biennium and the
10 2009-11 one-time funding items included in the appropriation in section 1 of this Act:

11	<u>One-Time Funding Description</u>	<u>2007-09</u>	<u>2009-11</u>
12	Medicaid management information system project (MMIS)	\$3,643,133	\$0
13	State hospital - Sex offender treatment addition project	3,100,000	0
14	State hospital - Capital improvements	3,062,757	0
15	State hospital - Extraordinary repairs	1,153,500	0
16	Developmental center - Capital improvements	300,000	0
17	Developmental center - Extraordinary repairs	547,092	0
18	Developmental center - Equipment	80,782	0
19	Extraordinary repairs	0	2,793,692
20	Equipment over \$5,000	<u>0</u>	<u>352,606</u>
21	Total general fund	\$11,887,264	\$3,146,298

22 The 2009-11 one-time funding amounts are not a part of the entity's base budget for the
23 2011-13 biennium. The department of human services shall report to the appropriations
24 committees of the sixty-second legislative assembly on the use of this one-time funding for the
25 biennium beginning July 1, 2009, and ending June 30, 2011.

26 **SECTION 3. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.**

27 Notwithstanding section 54-16-04, the department of human services may transfer
28 appropriation authority between line items within each subdivision of section 1 of this Act and
29 between subdivisions within section 1 of this Act for the biennium beginning July 1, 2009, and
30 ending June 30, 2011. The department shall notify the office of management and budget of
31 any transfer made pursuant to this section. The department shall report to the budget section

1 after June 30, 2010, any transfers made in excess of \$50,000 and to the appropriations
2 committees of the sixty-second legislative assembly regarding any transfers made pursuant to
3 this section.

4 **SECTION 4. ESTIMATED INCOME - LIMIT - HEALTH CARE TRUST FUND.** The
5 estimated income line item in subdivision 2 of section 1 of this Act includes \$4,324,506 from the
6 health care trust fund for nursing facilities. The department of human services expenditures
7 from this fund may not exceed this amount for the biennium beginning July 1, 2009, and ending
8 June 30, 2011.

9 **SECTION 5. LEGISLATIVE COUNCIL STUDY - CHILD SUPPORT ENFORCEMENT.**
10 During the 2009-10 interim, the legislative council shall consider studying the department of
11 human services' child support enforcement program. The study should include the review of
12 arrearages in terms of total owed and interest accrued and child support enforcement activities
13 in other states. The legislative council shall report its findings and recommendations, together
14 with any legislation required to implement the recommendations, to the sixty-second legislative
15 assembly.

16 **SECTION 6. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE.** During the
17 2009-10 interim, the legislative council shall study long-term care services in the state. The
18 study must include a review of the department of human services' payment system and a
19 review of the state department of health's survey and inspection programs and processes. The
20 legislative council shall report its findings and recommendations, together with any legislation
21 required to implement the recommendations, to the sixty-second legislative assembly.

22 **SECTION 7. ADDITIONAL FEDERAL FUNDS - AMERICAN RECOVERY AND**
23 **REINVESTMENT ACT - ACCEPTANCE - LIMITATION ON EXPENDITURE.** If the department
24 of human services receives federal funds made available to the state from the American
25 Recovery and Reinvestment Act or other federal action to stimulate the national economy or to
26 address state fiscal recovery in excess of the federal funding appropriated by the sixty-first
27 legislative assembly for any major program, the department of human services may accept the
28 additional federal funds, but may not spend the funding until appropriated by the legislative
29 assembly for the biennium beginning July 1, 2009, and ending June 30, 2011.

30 **SECTION 8. SUPPLEMENTAL PAYMENTS - BASIC CARE AND NURSING HOME**
31 **FACILITY SALARY AND BENEFIT INCREASES.** The funding appropriated in subdivision 2 of

section 1 of this Act includes \$14,739,128, of which \$4,950,451 is from the general fund, \$1,000,000 is from the health care trust fund, and \$8,788,677 is from federal funds, for providing supplemental payments to basic care and skilled nursing care facilities to allow for a salary and benefit increase for each employee earning a salary that is less than the eightieth percentile of the salary range at each facility, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 9. SUPPLEMENTAL PAYMENTS - DEVELOPMENTAL DISABILITIES

PROVIDER SALARY AND BENEFIT INCREASES. The funding appropriated in subdivision 2 of section 1 of this Act includes \$18,929,151, of which \$7,000,000 is from the general fund and \$11,929,151 is from federal funds, for providing supplemental payments to developmental disabilities providers to allow for a salary and benefit increase for each employee earning a salary that is less than the ninetieth percentile of the salary range of each developmental disabilities provider, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 10. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - ~~Temporary Screening~~ required prior to admission or readmission - Educational or related services without charge for persons twenty-one years of age and under.

1. The superintendent may admit a person to the developmental center at westwood park, Grafton when all of the following conditions have been met:
 - a. Application for admission has been made on behalf of the person by a parent or guardian or the person or agency having legal custody, or by the person seeking admission, in accordance with procedures established by the department of human services.
 - b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the developmental center at westwood park, Grafton.

c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of human services.

2. ~~The superintendent~~ No person may ~~admit~~ be admitted or readmitted to the developmental center at westwood park, Grafton, ~~temporarily for the purposes of observation, without commitment,~~ unless that person has undergone a screening process at the developmental center to determine whether the admission or readmission is appropriate. Length of stay criteria may be established under rules as the department of human services may adopt, ~~any.~~ Any person who is suspected of being able to benefit from the services offered at the center; may be screened to ascertain whether or not that person is actually a proper case for care, treatment, and training ~~in at the state facility~~ developmental center. If in the opinion of the superintendent the person ~~temporarily admitted to the developmental center at westwood park, Grafton~~ screened under this subsection is a proper subject for institutional care, treatment, and training at the developmental center, that person may remain as a voluntary resident at ~~such~~ the center at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Notwithstanding any other provision of this chapter, no handicapped patient, twenty-one years of age or under, or the estate or the parent of such patient, may be charged for educational or related services provided at the developmental center at westwood park, Grafton. Except as provided in subsection 4, the department of human services has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services other than medical and medically related services must be paid by the developmental center at westwood park,

Grafton, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.

4. Parents of a handicapped patient, twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of nonhandicapped children. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:
- a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
 - b. An increase in premiums or the discontinuation of a policy.
 - c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the developmental center pays or waives the out-of-pocket expense.

SECTION 11. AMENDMENT. Section 50-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-04. Services provided - Limit on cost. Services provided under this chapter must be treated as necessary remedial care to the extent those services are not covered under the medical assistance program. The cost of the services provided under this chapter to a person residing in a basic care or adult family foster care facility for which the rate charged includes room and board is limited to the rate set for services in that facility, plus ~~sixty~~ seventy-five dollars, less that person's total income.

SECTION 12. AMENDMENT. Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. North Dakota health care trust fund created - Uses - Continuing
appropriation.**

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:
 - a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
 - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
 - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06.