

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1012  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT providing an appropriation for defraying the expenses of the department of human services; to provide for intermediate care facility construction review; to amend and reenact subdivision f of subsection 2 of section 12-60-24, subsection 3 of section 14-09-09.10, and subsection 6 of section 50-24.7-01 of the North Dakota Century Code, relating to criminal background checks for foster care providers, child support payments, and definitions for expanded service payments for elderly and disabled; to provide an exemption; to provide for a report to the legislative management; to provide for legislative management studies; and to provide a statement of legislative intent.

**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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

MANAGEMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$15,382,133	\$25,247,062	\$40,629,195
Operating expenses	62,229,003	8,668,982	70,897,985
Capital assets	138,400	(126,400)	12,000
Total all funds	\$77,749,536	\$33,789,644	\$111,539,180
Less estimated income	46,573,712	13,024,040	59,597,752
Total general fund	\$31,175,824	\$20,765,604	\$51,941,428

Subdivision 2.

PROGRAM AND POLICY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$50,207,605	(\$1,365,487)	\$48,842,118
Operating expenses	91,973,280	14,740,749	106,714,029
Grants	490,196,862	(36,122,732)	454,074,130
Grants - medical assistance	1,601,650,984	148,872,688	1,750,523,672
Total all funds	\$2,234,028,731	\$126,125,218	\$2,360,153,949
Less estimated income	1,497,456,325	(70,714,334)	1,426,741,991
Total general fund	\$736,572,406	\$196,839,552	\$933,411,958

Subdivision 3.

FIELD SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Human service centers	\$163,188,026	\$11,469,662	\$174,657,688
Institutions	123,232,447	2,667,659	125,900,106
Total all funds	\$286,420,473	\$14,137,321	\$300,557,794
Less estimated income	126,939,489	(4,554,629)	122,384,860
Total general fund	\$159,480,984	\$18,691,950	\$178,172,934

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$927,229,214	\$237,540,188	\$1,164,769,402
Grand total special funds	1,670,969,526	97,104,398	1,768,073,924
Grand total all funds	\$2,598,198,740	\$334,644,586	\$2,932,843,326
Full-time equivalent positions	2,197.35	2.73	2,200.08

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Mainframe migration	\$0	\$810,000
Demolish refectory and pleasant view building - developmental center	0	220,000
State hospital capital projects	1,800,000	864,714
Grants	0	925,000
Federal stimulus funds	519,175	0
Supplemental payments	400,000	0
Eligibility system	42,416,499	0
Critical access payments	3,454,061	0
Guardianship enhancements	64,000	0
Replacement of MMIS general fund	1,474,362	0
System changes for processing jail claims	221,418	0
Total all funds	\$50,349,515	\$2,819,714
Less estimated income	36,602,712	1,086,093
Total general fund	\$13,746,803	\$1,733,621

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The department of human services shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 3. FUNDING TRANSFERS - EXCEPTIONS - AUTHORIZATION.** Notwithstanding section 54-16-04, the department of human services may transfer appropriation authority between line items within each subdivision of section 1 of this Act and between subdivisions within section 1 of this Act for the biennium beginning July 1, 2013, and ending June 30, 2015. The department shall notify the office of management and budget of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2014, any transfers made in excess of \$50,000 and to the appropriations committees of the sixty-fourth legislative assembly regarding any transfers made pursuant to this section.

**SECTION 4. EXEMPTION.** The amount appropriated for the replacement of the medicaid management information system in chapter 50 of the 2007 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 2009-11 biennium and then the 2011-13 biennium are available for the completion of the medicaid management information system project during the biennium beginning July 1, 2013, and ending June 30, 2015.

**SECTION 5. MEDICAID UPPER PAYMENT LIMITS.** Any appropriated increase for department providers paid with medicaid funding, may only be provided to the extent the increase will not exceed the upper payment limit for that specific medicaid service.

**SECTION 6. LEGISLATIVE INTENT - REBASE RURAL HEALTH CLINICS.** It is the intent of the legislative assembly that the department of human services rebase rural health clinics to the medicare rates. Future increases will be authorized based on approved inflationary increases.

**SECTION 7. AMENDMENT.** Subdivision f of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- f. The department of human services for foster care licenses and approvals under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.

**SECTION 8. AMENDMENT.** Subsection 3 of section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

3. "Child support" means payments for the support of ~~children~~ a child, including payments for health insurance coverage or other medical support, and ~~combined~~ payments for the support of ~~children and spouses or former spouses~~ with whom the child is living as long as the spousal support payment is owed to the spouse or former spouse under the same order as the payments for the child, however denominated, if the payment is required by the order of a court or other governmental agency having authority to issue such orders, and includes past-due support.

**SECTION 9. AMENDMENT.** Subsection 6 of section 50-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Eligible beneficiary" means a resident of this state who:
  - a. (1) Is aged; or
  - (2) Is at least eighteen years of age and is disabled or blind;
  - b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.];
  - c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
    - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; ~~and/or~~
    - (2) Is impaired in three of the four instrumental activities of daily living of preparing meals, doing homework, taking medicine, and doing laundry;

- d. Has countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the personal needs allowance;
- e. Has impairments that are not the result of an intellectual disability; and
- f. Is determined to be eligible pursuant to rules adopted by the department.

## **SECTION 10.**

### **Review and limitation.**

Intermediate care facility providers shall submit all facility construction or remodeling proposals to the department of human services prior to enactment of a contract for the completion of the project. The department of human services shall review all intermediate care facility construction or remodeling proposals and may limit allowable construction and remodeling costs to ensure the costs are reasonable and appropriate.

**SECTION 11. GRANT TO ASSISTED LIVING CENTER - LIMITATION.** The sum of \$425,000, or so much of the sum as may be necessary, included in the grants - medical assistance line item in subdivision 2 of section 1 of this Act, is to provide a grant to an assisted living center that accepts low-income tenants for an expansion project. This funding may not be spent for any other purpose if the expansion project has not begun by July 1, 2015.

**SECTION 12. GRANTS.** The grants line item in subdivision 2 of section 1 of this Act includes \$300,000, or so much of the sum as may be necessary, from the general fund for grants to a jurisdiction that is adjacent to an Indian reservation but does not receive reimbursement payments under section 50-01.2-03.2 and is determined by the department of human services to be the most significantly impacted based on calendar year 2012 data considering the provisions of subsection 2 of section 50-01.2-03.2, for the biennium beginning July 1, 2013, and ending June 30, 2015. No more than fifty percent of this appropriation may be distributed in each fiscal year of the biennium.

**SECTION 13. AUTHORIZATION - GRANT FOR ADAPTIVE SKIING.** The grants - medical assistance line item in subdivision 2 of section 1 of this Act includes \$200,000 from the general fund for a grant for an adaptive skiing program affiliated with a winter park that is located in a county of less than 10,000 individuals, for the biennium beginning July 1, 2013, and ending June 30, 2015. Of the funding provided, \$120,000 of the amount may be used for a project coordinator and the remaining amount may be used for any equipment necessary for the adaptive skiing program. 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.

**SECTION 14. LEGISLATIVE MANAGEMENT STUDY - DEVELOPMENTAL CENTER.** The legislative management shall consider studying, during the 2013-14 interim, the developmental center in Grafton. If conducted, the study must determine future use, reduction in size, and any change of scope for the developmental center. The study must consider information from local community groups that have concerns or ideas for the future use of the developmental center. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 15. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA HEALTH CARE.** During the 2013-14 interim, the legislative management shall consider studying the immediate needs and challenges of the North Dakota health care delivery system, implementing the healthy North Dakota initiative, examining Medicaid reform, and the feasibility of developing a plan for a private health care model that will comply with federal health care reform in a manner that will provide high-quality, accessible, and affordable care for North Dakota citizens. In performing the study, the legislative management may consider population shifts, facility needs, personnel needs, rural access, regulatory

public health functions, and vulnerable populations; determine the scope of the weakness in the current health care system; take into account the ongoing impact that federal health care reform under the federal Affordable Care Act is having on state delivery of health care and on state delivery of Medicaid; and consider how to forge partnerships with federal payers and regulators in order to work toward addressing medical reimbursement system reform. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 16. LEGISLATIVE MANAGEMENT STUDY OF THE NEED FOR A COMPREHENSIVE SYSTEM OF CARE FOR INDIVIDUALS WITH BRAIN INJURY.** During the 2013-14 interim, the legislative management shall consider studying the need for a comprehensive system of care for individuals with brain injury, including services available to veterans who are returning from wars, the impact of the inclusion of all acquired brain injury on traumatic brain injury programs, the need for a statewide registry for brain injury, the need for increased awareness of the impact of brain injury, the need for screening for brain injury in the education system, the availability of community support systems, the availability of specialized substance abuse services, the examination of the long-term care needs, the availability of home and community-based services, services available from independent living centers, the need for transitional supportive housing, and the suitability of the current level of care determination for brain injury. Consideration should be given to input from the department of human services traumatic brain injury advisory committee and stakeholders from the private and public sectors, including individuals with brain injury, families impacted by brain injury, educators, treatment providers, and service providers. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 17. REPORT TO LEGISLATIVE MANAGEMENT - TRANSITIONAL LIVING FACILITY.** Subdivision 3 of section 1 of this Act includes funding of \$547,000 from the general fund and \$182,000 from other funds for an eight-unit transitional living facility in the southeast human service center region. The department of human services shall provide a report to the budget section in December 2014 on the status of the facility.

**SECTION 18. LEGISLATIVE INTENT - DEMOLITION OF DEVELOPMENTAL CENTER BUILDINGS.** It is the intent of the sixty-third legislative assembly that the department of human services demolish the refectory and pleasant view buildings at the developmental center at westwood park, Grafton. If the amount of \$220,000 included in the developmental center line item in subdivision 3 of section 1 of this Act is insufficient to provide for the demolition of both buildings, the department of human services may request emergency commission approval for additional funding from the state contingencies appropriation.

**SECTION 19. LEGISLATIVE INTENT - DEPUTY DIRECTOR POSITION.** The removal of the full-time equivalent position in the administration and support division does not preclude the department of human services from employing a deputy director. The department may use an existing full-time equivalent position for the purpose of a deputy director position.

**SECTION 20. LEGISLATIVE INTENT - ELECTRONIC HEALTH RECORDS.** Because the electronic health records system is needed for the state hospital to maintain accreditation, the reduction of the funding in the information technology division does not preclude the department of human services from procuring an electronic health records system if the department can initiate the project within its 2013-15 biennium appropriation for the information technology division or field services division.

**SECTION 21. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,243,082, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$159,349,321, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the following initiatives, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services is authorized four full-time equivalent positions.

Expedited ratesetting process	\$1,661,844
Recipient liability first claim	100,000
Supplemental nutrition assistance and temporary assistance for needy families program changes	500,304
Electronic prescriptions	299,324
Medical assistance program expansion	157,991,337
Committee on employment of people with disabilities	<u>39,594</u>
Total all funds	\$160,592,403
Less estimated income	<u>159,349,321</u>
Total general fund appropriation	\$1,243,082

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1012.

House Vote:    Yeas 77            Nays 15            Absent 2

Senate Vote:    Yeas 47            Nays 0            Absent 0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

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

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Secretary of State