

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2015

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of  
2 corrections and rehabilitation; to provide appropriations to the department of human services for  
3 behavioral health services; to create and enact a new section to chapter 12-44.1 and two new  
4 sections to chapter 54-23.3 of the North Dakota Century Code, relating to management of  
5 inmate population, a community behavioral health plan as a term of parole or an alternative to  
6 incarceration, and prioritization of admission of inmates; to provide for ~~a legislative management~~  
7 ~~study~~studies; to provide for a legislative management justice reinvestment oversight committee;  
8 and to provide for ~~a report to the budget section~~reports.

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

10 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
11 as may be necessary, are appropriated out of any moneys in the general fund in the state  
12 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
13 other income, to the department of corrections and rehabilitation for the purpose of defraying  
14 the expenses of the department of corrections and rehabilitation, for the biennium beginning  
15 July 1, 2017, and ending June 30, 2019, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
18 <del>Adult services</del>	<del>\$205,626,019</del>	<del>\$16,710,273</del>	<del>\$222,336,292</del>
19 <del>Youth services</del>	<del>30,654,707</del>	<del>642,028</del>	<del>31,296,735</del>
20 <del>Total all funds</del>	<del>\$236,280,726</del>	<del>\$17,352,301</del>	<del>\$253,633,027</del>
21 <del>Less estimated income</del>	<del>33,236,706</del>	<del>5,038,348</del>	<del>38,275,054</del>
22 <del>Total general fund</del>	<del>\$203,044,020</del>	<del>\$12,313,953</del>	<del>\$215,357,973</del>
23 <del>Full-time equivalent positions</del>	<del>836.29</del>	<del>11.00</del>	<del>847.29</del>
24 <u>Adult services</u>	<u>\$205,626,019</u>	<u>\$16,734,336</u>	<u>\$222,360,355</u>

1	Youth services	30,654,707	85,802	30,740,509
2	Total all funds	\$236,280,726	\$16,820,138	\$253,100,864
3	Less estimated income	33,236,706	5,527,454	38,764,160
4	Total general fund	\$203,044,020	\$11,292,684	\$214,336,704
5	Full-time equivalent positions	836.29	9.00	845.29

**SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act includes the sum of \$2,155,572, of which \$2,016,105 is from the general fund, for increases in employee health insurance premiums from \$1,130 to \$1,241 per month.

**SECTION 3. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-SIXTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding

items approved by the sixty-fourth legislative assembly for the 2015-17 biennium and the

2017-19 biennium one-time funding items included in the appropriation in section 1 of this Act:

13	<u>One-Time Funding Description</u>	<u>2015-17</u>	<u>2017-19</u>
14	Security camera upgrade	\$202,500	\$0
15	Equipment	470,400	167,000
16	Extraordinary repairs	719,267	0
17	Information technology upgrades	150,000	0
18	DOCSTARS maintenance	150,000	0
19	License plate issue	4,900,000	0
20	Electronic medical records system	0	935,907
21	<del>Total all funds</del>	<del>\$6,592,167</del>	<del>\$1,102,907</del>
22	<del>Less estimated income</del>	<del>5,126,000</del>	<del>1,102,907</del>
23	<del>Total general fund</del>	<del>\$1,466,167</del>	<del>\$0</del>
24	Justice reinvestment initiative	0	500,000
25	Total all funds	\$6,592,167	\$1,602,907
26	Less estimated income	5,126,000	1,602,907
27	Total general fund	\$1,466,167	\$0

The 2017-19 biennium one-time funding amounts are not a part of the entity's base budget for the 2019-21 biennium. The department of corrections and rehabilitation shall report to the appropriations committees of the sixty-sixth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2017, and ending June 30, 2019.

1       **SECTION 4. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES.** There is  
2 appropriated from special funds derived from federal funds and other income, the sum of  
3 \$7,000,000, or so much of the sum as may be necessary, to the department of human services  
4 for the purpose of implementing the community behavioral health program, for the biennium  
5 beginning July 1, 2017, and ending June 30, 2019. The department is authorized six full-time  
6 equivalent positions to implement the community behavioral health program.

7       **SECTION 5. APPROPRIATION - REPORT TO LEGISLATIVE MANAGEMENT -**  
8 **DEPARTMENT OF HUMAN SERVICES.**

- 9       1. There is appropriated out of any moneys in the general fund in the state treasury, not  
10 otherwise appropriated, the sum of \$500,000, or so much of the sum as may be  
11 necessary, to the department of human services for the purposes of contracting with a  
12 public or private entity to create, initiate, and facilitate the implementation of a strategic  
13 plan to increase the availability of all types of behavioral health services in all regions  
14 of the state, for the biennium beginning July 1, 2017, and ending June 30, 2019.
- 15       2. During the 2017-18 interim, the department of human services and the contracting  
16 entity shall make annual reports to the legislative management on the status of the  
17 creation and implementation of this strategic plan, including recommendations  
18 regarding legislation needed for full implementation.

19       **SECTION 6. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS**  
20 **FUND.** The estimated income line item in section 1 of this Act includes \$935,907 of one-time  
21 funding from the strategic investment and improvements fund for an electronic medical records  
22 system.

23       **SECTION 7. MISSOURI RIVER CORRECTIONAL CENTER - HOUSING UNIT**  
24 **PURCHASE.** The appropriation in section 1 of this Act includes the sum of \$844,000 for the  
25 purchase of a thirty-six bed housing unit at the Missouri River correctional center.

26       **SECTION 8.** A new section to chapter 12-44.1 of the North Dakota Century Code is created  
27 and enacted as follows:

28       **Management of inmate population.**

- 29       1. The governing body of a correctional facility, in cooperation with law enforcement,  
30 state's attorneys, and the judiciary in the judicial district in which the correctional

- 1           facility is located, shall develop an inmate population plan to prioritize admissions and  
2           inmate retention based on the correctional facility's authorized budget.
- 3        2. The inmate population plan must take into consideration:
- 4           a. The governing body's authorized budget;  
5           b. The inmate's offense;  
6           c. Whether the inmate has been charged, adjudicated, or sentenced;  
7           d. Whether the inmate presents a risk of flight or is a danger to others or self;  
8           e. The inmate's medical needs and mental and behavioral health needs; and  
9           f. Whether the inmate is subject to mandatory incarceration.
- 10       3. The inmate population plan must include alternatives to physical custody of individuals  
11       under charge or conviction of an offense, ~~including~~. Potential alternatives to physical  
12       custody include:
- 13           a. Placement in a community setting;  
14           b. Work release;  
15           c. Home detention;  
16           d. Electronic home detention;  
17           e. Global positioning system monitoring;  
18           f. Medical, psychiatric, and drug and alcohol treatment;  
19           g. Employment;  
20           h. Pretrial risk assessment; and  
21           i. Pretrial supervision.
- 22       4. This section does not apply when there are exigent circumstances that affect a  
23       correctional facility's operations and inmate population, including acts of God and  
24       mass arrests.
- 25       5. The department of corrections and rehabilitation shall provide technical assistance  
26       relating to the implementation of this section to the governing body of a correctional  
27       facility upon request from the governing body.

28       **SECTION 9.** A new section to chapter 54-23.3 of the North Dakota Century Code is created  
29 and enacted as follows:

1        **Community behavioral health program - Reports to legislative management and**  
2 **governor.**

3        1. The department of corrections and rehabilitation shall establish and implement a  
4 community behavioral health program to provide comprehensive community-based  
5 services for individuals who have serious behavioral health conditions, as a term and  
6 condition of parole under chapter 12-59, and as a sentencing alternative under section  
7 12.1-32-02.

8        2. In developing the program under this section, the department of corrections and  
9 rehabilitation shall collaborate with the department of human services to:

10        a. Establish a referral and evaluation process for access to the program.

11        b. Establish eligibility criteria that includes consideration of recidivism risk and  
12 behavioral health condition severity.

13        c. Establish discharge criteria and processes, with a goal of establishing a  
14 seamless transition to postprogram services to decrease recidivism.

15        d. Develop program oversight, auditing, and evaluation processes that must  
16 include:

17            (1) Oversight of case management services through the department of human  
18 services;

19            (2) Outcome and provider reporting metrics; and

20            (3) Annual reports to the legislative management and the governor on the  
21 status of the program.

22        e. Establish a system through which:

23            (1) The department of human services:

24                    (a) Contracts with and pays behavioral health service providers; and

25                    (b) Supervises, supports, and monitors referral caseloads and the  
26 provision of services by contract behavioral health service providers.

27            (2) Contract behavioral health service providers accept all eligible referrals,  
28 provide individualized care delivered through integrated multidisciplinary  
29 care teams, and continue services on an ongoing basis until discharge  
30 criteria are met.

1           (3) Contract behavioral health service providers receive payments on a  
2           per-month per-referral basis. The payment schedule must be based on a  
3           pay-for-performance model that includes consideration of identified  
4           outcomes and the level of services required.

5           (4) Contract behavioral health service providers bill third-parties for services  
6           and direct payment to the general fund.

7           3. The department of human services may adopt rules as necessary to implement this  
8           program.

9           **SECTION 10.** A new section to chapter 54-23.3 of the North Dakota Century Code is  
10          created and enacted as follows:

11           **Prioritization of admission of inmates - Report to legislative management.**

12           The department of corrections and rehabilitation may refuse to admit inmates sentenced to  
13          the physical custody of the department when the admission of inmates will exceed the  
14          maximum operational capacity of the penitentiary and its affiliated facilities and result in the  
15          department exceeding its authorized legislative appropriation for contracting for housing  
16          inmates in other correctional facilities. For purposes of this section, maximum operational  
17          capacity of the department means the total number of inmates that may be imprisoned at the  
18          same time in the penitentiary and its affiliated facilities. The department shall develop a prison  
19          population management plan to prioritize admissions based on sentences and the availability of  
20          space in the penitentiary and its affiliated facilities. The department shall report annually to the  
21          legislative management on the prison population management plan and inmate admissions and  
22          the number of inmates the department has not admitted after sentencing.

23           **SECTION 11. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL JUSTICE SYSTEM**

24          **BEHAVIORAL HEALTH NEEDS.** During the 2017-18 interim, the legislative management shall  
25          consider continuing its study of alternatives to incarceration, with a focus on the behavioral  
26          health needs of individuals in the criminal justice system. The study must include receipt of  
27          reports on the status, effectiveness, and sustainability of the community behavioral health  
28          program for individuals in the criminal justice system which must include caseload data, any  
29          recognized savings to the department of corrections and rehabilitation, an overview of the  
30          training requirements for contract behavioral health service providers, and recommendations.

1 The legislative management shall report its findings and recommendations, together with any  
2 legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

3 **SECTION 12. LEGISLATIVE MANAGEMENT STUDY - TOMPKINS REHABILITATION**

4 **CENTER.** During the 2017-18 interim, the legislative management shall consider studying the  
5 operation, management, conditions, caseload, and physical plant of the Tompkins rehabilitation  
6 center at the state hospital. The study must include the potential transition of the Tompkins  
7 rehabilitation center, including the transfer of the building, employees, and supervision and  
8 management of all operations and caseload of the Tompkins rehabilitation center, from the  
9 department of human services and the state hospital to the department of corrections and  
10 rehabilitation. The legislative management shall report its findings and recommendations,  
11 together with any legislation required to implement the recommendations, to the sixty-sixth  
12 legislative assembly.

13 **SECTION 13. DEPARTMENT OF CORRECTIONS AND REHABILITATION - YOUTH**

14 **CORRECTIONAL CENTER STUDY - BUDGET SECTION REPORT.** During the 2017-18  
15 interim, the department of corrections and rehabilitation, in consultation with the department of  
16 human services, the protection and advocacy project, and the supreme court, shall study the  
17 potential for increased community-based treatment services for youth offenders, youth  
18 correctional center staffing requirements, and the efficiency and adequacy of the youth  
19 correctional center facilities. The study must consider the potential to raze and replace the  
20 current facilities at the youth correctional center. The department of corrections and  
21 rehabilitation shall report the results of the study to the budget section of the legislative  
22 management by December 31, 2018.

23 **SECTION 14. JUSTICE REINVESTMENT OVERSIGHT COMMITTEE - REPORT TO THE**  
24 **LEGISLATIVE MANAGEMENT.**

- 25 1. During the 2017-18 interim, the justice reinvestment oversight committee is created  
26 and composed of eight members as follows:
- 27 a. The governor's general counsel;
  - 28 b. The director of the department of human services;
  - 29 c. The director of the behavioral health division of the department of human  
30 services;
  - 31 d. The director of the department of corrections and rehabilitation;

- 1 e. The chief justice of the supreme court, or a designee of the chief justice;
- 2 f. The attorney general, or a designee of the attorney general;
- 3 g. One member of the house of representatives, appointed by the majority leader of
- 4 the house of representatives; and
- 5 h. One member of the senate, appointed by the majority leader of the senate.
- 6 2. The committee shall study the implementation of justice reinvestment policies in the
- 7 state and periodically report to the legislative management. The governor's office shall
- 8 provide staff services to the committee.
- 9 3. Before July 1, 2018, the committee shall report its findings and recommendations,
- 10 together with any legislation required to implement those recommendations, to the
- 11 legislative management.