

Sixty-fourth  
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 providing an appropriation for defraying the expenses of the department of  
 2 human services; to create and enact subdivision aa of subsection 1 of section 50-09-29 and a  
 3 new section to chapter 50-24.1 of the North Dakota Century Code, relating to temporary  
 4 assistance for needy families benefits and to the monthly maintenance needs allowance; to  
 5 amend and reenact sections 50-06-16, 50-06-32.1, 50-06-37, and subsection 1 of section  
 6 50-09-29, of the North Dakota Century Code, relating to rulemaking authority, the expiration  
 7 date on the autism spectrum disorder voucher program pilot project, and the assessment used  
 8 for the developmental disabilities system reimbursement project; to provide an exemption; to  
 9 provide payments to counties out of enhanced federal payment; to provide reports to the  
 10 legislative management; to provide for a legislative management study; to provide an  
 11 appropriation to the legislative council; to provide an effective date; and to declare an  
 12 emergency.

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

14 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the  
 15 funds as may be necessary, are appropriated out of any moneys in the general fund in the state  
 16 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
 17 other income, to the department of human services for the purpose of defraying the expenses of  
 18 its various divisions, for the biennium beginning July 1, 2015, and ending June 30, 2017, as  
 19 follows:

20 Subdivision 1.

21 MANAGEMENT

22		Adjustments or		
23		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
24	Salaries and wages	\$23,949,306	\$3,829,290	\$27,778,596

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1	Operating expenses	67,749,348	27,968,850	95,718,198
2	Capital assets	<u>12,000</u>	<u>14,000</u>	<u>26,000</u>
3	Total all funds	\$91,710,654	\$31,812,140	\$123,522,794
4	Less estimated income	<u>53,608,032</u>	<u>17,605,096</u>	<u>71,213,128</u>
5	Total general fund	\$38,102,622	\$14,207,044	\$52,309,666

6 Subdivision 2.

7 PROGRAM AND POLICY

8			Adjustments or	
9		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
10	Salaries and wages	\$52,422,982	\$6,498,477	\$58,921,459
11	Operating expenses	107,894,413	1,353,871	109,248,284
12	Capital assets	0	10,000	10,000
13	Grants	458,913,620	12,469,860	471,383,480
14	Grants - medical assistance	<u>1,910,060,462</u>	<u>524,869,406</u>	<u>2,434,929,868</u>
15	Total all funds	\$2,529,291,477	\$545,201,614	\$3,074,493,091
16	Less estimated income	<u>1,587,974,557</u>	<u>411,722,311</u>	<u>1,999,696,868</u>
17	Total general fund	\$941,316,920	\$133,479,303	\$1,074,796,223

18 Subdivision 3.

19 FIELD SERVICES

20			Adjustments or	
21		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
22	Human service centers	\$182,433,538	\$19,737,829	\$202,171,367
23	Institutions	<u>130,697,211</u>	<u>16,113,473</u>	<u>146,810,684</u>
24	Total all funds	\$313,130,749	\$35,851,302	\$348,982,051
25	Less estimated income	<u>126,067,783</u>	<u>5,671,429</u>	<u>131,739,212</u>
26	Total general fund	\$187,062,966	\$30,179,873	\$217,242,839

27 Subdivision 4.

28 BILL TOTAL

29			Adjustments or	
30		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
31	Grand total general fund	\$1,166,482,508	\$177,916,220	\$1,344,398,728

1	Grand total special funds	<u>1,767,650,372</u>	<u>434,998,836</u>	<u>2,202,649,208</u>
2	Grand total all funds	\$2,934,132,880	\$612,915,056	\$3,547,047,936
3	Full-time equivalent positions	2,201.08	23.50	2,224.58

4       **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

5       **SIXTY-FIFTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
6 items approved by the sixty-fourth legislative assembly for the 2013-15 biennium and the 2015-  
7 17 one-time funding items included in the appropriation in section 1 of this Act:

8	<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
9	Mainframe migration	\$810,000	\$0
10	Building demolition - life skills and transition center	220,000	0
11	State hospital capital projects	864,714	0
12	Grants	925,000	0
13	Critical access hospital grants	9,600,000	0
14	Electronic health records	2,500,000	0
15	Early childhood services grants	<u>400,000</u>	<u>0</u>
16	Total all funds	\$15,319,714	\$0
17	Less estimated income	<u>10,686,093</u>	<u>0</u>
18	Total general fund	\$4,633,621	\$0

19 The 2015-17 one-time funding amounts are not a part of the entity's base budget for the  
20 2017-19 biennium. The department of human services shall report to the appropriations  
21 committees of the sixty-fifth legislative assembly on the use of this one-time funding for the  
22 biennium beginning July 1, 2015, and ending June 30, 2017.

23       **SECTION 3. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.** Notwithstanding  
24 section 54-16-04, the department of human services may transfer appropriation authority  
25 between line items within each subdivision of section 1 of this Act and between subdivisions  
26 within section 1 of this Act for the biennium beginning July 1, 2015, and ending June 30, 2017.  
27 The department shall notify the office of management and budget of any transfer made  
28 pursuant to this section. The department shall report to the budget section after June 30, 2016,  
29 any transfers made in excess of \$50,000 and to the appropriations committees of the sixty-fifth  
30 legislative assembly regarding any transfers made pursuant to this section.

1       **SECTION 4. EXEMPTION.** The amount appropriated for the replacement of the medicaid  
2 management information system and related projects in chapter 50 of the 2007 Session Laws  
3 and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11.  
4 Any unexpended funds from these appropriations approved under section 54-44.1-11 for  
5 continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15  
6 biennium are available for the completion of the medicaid management information system and  
7 related projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

8       **SECTION 5. EXEMPTION.** The amount appropriated for the modification of the  
9 department's eligibility systems in chapter 578 of the 2011 Special Session Laws is not subject  
10 to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved  
11 under section 54-44.1-11 for continuation into the 2013-15 biennium are available for the  
12 completion of the modification of the eligibility systems project during the biennium beginning  
13 July 1, 2015, and ending June 30, 2017.

14       **SECTION 6. AMENDMENT.** Section 50-06-16 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16       **50-06-16. Rulemaking authority.**

17       The department may adopt rules necessary to carry out the responsibilities of the  
18 department in conformity with any statute administered or enforced by the department. All rules  
19 adopted must be published in the North Dakota Administrative Code. Rules adopted by  
20 agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter  
21 remain in effect until such time as they are specifically amended or repealed. The department is  
22 not required to adopt rules to establish the process for the administration of funds appropriated  
23 to the department in an appropriation identified by the legislative assembly as a one-time  
24 funding item.

25       **SECTION 7. AMENDMENT.** Section 50-06-32.1 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27       **50-06-32.1. (~~Effective through June 30, 2015~~) Autism spectrum disorder voucher**  
28 **program pilot project - Legislative management report - Appeal.**

29       1. The department of human services shall establish a voucher program pilot project  
30 beginning July 1, 2014, to assist in funding equipment and general educational needs  
31 related to autism spectrum disorder for individuals below two hundred percent of the

1 federal poverty level from age three to under age eighteen who have been diagnosed  
2 with autism spectrum disorder. The program may include funding for assistive  
3 technology; video modeling videos or equipment; language-generating devices;  
4 training and educational material for parents; parenting education; sensory equipment;  
5 tutors; safety equipment; travel tools; self-care equipment; timers; visual  
6 representation systems; respite care; specialized daycare; language comprehension  
7 equipment; and registration and related expenses for workshops and training to  
8 improve independent living skills, employment opportunities, and other executive or  
9 social skills.

10 2. The department shall adopt rules addressing management of this voucher program  
11 pilot project and establishing the eligibility requirements and exclusions for this  
12 voucher program pilot project. The program may not provide a voucher for early  
13 intensive behavioral intervention, including applied behavioral analysis, intensive early  
14 interventional behavioral therapy, intensive behavioral intervention, the Lovaas  
15 method, the Denver model, LEAP (learning experiences - an alternative program for  
16 preschoolers and parents), TEACCH (treatment and education of autistic and related  
17 communication handicapped children), pivotal response training, or discrete trial  
18 training.

19 3. A decision on a voucher application which is issued by the department under this  
20 section may be appealed as provided under chapter 28-32.

21 4. The department of human services shall report to the legislative management  
22 regarding the autism spectrum disorder program pilot project.

23 **SECTION 8. AMENDMENT.** Section 50-06-37 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **50-06-37. Developmental disabilities system reimbursement project.**

26 The department of human services, in conjunction with developmental disabilities service  
27 providers, shall develop a prospective or related payment system with an independent rate  
28 model utilizing the support intensity scale.

29 1. The department shall establish a steering committee consisting of representatives  
30 from all interested providers and department representatives. The steering committee  
31 shall guide the development of the new payment system including assisting a

1 consultant to conceptualize, develop, design, implement, and evaluate a new payment  
2 system.

3 2. The department shall contract with a consultant by September 1, 2011, to develop, in  
4 collaboration with the steering committee, the payment system and the resource  
5 allocation model tying funding to support intensity scale assessed needs of clients  
6 aged sixteen and older and to a state-approved assessment that assesses needs of  
7 clients younger than sixteen years of age.

8 3. After the prospective or related payment system rates are developed, the new rates  
9 must be tested on a sampling of clients and providers, the sample to be determined by  
10 the steering committee, allowing sufficient time to capture provider cost, client-realized  
11 need, and service provision data. The consultant shall provide the appropriate  
12 sampling number to sufficiently test the rates, types of services, and needs of clients  
13 with the intent to include as many providers as fiscally feasible.

14 4. The department shall contract with a team of support intensity scale assessors by  
15 September 1, 2011. The team shall begin assessing immediately the identified client  
16 pilot group identified by the consultant contracted in subsection 2.

17 5. Once testing is complete, the data must be analyzed by the consultant and the  
18 consultant shall make any needed rate adjustments, resource allocation modifications,  
19 or process assumptions.

20 6. Beginning in June 2012, the department and the steering committee shall report  
21 development activities and status information to an interim legislative committee.

22 7. Implementation of any system developed under this chapter may not occur before the  
23 implementation of the department's new medicaid management information system.

24 **SECTION 9.** Subdivision aa of subsection 1 of section 50-09-29 the North Dakota Century  
25 Code is created and enacted as follows:

26 aa. Provide an annual percentage increase in the benefit amount that is equal to the  
27 annual percentage increase in the consumer price index for urban consumers,  
28 within the limits of legislative appropriation.

29 **SECTION 10.** A new section to chapter 50-24.1 of the North Dakota Century Code is  
30 created and enacted as follows:

1        **Monthly maintenance needs allowance.**

2        In determining eligibility for medical assistance applicants and recipients, the department of  
3 human services shall establish a monthly maintenance needs allowance for a community  
4 spouse equal to the maximum amount permitted under 42 U.S.C. 1396r-5. The department  
5 shall provide annual increases in the monthly maintenance needs allowance equal to the  
6 annual percentage increase in the consumer price index for urban consumers, provided,  
7 however, that the monthly maintenance needs allowance does not exceed the amount set by  
8 the centers for medicare and medicaid services for the year in which the increase is applied.

9        **SECTION 11. LEGISLATIVE INTENT - DEPARTMENT OF HUMAN SERVICES -**

10 **MEDICALLY FRAGILE INTENSIVE CARE FACILITY.** It is the intent of the sixty-fourth  
11 legislative assembly that the department of human services develop a plan for a medically  
12 fragile intensive care facility for certain individuals transitioning from the life skills and transition  
13 center during the 2015-16 interim. It is further the intent of the legislative assembly that the plan  
14 consider the resident's and their family's preferences regarding the location of the facility and  
15 that the department include funding for the facility in its 2017-19 biennium budget request.

16        **SECTION 12. PAYMENTS TO THE COUNTY FOR LOCAL EXPENSES OF**

17 **ADMINISTRATION OF THE MEDICAID PROGRAM.** Within the limits of legislative  
18 appropriation, the department may reimburse counties for part of the local expenses of  
19 administration for determining eligibility for services under chapter 50-24.1, an amount that  
20 represents all or part of an increase in payments from the federal government to the department  
21 for administration of the medicaid program.

22        **SECTION 13. APPROPRIATION.** Special funds derived from federal funds and other  
23 income, are appropriated to the department of human services for the purpose of reimbursing  
24 counties under section 10 of this Act for part of the local expenses of administration of the  
25 medicaid program under chapters 50-01.2 and 50-24.1, for the biennium beginning July 1,  
26 2015, and ending June 30, 2017.

27        **SECTION 14. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT.**

28 The grants line item in subdivision 2 of section 1 of this Act includes \$205,000 from the general  
29 fund for a grant to a statewide family-controlled parent-to-parent support organization with at  
30 least fifty percent of its board of directors consisting of members whose primary daily  
31 responsibilities include caring for a child with a mental health disorder, for the biennium

1 beginning July 1, 2015, and ending June 30, 2017. Funds awarded must be used for providing  
2 services to children with emotional, behavioral, or mental health needs. The organization  
3 receiving a grant under this section shall provide a report to the legislative management during  
4 the 2015-16 interim on the use of grant funds. The requirements of chapter 54-44.4 do not  
5 apply to the selection of a grantee, the grant award, or payments made under this section.

6 **SECTION 15. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT.**

7 The grants line item in subdivision 2 of section 1 of this Act includes \$205,000 from the general  
8 fund for a grant to a statewide family-to-family health information and education organization  
9 which provides parent-to-parent support for families and is located in a county with a population  
10 of less than 6,000 based on the 2010 decennial census, for the biennium beginning July 1,  
11 2015, and ending June 30, 2017. Funds awarded must be used for family-related information  
12 and education services. The organization receiving a grant under this section shall provide a  
13 report to the legislative management during the 2015-16 interim on the use of grant funds. The  
14 requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or  
15 payments made under this section.

16 **SECTION 16. GRANTS FOR MENTAL HEALTH DISORDER PREVENTION SERVICES -**

17 **EXEMPTION.** The grants line item in subdivision 2 of section 1 of this Act includes \$90,000  
18 from the general fund for a grant to an organization providing mental health disorder-related  
19 services for caregivers, and children up to age eight in the southeast human service region, for  
20 the biennium beginning July 1, 2015, and ending June 30, 2017. Funds awarded may be used  
21 to assist caregivers with providing screening, assessment, development education,  
22 relationship-based skills coaching, prevention, short-term therapy treatment, and early  
23 identification services for children up to age eight experiencing behavioral or emotional  
24 difficulties. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the  
25 grant award, or payments made under this section.

26 **SECTION 17. APPROPRIATION - 2013-15 BIENNIUM.** There is appropriated out of special  
27 funds derived from federal funds, not otherwise appropriated, the sum of \$87,000,000, or so  
28 much of the sum as may be necessary, to the department of human services for the purpose of  
29 defraying medical assistance grant costs, for the period beginning with the effective date of this  
30 Act and ending June 30, 2015.

1       **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - DELIVERY SYSTEM FOR**  
2 **CHILDREN WITH SPECIAL HEALTH CARE NEEDS.** During the 2015-16 interim, the  
3 legislative management shall consider studying the state service delivery system for children  
4 with special health care needs and for children with a disability. The study must include  
5 consideration of the special health care needs and disability needs of children. The scope of the  
6 study must include consideration of access; availability, including number of children without  
7 services; and delivery of services, including complexity of service delivery system. The study  
8 must include input from stakeholders, including representatives of law enforcement, pediatric  
9 providers, tribal governments, and state and local agencies and institutions. The legislative  
10 council may contract for consulting services to assist the legislative management in conducting  
11 the study. The legislative management shall report its findings and recommendations, together  
12 with any legislation required to implement the recommendations, to the sixty-fifth legislative  
13 assembly.

14       **SECTION 19. APPROPRIATION - LEGISLATIVE COUNCIL.** There is appropriated out of  
15 any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of  
16 \$50,000, or so much of the sum as may be necessary, to the legislative council for the purpose  
17 of contracting for consulting services to assist the legislative management in conducting a study  
18 of the delivery system for children with special health care needs, for the biennium beginning  
19 July 1, 2015, and ending June 30, 2017.

20       **SECTION 20. EFFECTIVE DATE.** Section 10 of this Act becomes effective on January 1,  
21 2016.

22       **SECTION 21. EFFECTIVE DATE.** Sections 12 and 13 of this Act become effective on the  
23 effective date of the centers for medicare and medicaid services' certification that the  
24 department's eligibility system has met the seven conditions and standards for the receipt of  
25 enhanced match.

26       **SECTION 22. EMERGENCY.** Section 17 of this Act is declared to be an emergency  
27 measure.