Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2012
(Appropriations Committee)
(At the request of the Governor)

AN ACT providing an appropriation for defraying the expenses of the department of human services; to authorize the department of human services to convey land in Walsh County; to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to a behavioral health services quarterly report; to amend and reenact sections 6-09-47, 50-06-16, 50-06-32.1, and 50-06-37 of the North Dakota Century Code, relating to the medical facility infrastructure loan fund, rulemaking authority, the expiration date on the autism spectrum disorder voucher program pilot project, and the assessment used for the developmental disabilities system reimbursement project; to repeal section 3 of chapter 84 of the 2013 Session Laws, relating to the medical facility infrastructure fund balance transfer; to provide for exemptions; to provide a limitation relating to the program of all inclusive care for the elderly; to provide payments to counties out of enhanced federal payment; to provide advance payments to select enrolled providers; to provide statements of legislative intent; to provide reports to the legislative management; to provide for legislative management studies; to provide effective dates; and to declare an emergency.

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, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

MANAGEMENT

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$23,949,306	$4,087,271	$28,036,577
Operating expenses	67,749,348	27,453,384	95,202,732
Capital assets	12,000	14,000	26,000
Total all funds	$91,710,654	$31,554,655	$123,265,309
Less estimated income	53,608,032	17,496,006	71,104,038
Total general fund	$38,102,622	$14,058,649	$52,161,271

Subdivision 2.

PROGRAM AND POLICY

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$52,422,982	$5,738,890	$58,161,872
Operating expenses	107,894,413	1,239,478	109,133,891
Capital assets	0	10,000	10,000
Grants	458,913,620	7,862,181	466,775,801
Grants - medical assistance	1,910,060,462	503,804,141	2,413,864,603
Total all funds	$2,529,291,477	$518,654,690	$3,047,946,167

Less estimated income	1,587,974,557	407,053,419	1,995,027,976
Total general fund	$941,316,920	$111,601,271	$1,052,918,191

Subdivision 3.

FIELD SERVICES

	Base Level	Adjustments or Enhancements	Appropriation
Human service centers	$182,433,538	$16,237,697	$198,671,235
Institutions	130,697,211	15,029,659	145,726,870
Total all funds	$313,130,749	$31,267,356	$344,398,105
Less estimated income	126,067,783	6,709,018	132,776,801
Total general fund	$187,062,966	$24,558,338	$211,621,304

Subdivision 4.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	$1,166,482,508	$150,218,258	$1,316,700,766
Grand total special funds	1,767,650,372	431,258,443	2,198,908,815
Grand total all funds	$2,934,132,880	$581,476,701	$3,515,609,581
Full-time equivalent positions	2,201.08	10.00	2,211.08

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fourth legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2013-15	2015-17
Mainframe migration	$810,000	$0
Building demolition - life skills and transition center	220,000	0
State hospital capital projects	864,714	0
Grants	925,000	0
Critical access hospital grants	9,600,000	0
Electronic health records	2,500,000	0
Early childhood services grants	400,000	0
Developmental disabilities equipment	0	10,000
Heating plant repairs and upgrades - State hospital	0	1,156,000
Heating plant repairs and upgrades - Life skills and transition center	0	75,000
Window replacement - Life skills and transition center	0	44,000
Equipment over $5,000 - State hospital	0	275,000
Equipment over $5,000 - Life skills and transition center	0	200,000
Extraordinary repairs - State hospital	0	1,000,000
Extraordinary repairs - Life skills and transition center	0	1,250,000
Total all funds	$15,319,714	$4,010,000
Less estimated income	10,686,093	10,000
Total general fund	$4,633,621	$4,000,000

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

SECTION 3. FUNDING TRANSFERS - EXCEPTION - 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, 2015, and ending June 30, 2017. The department shall notify the office of management and budget and the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2016, any transfers made in excess of $50,000 and to the appropriations committees of the sixty-fifth 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 and related projects in chapter 50 of the 2007 Session Laws and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from these appropriations approved under section 54-44.1-11 for continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15 biennium are available for the completion of the medicaid management information system and related projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. EXEMPTION. The amount appropriated for the modification of the department's eligibility systems in chapter 578 of the 2011 Special 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 2013-15 biennium are available for the completion of the modification of the eligibility systems project during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. CONVEYANCE OF LAND AUTHORIZED. The state of North Dakota by and through the department of human services may convey real property associated with the life skills and transition center in Grafton. The department may convey the Prairieview building and the real property on which the building is located on the terms and conditions determined appropriate by the department and the attorney general. Section 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

SECTION 7. EXEMPTION - LEISURE, RECREATIONAL, AND EDUCATIONAL PROGRAMS. The grants line item in subdivision 2 of section 1 of this Act includes $150,000 for providing grants for services to provide leisure, recreational, and educational programs for individuals with intellectual or developmental disabilities in the northeast and southeast human service regions. 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. The department of human services' oversight for these services is limited to receiving information only relating to annual attendance numbers and the expenditure of appropriated funds for these services.

SECTION 8. DEPARTMENT OF HUMAN SERVICES - PROGRAM OF ALL INCLUSIVE CARE FOR THE ELDERLY - LIMITATION. The department of human services may not expand the program of all inclusive care for the elderly during the biennium beginning July 1, 2015, and ending June 30, 2017, into a community that is not operating a program site on August 1, 2015.

SECTION 9. ADVANCE PAYMENTS - ADJUSTMENTS - EXEMPTION. The department of human services may provide advance payments to select enrolled providers related to the implementation of the new Medicaid management information system for the period beginning with the effective date of this Act, and ending June 30, 2015. The department may spend funds appropriated from the general fund in its grants - medical assistance line item in subdivision 2 of section 1 of this Act for making these advance payments if sufficient funding from the general fund is not available from the department's 2013-15 biennium appropriation. The department shall adjust 2015-17 biennium payments to the enrolled providers to recoup the advance payments. The amount appropriated from special funds in the grants - medical assistance line item in subdivision 2 of section 1 of chapter 12 of the 2013 Session Laws is not subject to section 54-44.1-11, and any unspent funds relating to the federal funds share of any advance payments may be continued and used for paying the federal share of medical assistance payments for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. AMENDMENT. Section 6-09-47 of the North Dakota Century Code is amended and reenacted as follows:

6-09-47. ~~(Effective through July 31, 2017)~~ Medical facility infrastructure loan ~~program~~fund - Continuing appropriation - Audit and costs of administration.

1. The Bank of North Dakota shall administer a loan program to provide loans to medical facilities to conduct construction that improves the health care infrastructure in the state or improves access to existing nonprofit health care providers in the state. The construction project may include land purchases and may include purchase, lease, erection, or improvement of any structure or facility to the extent the governing board of the health care facility has the authority to authorize such activity.

2. In order to be eligible under this loan program, the applicant must be the governing board of the health care facility which shall submit an application to the Bank. The application must:

   a. Detail the proposed construction project, which must be a project of at least one million dollars and which is expected to be utilized for at least thirty years;

   b. Demonstrate the need and long-term viability of the construction project; and

   c. Include financial information as the Bank may determine appropriate to determine eligibility, such as whether there are alternative financing methods.

3. The governor shall establish a task force to review loan applications under this section and to make recommendations to the Bank on the loan applications. The task force must include representation of medical providers and medical facilities from the oil-producing counties in the state. The task force shall work with the Bank to establish criteria for eligibility for a loan under the program. The criteria established by the task force and the Bank must give priority to applicants that are located in oil-producing counties.

4. A loan provided under this section:

   a. May not exceed the lesser of fifteen million dollars or seventy-five percent of the actual cost of the project;

   b. Must have an interest rate equal to one percent; and

   c. Must provide a repayment schedule of no longer than twenty-five years.

5. A recipient of a loan under this section shall complete the financed construction project within twenty-four months of approval of the loan. Failure to comply with this subsection may result in forfeiture of the entire loan received under this section.

6. The medical facility infrastructure fund is a special fund in the state treasury. This fund is a revolving fund. All moneys ~~in~~transferred into the medical facility infrastructure fund, interest on moneys in the fund, and collections of principal and interest on loans from the fund are appropriated to the Bank on a continuing basis for the purpose of providing loans under this section.

7. Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.

8. The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.

9. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. ~~After deduction of fees and costs as provided in this section, the Bank shall make an annual~~

~~transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.~~

~~(Effective August 1, 2017, through July 31, 2043) Medical facility infrastructure loan program - Continuing appropriation - Audit and costs of administration.~~

~~1. The Bank of North Dakota shall service loans made under the medical facility infrastructure loan program. The repayment schedule of these loans may not exceed twenty-five years.~~

~~2. Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.~~

~~3. The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.~~

~~4. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. After deduction of fees and costs as provided in this section, the Bank shall make an annual transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.~~

SECTION 11. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Behavioral health services quarterly report.

The department of human services shall publish a quarterly report of all behavioral health services provided by or supported by the department. The report must include each type of behavioral health service, the number of clients served for each service, and the amount of state and federal funds budgeted and spent for each service. Data must be identified for behavioral health services by human service region and by mental health services provided to children, mental health services provided to adults, and substance abuse services.

SECTION 12. AMENDMENT. Section 50-06-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06-16. Rulemaking authority.

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

SECTION 13. AMENDMENT. Section 50-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department of human services shall establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below two hundred percent of the federal poverty level from age three to under age eighteen who have been diagnosed with autism spectrum disorder. The program may include funding for assistive technology; video modeling videos or

equipment; language-generating devices; training and educational material for parents; parenting education; sensory equipment; tutors; safety equipment; travel tools; self-care equipment; timers; visual representation systems; respite care; specialized daycare; language comprehension equipment; and registration and related expenses for workshops and training to improve independent living skills, employment opportunities, and other executive or social skills.

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

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

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

SECTION 14. AMENDMENT. Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

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

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

1. The department shall establish a steering committee consisting of representatives from all interested providers and department representatives. The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.

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

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

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

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

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

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

SECTION 15. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES CASE MANAGEMENT. It is the intent of the sixty-fourth legislative assembly that the department of human services provide case management services for individuals with a developmental disability within the ratio provided pursuant to North Dakota Administrative Code for the biennium beginning July 1, 2015, and ending June 30, 2017. If case management services for individuals with a developmental disability exceed the ratio requirement provided in the North Dakota Administrative Code, the department may hire temporary staff or the department may propose a change to North Dakota Administrative Code to meet the ratio requirement.

SECTION 16. ROBINSON RECOVERY CENTER FUNDING. Notwithstanding the designation of funding for the Robinson recovery center in the appropriation for the department of human services in section 1 of this Act, the department may reprocure the contract for methamphetamine treatment services if the current contractor is unable to provide the full capacity of services anticipated under the current contract for the biennium beginning July 1, 2015, and ending June 30, 2017. Funding otherwise designated for the Robinson recovery center may be used to support the costs of the reprocured contract.

SECTION 17. PAYMENTS TO THE COUNTY FOR LOCAL EXPENSES OF ADMINISTRATION OF THE MEDICAID PROGRAM. Within the limits of legislative appropriation, the department may reimburse counties for part of the local expenses of administration for determining eligibility for services under chapter 50-24.1, an amount that represents all or part of an increase in payments from the federal government to the department for administration of the medicaid program.

SECTION 18. APPROPRIATION. Special funds derived from federal funds and other income, are appropriated to the department of human services for the purpose of reimbursing counties under section 17 of this Act for part of the local expenses of administration of the medicaid program under chapters 50-01.2 and 50-24.1, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 19. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT. The grants line item in subdivision 2 of section 1 of this Act includes $75,000 from the general fund for a grant to a statewide family-controlled parent-to-parent support organization with at least fifty percent of its board of directors consisting of members whose primary daily responsibilities include caring for a child with a mental health disorder, for the biennium beginning July 1, 2015, and ending June 30, 2017. Funds awarded must be used for providing services to children with emotional, behavioral, or mental health needs. The organization receiving a grant under this section shall provide a report to the legislative management during the 2015-16 interim on the use of grant funds. 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 20. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT. The grants line item in subdivision 2 of section 1 of this Act includes $75,000 from the general fund for a grant to a statewide family-to-family health information and education organization which provides parent-to-parent support for families and is located in a county with a population of less than 6,000 based on the 2010 decennial census, for the biennium beginning July 1, 2015, and ending June 30, 2017. Funds awarded must be used for family-related information and education services. The organization receiving a grant under this section shall provide a report to the legislative management during the 2015-16 interim on the use of grant funds. 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 21. APPROPRIATION - 2013-15 BIENNIUM. There is appropriated out of special funds derived from federal funds, not otherwise appropriated, the sum of $87,000,000, or so much of the sum

as may be necessary, to the department of human services for the purpose of defraying medical assistance grant costs, for the period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 22. LEGISLATIVE MANAGEMENT STUDY - MENTAL HEALTH HOTLINE SERVICES. During the 2015-16 interim, the legislative management shall consider studying the various telephone contact numbers supported by state appropriations to access information regarding services and programs available and determine if multiple numbers are necessary to respond appropriately to the residents of the state. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 23. REPORT TO LEGISLATIVE MANAGEMENT - ADULT PROTECTIVE SERVICES PROGRAM. During the 2015-16 interim, the department of human services shall report to the legislative management regarding the adult protective services program, including the effectiveness of the program, information on services and outcomes, and funding by human service region and in total.

SECTION 24. LEGISLATIVE MANAGEMENT STUDY - AUTISM SERVICES. During the 2015-16 interim, the legislative management shall consider studying services for children with autism. The study must include a review of services currently provided by the department of human services, the superintendent of public instruction, and other state and local agencies, and an evaluation of the effectiveness of the continuum of care, transition between programs, and outcomes. The study must also identify current funding for these programs and projected funding needs in future bienniums by funding source. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - LIFE SKILLS AND TRANSITION CENTER. During the 2015-16 interim, the legislative management shall consider studying the use of the structures and property of the life skills and transition center to determine the best and most efficient use of the properties. If conducted, the study must review the potential to transfer clients from the life skills and transition center to under-utilized facilities on the state hospital campus or to a community-based setting. The study must also review potential alternative uses of structures on the life skills and transition center campus. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 26. BEHAVIORAL HEALTH SERVICES - LEGISLATIVE MANAGEMENT REPORTS. During the 2015-16 interim, the department of human services shall present its quarterly behavioral health services reports to the legislative management.

SECTION 27. REPEAL. Section 3 of chapter 84 of the 2013 Session Laws is repealed.

SECTION 28. EFFECTIVE DATE. Section 11 of this Act becomes effective on January 1, 2016.

SECTION 29. EFFECTIVE DATE. Sections 17 and 18 of this Act become effective on the effective date of the centers for medicare and medicaid services' certification that the department's eligibility system has met the seven conditions and standards for the receipt of enhanced match.

SECTION 30. EMERGENCY. The medical assistance-grants line item in subdivision 2 of section 1 and sections 9 and 21 of this Act are declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2012 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 42 Nays 4 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 79 Nays 11 Absent 4

Speaker of the House

Chief Clerk of the House

Received by the Governor at 8.55 A.M. on April 28, 2015.

Approved at 3:50 P.M. on May 12, 2015.

Governor

Filed in this office this 13th day of May, 2015,

at 918 o'clock A M.

Secretary of State