

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1012

In lieu of the amendments adopted by the Senate as printed on page _____ of the Senate Journal, Engrossed House Bill No. 1012 is amended as follows:

Page 1, line 3, replace "section 50-24.1-37" with "subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1"

Page 1, remove line 4

Page 1, line 5, replace "the Medicaid expansion program" with "the moratorium on basic care and nursing facility bed capacity"

Page 1, line 6, replace "a report" with "for reports"

Page 1, line 7, remove "to provide a"

Page 1, line 8, remove "contingent effective date;"

Page 1, remove lines 20 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$28,049,386	\$144,142	\$28,193,528
Operating expenses	87,542,966	73,025,478	160,568,444
Capital assets	26,000	(26,000)	0
Grants	0	204,000	204,000
Total all funds	\$115,618,352	\$73,347,620	\$188,965,972
Less estimated income	71,324,758	59,038,552	130,363,310
Total general fund	\$44,293,594	\$14,309,068	\$58,602,662"

Page 2, replace lines 6 through 13 with:

"Salaries and wages	\$58,102,898	\$3,618,130	\$61,721,028
Operating expenses	107,383,843	17,540,098	124,923,941
Capital assets	0	10,000	10,000
Grants	457,953,280	7,106,488	465,059,768
Grants - medical assistance	2,384,560,568	(426,491,266)	1,958,069,302
Total all funds	\$3,008,000,589	(\$398,216,550)	\$2,609,784,039
Less estimated income	1,995,024,801	(445,431,810)	1,549,592,991
Total general fund	\$1,012,975,788	\$47,215,260	\$1,060,191,048"

Page 2, replace lines 18 through 22 with:

"Human service centers	\$198,888,443	(\$1,791,587)	\$197,096,856
Institutions	139,587,498	1,167,951	140,755,449
Total all funds	\$338,475,941	(\$623,636)	\$337,852,305
Less estimated income	132,820,302	6,293,949	139,114,251
Total general fund	\$205,655,639	(\$6,917,585)	\$198,738,054"

Page 2, replace lines 27 through 30 with:

"Grand total general fund	\$1,262,925,021	\$54,606,743	\$1,317,531,764
Grand total special funds	2,199,169,861	(380,099,309)	1,819,070,552

Grand total all funds	\$3,462,094,882	(\$325,492,566)	\$3,136,602,316
Full-time equivalent positions	2,211.08	(45.85)	2,165.23"

Page 3, line 2, replace "\$6,376,445" with "\$5,914,453"

Page 3, line 2, replace "\$5,350,004" with "\$4,962,381"

Page 3, line 3, replace "\$1,249" with "\$1,241"

Page 4, line 29, replace "\$16,000,000" with "\$37,779,159"

Page 5, line 9, replace "**AND**" with a boldfaced comma

Page 5, line 10, after "**MARGINS**" insert ", **AND INCENTIVES**"

Page 5, line 11, replace "\$329,636" with "\$417,010"

Page 5, line 12, replace "\$329,636" with "\$417,010"

Page 5, line 14, replace "and" with a comma

Page 5, line 14, after "margins" insert ", and incentives"

Page 5, after line 15, insert:

"SECTION 12. APPROPRIATION - 2015-17 BIENNIUM - SUBSTANCE USE DISORDER VOUCHER PROGRAM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of the substance use disorder voucher program, for the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 13. LEGISLATIVE INTENT - RESTORATION FUNDING FOR BASIC CARE. It is the intent of the sixty-fifth legislative assembly that the funding appropriated to the department of human services for the restoration of basic care provider rates be prioritized in the following order:

1. Operating margin;
2. Medical leave days; and then
3. Increase to limits."

Page 5, after line 27, insert:

"SECTION 15. LEGISLATIVE INTENT - CARE COORDINATION AGREEMENTS. It is the intent of the sixty-fifth legislative assembly that the department of human services establish requisite agreements with tribal health care organizations that will result in one hundred percent federal funding for eligible medical assistance provided to American Indians through care coordination agreements for the biennium beginning July 1, 2017, and ending July 30, 2019."

Page 5, line 28, remove "**TRAUMATIC**"

Page 5, line 30, replace "apply for a" with "include services for individuals with a brain injury as part of the comprehensive assessment for a Medicaid "

Page 5, line 30, remove "for traumatic brain injury services"

Page 6, line 1, remove "an"

Page 6, line 1, remove "0.5 full-time equivalent position and"

Page 6, line 2, replace "this purpose" with "enhancing services through a Medicaid 1915(i) state plan amendment for individuals with a brain injury for the biennium beginning July 1, 2017, and ending June 30, 2019"

Page 6, after line 8, insert:

"SECTION 18. STAFF OVERTIME FUNDING - UNSPENT APPROPRIATION AUTHORITY. The appropriations in section 1 of this Act, include \$1,832,267, of which \$1,082,857 is from the general fund, for compliance with state and federal laws and regulations relating to staff overtime. Any funding not needed specifically for complying with state or federal overtime regulations may not be spent and must be included in the department's unspent appropriation authority canceled pursuant to section 54-44.1-11, at the end of the 2017-19 biennium."

Page 7, after line 4, insert:

"SECTION 23. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES - VARIANCE. It is the intent of the sixty-fifth legislative assembly that during the 2017-19 biennium, the department of human services may authorize a treatment or care center's variance request relating to the treatment or care center's bedrooms or bathrooms, if the department determines the variance does not pose a health or safety risk. It is also the intent that the department of human services adopt rules to establish a variance process that allows the department to grant a variance if the variance will not pose a danger to the health or safety of an individual served by the treatment or care center.

SECTION 24. LEGISLATIVE INTENT - PROCESS AND OUTCOME MEASURES. It is the intent of the sixty-fifth legislative assembly that behavioral health service providers that receive funding from the department of human services submit process and outcome measures to the department for programs and services supported by state funding.

SECTION 25. LEGISLATIVE INTENT - TELEPHONE SUPPORT AND DIRECTORY SERVICES. It is the intent of the sixty-fifth legislative assembly that the vendor of telephone and directory services, under contract with the department of human services, include private behavioral health service providers in the vendor's directory at no cost to the private behavioral health service providers.

SECTION 26. REPORTING REQUIREMENTS - YOUTH ACCESS TO TOBACCO. The operating expenses line item in subdivision 2 of section 1 of this Act includes \$75,000 from the tobacco prevention and control trust fund for costs of complying with youth access to tobacco reporting requirements under title 45, Code of Federal Regulations, part 96, section 130, for the biennium beginning July 1, 2017, and ending June 30, 2019. The state department of health and local public health units shall collect and disclose all required data reporting elements to the department of human services.

SECTION 27. LEGISLATIVE INTENT - FULL-TIME EQUIVALENT POSITIONS. It is the intent of the sixty-fifth legislative assembly that, based on staffing needs, the department of human services transfer full-time equivalent positions as necessary among the department's programs.

SECTION 28. 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 of human services may utilize other providers for substance use disorder 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, 2017, and ending June 30, 2019.

SECTION 29. LEGISLATIVE INTENT - OPERATING EXPENSES. It is the intent of the sixty-fifth legislative assembly that the department of human services analyze its budgetary needs and allocate up to \$1,102,618 from the general fund included in the operating expenses line item in subdivision 1 of section 1 of this Act to other subdivisions within section 1 of this Act based on the department's priorities resulting from its analysis."

Page 7, line 5, replace "**LEGISLATIVE MANAGEMENT**" with "**DEPARTMENT OF HUMAN SERVICES**"

Page 7, line 6, after "**PROGRAMS**" insert "**- REPORTS TO LEGISLATIVE MANAGEMENT**"

Page 7, line 7, replace "legislative management" with "department of human services"

Page 7, line 7, replace "consider studying" with "study"

Page 7, remove lines 19 through 22

Page 7, line 23, replace "legislative management" with "department of human services"

Page 7, line 23, after "shall" insert "provide periodic updates and"

Page 7, line 24, remove "sixty-sixth"

Page 7, line 25, replace "legislative assembly" with "legislative management"

Page 7, after line 25, insert:

"SECTION 31. LEGISLATIVE MANAGEMENT STUDY - HOME- AND COMMUNITY-BASED SERVICES. During the 2017-18 interim, the legislative management shall consider studying the quality and availability of home- and community-based services for individuals across the state who have developmental disabilities. The study must identify whether there are gaps in service and make recommendations to address identified gaps. The study also must include an evaluation of the funding, mission, and caseload at the life skills and transition center, including the center's transition plan and the number of clients determined eligible for community placement. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 32. LEGISLATIVE MANAGEMENT STUDY OF STATE HOSPITAL LAND. During the 2017-18 interim, the legislative management shall consider studying the use of land at the state hospital to determine the most effective and efficient use of the land. The study must include the feasibility and desirability of selling land owned by the state hospital. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly.

SECTION 33. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES. During the 2017-18 interim, the legislative management shall consider studying state and federal laws and regulations relating to the care and treatment of individuals with developmental disabilities or behavioral health needs. The study must include a review of the following:

1. The state's services and delivery systems, including whether changes are necessary to maintain compliance with state and federal laws and regulations;
2. Efforts by other states to comply with the 1999 Olmstead v. L.C. case, including the planning and implementation process for any new programs;
3. Community- and non-community-based services, including the costs and effectiveness of services;
4. Noncompliance with state and federal laws and regulations, including a review of the fees and penalties for noncompliance;
5. A comparison of voluntary and involuntary compliance with state and federal laws and regulations, including a review of long-term costs and effectiveness;
6. The impact of implementation and expansion of selected programs that were added to address unmet needs, including the impact on costs and effectiveness of new programs;
7. Needed changes to address noncompliance and a timeline for completing changes; and
8. Data on the number of individuals that would be impacted by voluntary compliance efforts, and data on the type of services that may need changing, including housing, peer counseling, outpatient treatment, crisis line access, and transportation services.

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

SECTION 34. AMENDMENT. Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2015~~2017, and July 31, ~~2017~~2019, except when:
 - a. A nursing facility converts nursing facility beds to basic care;
 - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic

care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or

- d. The state department of health and the department of human services grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.

SECTION 35. AMENDMENT. Subsection 1 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2015~~2017, and July 31, ~~2017~~2019. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than one time in a twelve-month period."

Page 7, remove lines 26 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 19

Page 9, line 20, after the second comma insert "12,"

Page 9, line 20, replace "15" with "19"

ReNUMBER accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1012 - Summary of Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
DHS - Management				
Total all funds	\$115,618,352	\$183,107,141	\$5,858,831	\$188,965,972
Less estimated income	71,324,758	128,092,518	2,270,792	130,363,310
General fund	\$44,293,594	\$55,014,623	\$3,588,039	\$58,602,662
DHS - Program/Policy				
Total all funds	\$3,008,000,589	\$3,003,441,602	(\$393,657,563)	\$2,609,784,039
Less estimated income	1,995,024,801	1,904,175,061	(354,582,070)	1,549,592,991
General fund	\$1,012,975,788	\$1,099,266,541	(\$39,075,493)	\$1,060,191,048
DHS - Field Services				
Total all funds	\$338,475,941	\$335,651,282	\$2,201,023	\$337,852,305
Less estimated income	132,820,302	138,122,012	992,239	139,114,251
General fund	\$205,655,639	\$197,529,270	\$1,208,784	\$198,738,054
Bill total				

Total all funds	\$3,462,094,882	\$3,522,200,025	(\$385,597,709)	\$3,136,602,316
Less estimated income	2,199,169,861	2,170,389,591	(351,319,039)	1,819,070,552
General fund	\$1,262,925,021	\$1,351,810,434	(\$34,278,670)	\$1,317,531,764

House Bill No. 1012 - DHS - Management - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$28,049,386	\$23,437,315	\$4,756,213	\$28,193,528
Operating expenses	87,542,966	159,465,826	1,102,618	160,568,444
Capital assets	26,000			
Grants		204,000		204,000
Total all funds	\$115,618,352	\$183,107,141	\$5,858,831	\$188,965,972
Less estimated income	71,324,758	128,092,518	2,270,792	130,363,310
General fund	\$44,293,594	\$55,014,623	\$3,588,039	\$58,602,662
FTE	147.10	122.45	28.00	150.45

Department No. 326 - DHS - Management - Detail of Senate Changes

	Management ¹	Total Senate Changes
Salaries and wages	\$4,756,213	\$4,756,213
Operating expenses	1,102,618	1,102,618
Capital assets		
Grants		
Total all funds	\$5,858,831	\$5,858,831
Less estimated income	2,270,792	2,270,792
General fund	\$3,588,039	\$3,588,039
FTE	28.00	28.00

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Management - Senate Changes:

	FTE Positions	General Fund	Other Funds	Total
2017-19 Ongoing Funding Changes				
Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month		(\$26,664)	(\$12,933)	(\$39,597)
Adds funding for paying employees' accumulated annual and sick leave for eligible employees leaving state service		84,610	43,811	128,421
Adds funding for staff overtime		234,364	112,189	346,553
Adds funding for departmentwide operating expenses		1,102,618	0	1,102,618
Restores departmentwide FTE positions	28.00	2,193,111	2,127,725	4,320,836
Total changes - Management	28.00	\$3,588,039	\$2,270,792	\$5,858,831

House Bill No. 1012 - DHS - Program/Policy - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$58,102,898	\$60,987,433	\$733,595	\$61,721,028
Operating expenses	107,383,843	124,591,049	332,892	124,923,941
Capital assets		10,000		10,000
Grants	457,953,280	463,874,768	1,185,000	465,059,768
Grants - Medical assistance	2,384,560,568	2,353,978,352	(395,909,050)	1,958,069,302
Total all funds	\$3,008,000,589	\$3,003,441,602	(\$393,657,563)	\$2,609,784,039
Less estimated income	1,995,024,801	1,904,175,061	(354,582,070)	1,549,592,991
General fund	\$1,012,975,788	\$1,099,266,541	(\$39,075,493)	\$1,060,191,048
FTE	348.50	358.50	1.00	359.50

Department No. 328 - DHS - Program/Policy - Detail of Senate Changes

	Program and Policy ¹	Total Senate Changes
Salaries and wages	\$733,595	\$733,595
Operating expenses	332,892	332,892
Capital assets		
Grants	1,185,000	1,185,000
Grants - Medical assistance	(395,909,050)	(395,909,050)
Total all funds	(\$393,657,563)	(\$393,657,563)
Less estimated income	(354,582,070)	(354,582,070)
General fund	(\$39,075,493)	(\$39,075,493)
FTE	1.00	1.00

1

Program and Policy - Senate Changes:

	FTE Positions	General Fund	Other Funds	Total
2017-19 Ongoing Funding Changes				
Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month		(\$43,940)	(\$32,239)	(\$76,179)
Adds funding for paying employees' accumulated annual and sick leave for eligible employees leaving state service		169,458	340,113	509,571
Adds funding for staff overtime		37,447	66,675	104,122
Economic Assistance				
Moves funding added by the House for alternatives to abortion services from children and family services		0	100,000	100,000
Medical Services				
Adds funding from the tobacco prevention and control trust fund to replace general fund support of health services		(21,000,000)	21,000,000	0
Adds funding of \$704,159 from the tobacco prevention and control trust fund and related federal funds for opioid treatment		0	1,408,318	1,408,318
Adds funding for physical, occupational, and speech therapy service provider rate increases to 75 percent		56,485	56,485	112,970
Removes funding for Medicaid Expansion		(30,145,910)	(387,115,384)	(417,261,294)
Long-Term Care				
Adjusts funding for nursing home incentives		1,152,003	1,152,003	2,304,006
Adds funding for the Fair Labor Standards Act - Home Care Rule funding for qualified service providers		2,871,613	1,937,248	4,808,861
Children and Family Services				
Moves funding added by the House for alternatives to abortion services from children and family services		0	(100,000)	(100,000)
Behavioral Health Division				
Restores funding for Parent's LEAD program		231,000	0	231,000
Adds funding for the substance use disorder voucher program to provide a total of \$1.5 million		1,125,000	0	1,125,000
Adds funding from the tobacco prevention and control trust fund for tobacco prevention related activities		0	75,000	75,000
Developmental Disabilities				
Adds funding for rate adjustments		6,109,044	6,109,045	12,218,089
Adds funding for specialized services for individuals with developmental disability	1.00	250,307	260,666	510,973
Adds federal funding for the Experienced Parent program to provide a total of \$260,000		0	160,000	160,000
Adds funding for corporate guardianship services for individuals with developmental disabilities		112,000	0	112,000
Total changes - Program and policy	1.00	(\$39,075,493)	(\$354,582,070)	(\$393,657,563)

House Bill No. 1012 - DHS - Field Services - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Human service centers	\$198,888,443	\$195,804,854	\$1,292,002	\$197,096,856
Institutions	139,587,498	139,846,428	909,021	140,755,449
Total all funds	\$338,475,941	\$335,651,282	\$2,201,023	\$337,852,305
Less estimated income	132,820,302	138,122,012	992,239	139,114,251
General fund	\$205,655,639	\$197,529,270	\$1,208,784	\$198,738,054
FTE	1715.48	1655.28	0.00	1655.28

Department No. 349 - DHS - Field Services - Detail of Senate Changes

	Field Services ¹	Total Senate Changes
Human service centers	\$1,292,002	\$1,292,002
Institutions	909,021	909,021
Total all funds	\$2,201,023	\$2,201,023
Less estimated income	992,239	992,239
General fund	\$1,208,784	\$1,208,784
FTE	0.00	0.00

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Field Services - Senate Changes:

	FTE Positions	General Fund	Other Funds	Total
2017-19 Ongoing Funding Changes				
Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month		(\$317,019)	(\$29,197)	(\$346,216)
Adds funding for paying employees' accumulated annual and sick leave for eligible employees leaving state services		714,757	450,890	1,165,647
Adds funding for staff overtime		811,046	570,546	1,381,592
Total changes - Field services	0.00	\$1,208,784	\$992,239	\$2,201,023

This amendment also:

1. Adds a section providing that funding of \$1,832,267, of which \$1,082,857 is from the general fund included in the department's budget is for compliance with state and federal laws and regulations relating to staff overtime. Any funds not needed for this purpose must be included in the department's unspent appropriation authority (turnback) at the end of the 2017-19 biennium.
2. Adds a section to allow the department discretion to allocate the 28 full-time equivalent positions restored by the Senate to appropriate department divisions.
3. Adds a section to provide a \$200,000 general fund appropriation as an emergency measure for the substance use disorder voucher program for the 2015-17 biennium.
4. Adds a section to provide a \$174,748 appropriation, of which \$87,374 is from the general fund, as an emergency measure for long-term care incentives beginning June 1, 2017.
5. Adds a section identifying \$75,000 from the tobacco prevention and control trust fund for compliance with youth access to tobacco reporting requirements under Title 45, Code of Federal Regulations, Part 96, Section 130, for the 2017-19 biennium. In addition, the section requires the State Department of Health and the local public health units to collect and disclose all required data reporting elements to the Department of Human Services.
6. Adds a section of legislative intent for the Department of Human Services to establish requisite agreements with tribal health care organizations that will result in 100 percent federal funding for eligible medical assistance provided to American Indians through care coordination agreements for the biennium beginning July 1, 2017, and ending July 30, 2019.
7. Adds a section of legislative intent to provide for the Department of Human Services to analyze its budgetary needs and allocate \$1,102,618 of operating expenses added by the Senate based on the department's priorities from its analysis.
8. Adds a section to provide legislative intent relating to residential care and services for the developmentally disabled to allow the department to grant a variance of the rules to a treatment or care center for a good cause.

9. Adds a section to allow the Department of Human Services to involve other providers for substance use disorder treatment services if the current contractor is unable to provide services anticipated under the current contract for the 2017-19 biennium.
10. Adds a section of legislative intent providing that behavioral health service providers that receive funding from the Department of Human Services submit process and outcome measures for the programs and services receiving state funding.
11. Adds a section of legislative intent providing that a vendor for telephone and directory services under contract with the Department of Human Services include private behavioral health service providers in the vendor's directory at no cost to the private behavioral health service providers.
12. Amends section 13 of House Bill No. 1012 relating to brain injury to provide legislative intent that the Department of Human Services include services for individuals with a brain injury as part of the comprehensive assessment for a Medicaid 1915(i) state plan amendment. This section also allows the department to utilize existing funding available in the department's budget for enhancing services through a Medicaid 1915(i) state plan amendment for individuals with a brain injury.
13. Provides for the department to study options to operate the state medical assistance program and other related programs, as managed care.
14. Adds a section of legislative intent providing for prioritization of basic care provider rates.
15. Adds sections to continue the moratoriums on basic care and nursing facility bed capacity.
16. Adds a section to provide for a Legislative Management study relating to home- and community-based services.
17. Adds a section to provide for a Legislative Management study relating to land owned by the State Hospital.
18. Adds a section to provide for a Legislative Management study relating to behavioral health and developmental disabilities services.