

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; and to provide for a report to the budget section.

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

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
17 Adult services	\$205,626,019	\$16,710,273	\$222,336,292
18 Youth services	30,654,707	642,028	31,296,735
19 Total all funds	\$236,280,726	\$17,352,301	\$253,633,027
20 Less estimated income	33,236,706	5,038,348	38,275,054
21 Total general fund	\$203,044,020	\$12,313,953	\$215,357,973
22 Full-time equivalent positions	836.29	11.00	847.29
23 <u>Adult services</u>	<u>\$205,626,019</u>	<u>\$16,734,336</u>	<u>\$222,360,355</u>
24 <u>Youth services</u>	<u>30,654,707</u>	<u>(171,110)</u>	<u>30,483,597</u>

1	Total all funds	\$236,280,726	\$16,563,226	\$252,843,952
2	Less estimated income	33,236,706	5,527,454	38,764,160
3	Total general fund	\$203,044,020	\$11,035,772	\$214,079,792
4	Full-time equivalent positions	836.29	7.00	843.29

SECTION 2. HEALTH INSURANCE INCREASE. The appropriation in section 1 of this Act includes the sum of \$2,150,275, of which \$2,010,808 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:

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