

**Department of Human Services
Budget 325**

Senate Bill Nos. 2012, 2015, 2024, 2057, 2163, 2298; House Bill Nos. 1152, 1199, 1325, 1475

	FTE Positions	General Fund	Other Funds	Total
2011-13 legislative appropriation	2,197.35	\$940,976,017 ¹	\$1,707,572,238	\$2,648,548,255
2009-11 legislative appropriation	<u>2,216.88</u>	<u>652,145,814</u>	<u>1,638,250,137</u>	<u>2,290,395,951</u>
2011-13 appropriation increase (decrease) to 2009-11 appropriation	(19.53)	\$288,830,203	\$69,322,101	\$358,152,304

¹This amount includes \$13,788,095 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$927,187,922.

Item Description

One-time funding - In Section 2 of 2011 Senate Bill No. 2012, the Legislative Assembly identified \$2,719,175 of one-time funding, of which \$1.8 million is from the general fund and \$919,175 is from special funds. The \$1.8 million from the general fund is for capital projects at the State Hospital, and the special funds of \$919,175 consists of \$519,175 of federal fiscal stimulus funds for completion of vocational rehabilitation training and \$400,000 of funding from the health care trust fund for supplemental payments to entities associated with the intergovernmental transfer payment program. The Legislative Assembly also provided one-time funding in other bills for Medicaid supplemental payments to hospitals, guardianship program enhancements, completion of the Medicaid management information system (MMIS) replacement project, computer system modifications, and completion of an eligibility systems replacement project. These items, summarized as follows, are not to be considered part of the agency's base budget for preparing the 2013-15 executive budget:

	General Fund	Special Funds	Total
State Hospital capital projects (SB 2012)	\$1,800,000		\$1,800,000
Federal fiscal stimulus funds (SB 2012)		\$519,175	519,175
Supplemental payments to entities associated with the intergovernmental transfer payment program (health care trust fund) (SB 2012)		400,000	400,000
Medicaid supplemental payments to critical access hospitals (HB 1152)	1,527,802	1,926,259	3,454,061
Guardianship program enhancements (HB 1199)	64,000		64,000
MMIS replacement project (SB 2015)	1,474,362		1,474,362

Status/Result

The following is a summary of the status of the Department of Human Service's one-time funding:

State Hospital capital projects	The department anticipates using all the funds for completing capital projects at the State Hospital.
Federal fiscal stimulus funds	See the Federal fiscal stimulus funding section below
Supplemental payments to entities associated with the intergovernmental transfer payment program	The department provided payments of \$200,000 each to the Dunseith Community Nursing Home and the Nelson County Health Systems Hospital in McVille in August 2011.
Medicaid supplemental payments to critical access hospitals	The department has received approval of a Medicaid state plan amendment to provide annual supplemental payments to critical access hospitals for inpatient services provided to Medicaid-eligible individuals. The calculation of the payment will be based on the hospital's costs for inpatient and outpatient laboratory and certified registered nurse anesthetists services provided to Medicaid-eligible individuals.
Guardianship program enhancements	The department anticipates using the funding for guardianship petitioning costs (\$40,000) and a \$500 annual payment to 16 guardians in the first year of the 2011-13 biennium and 32 guardians in the second year of the biennium (\$24,000).
MMIS replacement project	See the MMIS replacement project section below
Computer system modifications to process claims from Medicaid providers on behalf of inmates of county jails	The department is in the process of completing the computer system modifications necessary to accommodate the processing of the county jail claims. The modifications are anticipated to be completed in the summer of 2012.
Eligibility systems replacement project	See the Eligibility systems replacement project section below

Computer system modifications to process claims from Medicaid providers on behalf of inmates of county jails (SB 2024)	185,256	36,162	221,418
Eligibility systems replacement project (HB 1475)	8,736,675	33,881,250	42,617,925
Total	\$13,788,095	\$36,762,846	\$50,550,941

Federal fiscal stimulus funding - The Legislative Assembly provided for the continuation of \$519,175 of federal fiscal stimulus funding not expended in the 2009-11 biennium. The funding relates to completion of developmental disabilities (DD) training. This funding is not to be considered part of the agency's base budget for the 2013-15 biennium.

Federal medical assistance percentage (FMAP) - The Legislative Assembly anticipated the following FMAPS in developing the department's 2011-12 biennium budget:

Federal Fiscal Year	North Dakota's FMAP	North Dakota's Enhanced FMAP
2011	60.35% (fourth quarter)	69.95% (first quarter) 66.95% (second quarter) 64.95% (third quarter)
2012	55.40% (actual)	N/A
2013	55.56% (estimate)	N/A

The FMAP determines the state and federal share of Medicaid, foster care, and other program costs within the department. The Legislative Assembly provided \$104.9 million of additional general fund support as a result of North Dakota's FMAP reductions projected for the 2011-13 biennium and replaced federal fiscal stimulus funding relating to FMAP of \$66.5 million appropriated for the 2009-11 biennium with funding from the general fund.

MMIS replacement project - The Legislative Assembly in 2005 appropriated \$29,188,859, of which \$3,667,820 was state matching funds from the permanent oil tax trust fund, to the department to replace MMIS. The Legislative Assembly in 2007 provided additional funding of \$31,072,641, of which \$3,643,133 was state matching funds from the general fund, for the project. The department did not spend all of the state matching funds during the 2005-07 biennium and was authorized to continue the unspent funds into the 2007-09 biennium for the project. As a result, the department used these funds to obtain additional federal matching funds of \$2,267,871 for the project. The Legislative Assembly in 2011 provided \$1,474,362 from the general fund to complete the project. This funding represents the unspent appropriation authority from the \$3,667,820 appropriation from the permanent oil tax trust fund. The permanent oil tax trust fund was repealed at the end of the 2009-11 biennium by the Legislative

The department has expended all of the federal fiscal stimulus funding.

Actual FMAPs are:

Federal Fiscal Year	North Dakota's FMAP	North Dakota's Enhanced FMAP
2011	60.35% (fourth quarter)	69.95% (first quarter) 66.95% (second quarter) 64.95% (third quarter)
2012	55.40% (actual)	N/A
2013	52.27% (actual)	N/A

As a result of the decreased FMAP for 2013, the department anticipates needing an additional \$21.2 million of funding from the general fund for the 2011-13 biennium.

In addition, North Dakota's estimated FMAP for 2014 is 50 percent resulting in an estimated additional general fund need of \$91.5 million for the 2013-15 biennium.

In December 2011, the department and Affiliated Computer Services (ACS) finalized negotiations for past project delays through June 1, 2012, resulting in ACS agreeing to reduce its contract by \$3,500,000, of which \$404,250 is from the general fund. The negotiations also addressed the inclusion of the HIPAA 5010 transactions into the new MMIS. The compliance date for this federal requirement was January 1, 2012. The cost for this expansion of the project is \$6,606,822, of which \$763,088 is from the general fund. The department's legislative appropriation for the 2011-13 biennium includes \$6.7 million for postproduction support and licensing services from ACS for the period from June 1, 2013. With the extension of the go-live date for the project, these funds will no longer be needed for the postproduction support and licensing services. The department will be using these funds for the cost of the increase in the project's scope. The Centers for Medicare and Medicaid Services (CMS) and the project's executive steering committee as required by Executive Order 2011-20

Assembly in 2011 House Bill No. 1451. Total funding available for the project is:

	General Fund	Federal Funds	Other Funds	Total
2005-07 appropriation		\$25,521,039	\$3,667,820	\$29,188,859
2007-09 appropriation	\$3,643,133	27,429,508		31,072,641
2011-13 appropriation	1,474,362		(1,474,362)	
Additional matching funds		2,267,871		2,267,871
Total	\$5,117,495	\$55,218,418	\$2,193,458	\$62,529,371

The Legislative Assembly in 2011 also provided the following appropriations to the department relating to the new MMIS:

- \$6.7 million, of which \$1.675 million is from the general fund, for postproduction support and licensing services.
- \$1,885,744, of which \$217,803 is from the general fund, for user acceptance testing of the new system.

Eligibility systems replacement project - The Legislative Assembly during the 2011 regular legislative session provided funding of \$250,000, of which \$25,000 was from the general fund, for costs associated with planning for the replacement of the department's eligibility systems. In addition, the Legislative Assembly during the 2011 special legislative session provided one-time funding of \$42,617,925, of which \$8,736,675 was from the general fund, and 1 FTE business analyst position for completing the replacement of the department's eligibility systems.

Medical assistance - The schedule below provides a comparison of funding for medical assistance, excluding funding related to nursing facility care and other long-term care services, DD grants, and Healthy Steps. The Legislative Assembly made a number of adjustments to the funding for medical assistance grants, including:

- Removed funding included in the executive budget for the 3 percent per year inflationary increases for physicians.
- Reduced funding to reflect a decrease in projected caseload/utilization rates.
- Added one-time funding of \$200,000 from the health care trust fund for a grant to a hospital in a city that has a government nursing facility which participated in the intergovernmental transfer payment program.
- Added one-time funding for providing Medicaid supplemental payments to critical access hospitals.

	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
Total medical assistance	\$491,365,038	\$625,793,415	\$134,428,377
General fund	\$119,205,576	\$197,027,430	\$77,821,854
Federal funds	\$338,857,880	\$394,900,071	\$56,042,191

have approved the increase to the project scope and budget.

The department's 2011-13 legislative appropriation also includes funding of \$1,885,744, of which \$217,803 is from the general fund, for user acceptance testing of the new system. The department is also including these funds in the project budget to better represent overall project costs.

The department is negotiating with ACS regarding the impact of the implementation of the federal ICD-10 coding standard. The compliance date for this federal requirement is October 1, 2013.

The department anticipates the project to go-live on October 1, 2013. The following is a summary of the project budget:

	Budget	Expended Through February 2012	Remaining
General fund	\$6,098,318	\$2,915,777	\$3,182,541
Federal funds	62,730,093	37,655,995	25,074,098
Other funds	2,193,526	2,193,526	0
Total	\$71,021,937	\$42,765,298	\$28,256,639

The department filled the FTE business analyst position in March 2012 and is in the planning phase of the project.

The department anticipates spending \$572,013,685, of which \$206,681,423 is from the general fund, \$328,572,753 is from federal funds, and \$36,759,509 is from other funds, for medical assistance for the 2011-13 biennium which is \$53,779,730 less than budgeted in total funds but \$9,653,993 more in funding from the general fund. The funding sources reflect the decreased FMAP for federal fiscal year 2013. Medical assistance payments are anticipated to be more than budgeted for inpatient hospital, physician services, and dental services and less than budgeted for outpatient hospital and prescription drugs.

Community health trust fund	\$790,015	\$0	(\$790,015)
Estate collections	\$2,673,800	\$4,056,000	\$1,382,200
Retained funds	\$17,371,688	\$19,960,714	\$2,589,026
Contingent Bank of North Dakota loan proceeds	\$4,616,429	\$0	(\$4,616,429)
Other funds	\$7,849,650	\$9,849,200	\$1,999,550

Medicare Part D "clawback" payments - The Legislative Assembly appropriated \$26,307,479, of which \$25,152,575 is from the general fund and \$1,154,904 is from estate collections, for making Medicare Part D prescription drug "clawback" payments to the federal government for the estimated prescription drug costs paid by Medicare for individuals eligible for both Medicare and Medicaid.

Healthy Steps - The Legislative Assembly provided funding of \$27,524,402, of which \$8,517,391 is from the general fund and \$19,007,011 is from federal funds, for Healthy Steps (the children's health insurance program).

The Legislative Assembly made the following adjustments to funding for Healthy Steps:

- Adjusted funding to reflect a revised premium amount (final 2011-13 premium of \$272.67 per month compared to an estimated premium of \$274.03 provided for in the executive budget).
- Reduced funding to reflect a decrease in projected caseload/utilization rates.

Nursing facilities - The schedule below provides a comparison of funding for nursing facility payments under the medical assistance program. The Legislative Assembly made a number of adjustments to the funding for nursing facilities, including:

- Added \$12.8 million from the general fund for long-term care expenditures. The executive budget allowed the department to continue unspent general fund appropriations for the 2009-11 biennium and utilize the unexpended funding in the 2011-13 biennium. The Legislative Assembly removed the exemption for the carryover of general fund authority, required the department to turn back any unexpended general fund authority from the 2009-11 biennium (estimated to be \$12.8 million), and appropriated \$12.8 million from the general fund for the 2011-13 biennium.

The department is required to make "clawback" payments monthly. The department estimates "clawback" payments to total \$27,041,173, of which \$26,052,549 is from the general fund and \$988,624 is from other funds, for the 2011-13 biennium which is \$733,694 more than budgeted.

Through March 2012 expenditures for Healthy Steps totaled \$8,383,623, of which \$2,546,529 is from the general fund and \$5,837,094 is from federal funds. The department anticipates spending \$26,043,913, of which \$8,305,380 is from the general fund and \$17,738,533 is from federal funds, for Healthy Steps for the 2011-13 biennium which is \$1,480,489 less than budgeted.

The following is a summary of the number of participants in Healthy Steps compared to estimates used to determine the legislative appropriation:

	Legislative Appropriation Estimate	Actual	Increase (Decrease)
August 2011	3,976	3,783	(193)
September 2011	3,996	3,809	(187)
October 2011	4,016	3,877	(139)
November 2011	4,036	3,867	(169)
December 2011	4,056	3,821	(235)
January 2012	4,076	3,873	(203)
February 2012	4,096	3,858	(238)
March 2012	4,116	3,861	(255)

The department anticipates spending \$434,020,198, of which \$196,972,731 is from the general fund, \$236,160,324 is from federal funds, and \$887,143 is from other funds, for nursing facility payments for the 2011-13 biennium which is \$25,815,822 less than budgeted. The decrease is due to actual units of service being less than budgeted.

- Reduced funding to reflect a decrease in projected caseload/utilization rates.
- Added funding relating to changes in allowable education expenditures in nursing facility rates.
- Added one-time funding of \$200,000 from the health care trust fund for a grant to a government nursing facility which participated in the intergovernmental transfer payment program.
- Added funding for increased payments to nursing facilities due to the establishment of a bed layaway program.

	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
Total nursing facilities	\$425,861,278	\$459,836,020	\$33,974,742
General fund	\$132,415,339	\$202,407,983	\$69,992,644
Health care trust fund	\$4,124,506	\$746,786	(\$3,377,720)
Contingent Bank of North Dakota loan proceeds	\$2,801,758	\$0	(\$2,801,758)
Federal funds	\$286,519,675	\$256,475,703	(\$30,043,972)
Other funds	\$0	\$205,548	\$205,548

Long-term care bed layaway program - House Bill No. 1325 (2011) extends the moratorium on the state's licensed basic care bed capacity and the state's nursing facility bed capacity from July 31, 2011, to July 31, 2013, and creates a 24-month bed layaway program for up to 25 percent of a nursing facility's bed capacity. The bill appropriates \$1,225,979 of other funds, including \$546,786 of funding from the health care trust fund and \$679,913 of federal funds, to the department for increased payments to basic care and nursing facilities due to establishment of a bed layaway program.

DD grants - The schedule below provides a comparison of funding for DD grants. The Legislative Assembly made no adjustments to the recommended funding for DD grants; however, the Legislative Assembly provided legislative intent that the department use any anticipated unexpended appropriation authority relating to DD grants resulting from caseload or cost changes during the 2011-13 biennium for costs associated with transitioning individuals from the Developmental Center to communities during the 2011-13 biennium.

	2009-11 Biennium	2011-13 Biennium	Increase (Decrease)
Total DD grants	\$341,542,546	\$396,996,033	\$55,453,487
General fund	\$110,730,341	\$174,231,307	\$63,500,966
Contingent Bank of North Dakota loan proceeds	\$1,190,654	\$0	(\$1,190,654)
Federal funds	\$229,621,551	\$222,764,726	(\$6,856,825)

As of April 2012, six nursing facilities have utilized the program and placed 37 beds in the layaway program.

The department anticipates spending \$425,300,022, of which \$190,444,947 is from the general fund and \$234,855,075 is from federal funds for DD grants for the 2011-13 biennium which is \$28,303,989 more than budgeted. The increase is due to actual caseloads and costs being more than budgeted.

The department does not anticipate having any unexpended appropriation authorized during the 2011-13 biennium for costs associated with transitioning individuals from the Developmental Center to communities.

Dementia care services - Section 6 of 2011 Senate Bill No. 2012 provides that the department is to periodically report to the Legislative Management during the 2011-12 interim regarding the status of the dementia care services program. The reports must include information on budgeted and actual program expenditures, program services, and program outcomes.

Risk behavior prevention grants - Section 7 of 2011 Senate Bill No. 2012 provides that the department use \$250,000 of federal funding appropriated for the Mental Health and Substance Abuse Services Division for the 2011-13 biennium for providing grants to support a statewide school and community-based youth network dedicated to implementing risk behavior prevention efforts. The department is to require an entity receiving a grant to provide \$1 of matching funds for each \$1 of state funds provided.

DD service providers payment system - Senate Bill No. 2043 (2011) provides that the department, in conjunction with DD service providers, implement a prospective or related payment system with an independent rate model utilizing the supports intensity scale for DD service providers. Implementation of any system developed may not occur before implementation of the new MMIS.

Traumatic brain injury services - Senate Bill No. 2163 (2011) appropriates \$110,000 to the Department of Human Services for providing traumatic brain injury case management services in eastern North Dakota.

Grants to child care providers - The Legislative Assembly in 2011 Senate Bill No. 2057 provided \$3.1 million from the general fund for providing grants to child care providers for workforce development, quality improvement, technical assistance, and capacity building as provided for in North Dakota Century Code Section 50-11.1-14.1.

The department has entered a contract with the Alzheimer's Association Minnesota-North Dakota Chapter for provision of a dementia care services program in each area of the state served by a regional human service center. The Alzheimer's Association has hired regional care consultants to provide services in the state. The staff has been trained in all aspects of dementia and on the Mittelman service delivery intervention. From July 2011 through March 2012, the staff has worked with 502 caregivers and has provided 837 contacts for 284 individuals with dementia. In addition, the Alzheimer's Association has subcontracted with the University of North Dakota Center for Rural Health to study and report outcomes of the dementia care services program, including the estimated long-term care and health care costs avoided, and the improvement in disease management and caregiver assistance. The university reported an estimated cost avoidance of \$8,364,574 in long-term care costs between July 2011 and March 2012.

The department has entered a contract with Northern Lights Youth Services, Inc., for providing funding to support a statewide school and community-based youth network dedicated to implementing risk behavior prevention efforts. The department is providing funding to the entity to the extent the entity can provide \$1 of matching funds for each \$1 of state funds.

The department has established a steering committee consisting of representatives from all interested providers and the department to guide the development of the new payment system. The department has awarded a contract in the amount of \$445,903 to Johnston, Villegas-Grubbs and Associates, LLC., for development of the payment system and the resource allocation model connecting funding to supports intensity scale assessed needs of clients. In addition, the department awarded contracts to The Rushmore Group in the amount of \$846,000 and the American Association on Intellectual and Developmental Disabilities in the amount of \$166,664 for work with supports intensity scale assessments. The department anticipates the contract work to be complete by June 30, 2013.

The department has entered into a contract with the Head Injury Association of North Dakota for providing traumatic brain injury case management services in eastern North Dakota.

The department has entered contracts with two child care resource and referral agencies--Lakes and Prairie Community Action Partnership, Inc., and Lutheran Social Services--to provide grants to child care providers for workforce development, quality improvement, technical assistance, and capacity building.

Early childhood services - Senate Bill No. 2298 (2011) provides that the Department of Human Services establish an early childhood services inclusion support services and grant program for licensed early childhood services providers who care for children with special needs. The bill appropriates \$50,000 from the general fund to the Department of Human Services for inclusion support services and provides legislative intent that the funding source for the grant program be the funding appropriated to the Department of Commerce for the Department of Commerce's early childhood facilities program.

Pilot voucher payment program - Senate Bill No. 2326 (2011) requires the department to establish a substance abuse services pilot voucher payment program.

Sale of land - House Bill No. 1337 (2011) authorizes the department to sell land at the Developmental Center in Walsh County.

Health care reform FTE positions - The Legislative Assembly during the 2011 special legislative session added 7 new FTE positions for implementing the federal Affordable Care Act.

American health benefit exchange - In 2011 House Bill No. 1126, the Legislative Assembly provided the Insurance Commissioner authority to plan for the implementation of a health insurance exchange that meets the requirements of the federal health care reform law and any future regulations. The bill provided an appropriation of \$1 million of federal funds available under the Patient Protection and Affordable Care Act of 2010 to the Insurance Commissioner for planning costs.

The Department of Human Services has entered a contract with the North Dakota Center for Persons with Disabilities to provide early childhood support services to providers who care for children with special needs. The Department of Human Services has assisted the Department of Commerce in developing criteria for grants to early childhood service providers that care for children with disabilities or developmental delays. The Department of Commerce anticipates providing \$47,000 of these grants in the 2011-13 biennium.

Pursuant to Senate Bill No. 2326, the department is to apply for funding available through a federal Access to Recovery grant program available from the federal Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment. The center does not anticipate an Access to Recovery grant announcement for three years. The department continues to monitor the grant's potential announcement.

The department completed sale of approximately 77 acres of land at the Developmental Center to the Grafton Park Board in June 2011. The agreed-upon purchase price was \$7,705.

The following is a summary of the status of the new positions for implementing the federal Affordable Care Act:

Trainer FTE position (Information Technology Division)	Budgeted to be filled in April 2013
Attorney FTE position (Child Support Division)	Anticipated to be filled in June or July 2012
Eligibility policy FTE position (Medical Services Division)	Filled in February 2012
Program integrity FTE position (Medical Services Division)	Filled in February 2012
Nurse FTE position (Medical Services Division)	Budgeted to be filled in October 2012
Surveillance and utilization review section analyst FTE position (Medical Services Division)	Budgeted to be filled in January 2013
Administrative support FTE position (Medical Services Division)	Budgeted to be filled in January 2013

Because 2011 House Bill No. 1474, relating to the implementation of a state-operated health benefit exchange system, was not approved during the November 2011 special legislative session, the Insurance Commissioner has asked the department to request a transfer of assignment of the remainder of federal funds estimated to be \$746,340 for the health insurance exchange planning grant. As a result, the department would be authorized to use the federal funding to plan for the Medicaid eligibility component of the health benefit exchange. The department is awaiting federal approval for the transfer of the grant funds.

Vocational rehabilitation order of selection - The Department of Human Services Division of Vocational Rehabilitation through its basic support grant program assists individuals with disabilities to achieve competitive employment and increased independence through rehabilitation services. The division also provides professional consultations to assist business owners and employers in finding solutions to their disability-related issues. The basic support program receives federal funds through the United States Department of Education and Rehabilitation Services Administration and funding from the general fund. The program's funding share for the basic support grant is 78.7 percent federal funds and 21.3 percent funding from the general fund.

Regional autism spectrum disorder centers of early intervention and achievement pilot program - Senate Bill No. 2268 (2011) provides that the department may use up to \$200,000 of funding from its 2011-13 legislative appropriation to establish and operate a regional autism spectrum disorder centers of early intervention and achievement pilot program.

On March 16, 2012, the division implemented an order of selection for the basic support grant program. An order of selection results from the division not having sufficient financial resources to serve all people who are eligible for services. The current order of selection is due to increased higher education costs resulting in fewer clients being able to be served within the funding available. Order of selection uses waiting lists to manage the available financial resources. Each person applying for services will be informed about the order of selection procedures. During or shortly after the eligibility determination, individuals will be assigned an order of selection category based on the severity of their disability. Individuals with the most significant disabilities will be given priority on the waiting list. The division will serve individuals as funds become available. There are 2,558 eligible individuals currently receiving services through the basic support grant program. These individuals will not be put on a waiting list.

The department has not pursued the establishment of the regional autism spectrum disorder centers of early intervention and achievement pilot program due to not having available funds.