

PUBLIC WELFARE

CHAPTER 520

HOUSE BILL NO. 1196
 (Committee on Social Services and Veterans Affairs)
 (At the request of the Department of Human Services)

COUNTY SUPPLEMENTAL SECURITY INCOME BENEFITS

AN ACT to amend and reenact section 50-01-09.2 of the North Dakota Century Code, relating to increased state reimbursements to counties for optional supplementation of supplemental security income benefits; and to repeal chapter 522 of the 1983 Session Laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
 STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-01-09.2 of the Parent Volume for title 50 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-09.2. Reimbursement to counties by state for general assistance provided. Within the limits of legislative appropriations, the department of human services shall reimburse each county upon claim being made by the county, for one-half of the amounts expended on behalf of persons unable to provide themselves with a reasonable subsistence compatible with decency and health and who are not otherwise provided for under the laws of this state. Claim for reimbursement along with a certification of amounts paid shall be presented quarterly by the board of county commissioners to the department of human services. An amount not to exceed one-half of the sums so certified shall be paid to the county by the department of human services, except that beginning July 1, 1986, the department shall reimburse the county for sixty-five percent, and beginning July 1, 1987, the department shall reimburse the county for eighty percent of the cost of supplementary payments to or on behalf of those individuals residing in adult family care homes and custodial care homes who are in receipt of supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and who are determined by the department to need assistance to enable them to meet the reasonable costs of custodial care in those homes, upon the audit and approval of the claim in the manner provided by law.

SECTION 2. REPEAL. Chapter 522 of the 1983 Session Laws is hereby repealed.

Approved April 15, 1985

CHAPTER 521

HOUSE BILL NO. 1166
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

HUMAN SERVICES DIVISIONS

AN ACT to amend and reenact sections 14-13-03, 23-16-08, 50-06-01.4, subsection 1 of section 50-19-01, sections 50-20-01, 50-20-02, and 50-20-04, and subsection 3 of section 50-25.1-02 of the North Dakota Century Code, relating to the divisions of the office of human services and the office of economic assistance and county administration of the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-13-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-13-03. Definitions. In this chapter unless the context or subject matter otherwise requires:

1. "Appropriate authority in the receiving state" as used in paragraph 1 of Article V of the compact with reference to this state means the director of the ~~social~~ children and family services division of the department of human services.
2. "Appropriate public authorities" as used in Article III of the compact with reference to this state means the ~~social~~ children and family services division of the department of human services, and the division shall receive and act with reference to notices required by Article III.

SECTION 2. AMENDMENT. Section 23-16-08 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-16-08. Offering or advertising to dispose of infants prohibited. No hospital providing maternity care shall in any way offer to dispose of any child or advertise that it will give children for adoption or hold itself out, directly or indirectly, as being able to dispose of children, however, such hospitals may inform an unmarried mother of

child placing agencies licensed by the ~~social~~ children and family services division of the department of human services.

* SECTION 3. AMENDMENT. Section 50-06-01.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-01.4. Structure of the department. The department shall include the state hospital, an office of human services, an office of economic assistance and county administration, a vocational rehabilitation division including regional vocational rehabilitation offices, administrative and fiscal support services as the executive director deems necessary, and as many other subdivisions as the executive director may deem appropriate, or as may be provided by law.

1. The office of human services shall contain the following divisions:
 - a. Developmental disabilities division.
 - b. Mental health division.
 - c. ~~Social services division,~~ including an aging services unit and a children Children and family services unit division.
 - d. ~~Vocational rehabilitation division, including regional vocational rehabilitation offices collocated with regional human service centers~~ Aging services division.
 - e. Alcoholism and drug abuse division.
 - f. Crippled children's services division.
2. The office of economic assistance and county administration shall include the following divisions:
 - a. ~~Public Economic~~ economic assistance division, including a food stamp unit, a housing assistance unit, an assistance payments unit, an energy a fuel assistance unit, and a child support enforcement unit.
 - b. Medical ~~assistanc~~ services division.

Regional supervisors of economic assistance shall be collocated with regional human service centers and shall be responsible for maintaining a close working relationship between county social service boards and regional human service centers. The executive director of the department shall be responsible for consulting with and maintaining a close working relationship with the department of health; with the director of institutions and the superintendents of the Grafton state school, the school for the deaf, and the school

* NOTE: Section 50-06-01.4 was also amended by section 11 of House Bill No. 1062, chapter 311.

for the blind to develop programs for developmentally disabled persons; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services.

SECTION 4. AMENDMENT. Subsection 1 of section 50-19-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Division" means the ~~social~~ children and family services division of the department of human services.

SECTION 5. AMENDMENT. Section 50-20-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-20-01. Births out of wedlock to be reported. All births out of wedlock in the state of North Dakota shall be reported to the ~~social~~ children and family services division of the department of human services within twenty-four hours after the birth occurs. The report shall include the date and place of birth, the sex of the child, the name of the mother, the name of the attending physician, and such other information as the division may require.

SECTION 6. AMENDMENT. Section 50-20-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-20-02. Births with congenital deformities to be reported. All births in North Dakota of children with a visible congenital deformity shall be reported to the ~~social~~ crippled children's services division within three days after such birth occurs. The report shall include the date and place of birth, the sex of the child, the names of the parents, the name of the physician or other person attending birth, a diagnosis and description of the deformity, and such other information as the division may require.

SECTION 7. AMENDMENT. Section 50-20-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-20-04. Report forms. The ~~social services division~~ department of human services shall prepare forms for reporting the information necessary to promote the best interest of a child born out of wedlock or with a congenital deformity. A supply of such forms ~~is to~~ shall be made available by the department of human services to maternity homes or hospitals and legally qualified physicians and others regularly attending births.

*** SECTION 8. AMENDMENT.** Subsection 3 of section 50-25.1-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Division" means the ~~social~~ children and family services division of the department of human services.

Approved March 14, 1985

* NOTE: Section 50-25.1-02 was also amended by section 2 of House Bill No. 1169, chapter 536.

CHAPTER 522

SENATE BILL NO. 2444
(Christensen)

NONAGENCY ADMINISTRATIVE HEARING OFFICERS

AN ACT to create and enact a new subsection to section 50-06-05.1 and a new subsection to section 54-12-01 of the North Dakota Century Code, relating to the powers and duties of the department of human services and the attorney general regarding administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-06-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

To provide an administrative appeal and hearing process for all claimants who are aggrieved by a decision of the department. Provided, however, that upon request of any claimant, the department shall refer the claimants appeal or request for administrative hearing to the attorney general for the appointment of a hearing officer who is not an employee of the department and who has not been involved in the decision from which the claimant has appealed.

SECTION 2. A new subsection to section 54-12-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

To appoint, upon request, hearing officers to conduct hearings pursuant to chapter 28-32 in those instances where a claimant requests that the hearing be conducted by an individual who is not employed by the agency which made the decision from which the claimant has appealed pursuant to section 50-06-05.1.

Approved March 27, 1985

CHAPTER 523

SENATE BILL NO. 2055
(Legislative Council)
(Interim Budget "C" Committee)

LONG-TERM CARE RENTAL EXPENSES LIMIT

AN ACT to provide for the department of human services to limit state reimbursement for rental expenses of long-term care facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Limitation on state reimbursement for rental expenses of long-term care facilities. The department of human services shall limit the reimbursement for rental expense paid by a provider of services when a provider sells its skilled nursing facility, intermediate care facility, boarding home for the aged and infirm, or other facility furnishing care to its residents, where a care rate is based, in part, upon property costs unique to that facility, to a third party who leases the facility or home back to the provider. The department's reimbursement for rental expense may not exceed the lesser of the rental expense paid by the provider or the cost of ownership of the facility or home. The cost of ownership includes depreciation, interest, real estate taxes, and other expenses properly related to the facility or home. The department of human services shall apply this limit to rates set for each facility's first fiscal year beginning on or after July 1, 1985, but shall consider, in setting such rates, all sales occurring on or after July 18, 1984.

Approved March 30, 1985

CHAPTER 524

SENATE BILL NO. 2276
(Senator Wenstrom)
(Representative Hoffner)

LONG-TERM CARE OMBUDSMEN

AN ACT to amend and reenact subsection 3 of section 50-10.1-01, sections 50-10.1-03, 50-10.1-05, 50-10.1-06, and subsection 1 of section 50-10.1-07 of the North Dakota Century Code, relating to long-term care ombudsmen.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-10.1-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Long-term care facility" means any skilled nursing facility, intermediate care facility, boarding home for the aged and infirm, nursing home as defined in subsection 3 of section 43-34-01, boardinghouse, or foster family care home for adults swing bed hospital approved to furnish long-term care services; provided, that a facility, as defined by subsection 2 of section 25-01.2-01, providing services to developmentally disabled persons is not a long-term care facility.

SECTION 2. AMENDMENT. Section 50-10.1-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-10.1-03. Duties of state long-term care ombudsman. The state long-term care ombudsman shall:

1. Investigate and resolve complaints about administrative actions that may adversely affect the health, safety, welfare, or personal or civil rights of ~~elder~~ persons in long-term care facilities.
2. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care facilities in the state.

3. Gather and disseminate information to public agencies about the problems of ~~elder~~ persons in long-term care facilities.
4. Train volunteers and assist in the development of citizen organizations to participate in the ombudsman programs.
5. Report to any state agency those factors found by the state long-term care ombudsman to relate to those duties of that agency which impact on the care given to residents of a long-term care facility in this state.
6. Act as an advocate for ~~aged~~ residents of long-term care facilities.
7. Carry out any activities consistent with the requirements of this chapter, including the delegation to regional or volunteer community long-term care ombudsmen of any duties imposed by this chapter, which the executive director of the department deems appropriate.
8. Adopt rules in accordance with chapter 28-32 consistent with and necessary for the implementation and enforcement of this chapter.

SECTION 3. AMENDMENT. Section 50-10.1-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-10.1-05. Chapter to be posted - Retaliation prohibited. A copy of this chapter shall be posted in a conspicuous place in each long-term care facility, along with a statement of the right to file a complaint concerning administrative actions which affect any resident and the address where a complaint may be filed. Each resident, the spouse of each resident having a spouse, and any legally appointed designated representative of a resident shall be provided with copies of the posted documents at the time the resident is admitted to the long-term care facility. However, each person who is a resident on July 1, 1983, the spouse of each resident having a spouse, and any legally appointed designated representative of a resident shall be provided with copies of the posted documents at that time. A long-term care facility, and its agents, may not take or threaten retaliatory action against a resident, employee, or any other person on account of the filing of a complaint by or on behalf of that resident, or on account of the providing of information to a long-term care ombudsman constituting or relating to a complaint.

SECTION 4. AMENDMENT. Section 50-10.1-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-10.1-06. Establishment of reporting system. The department shall establish a statewide uniform reporting system to collect and

analyze information on complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The department shall submit this information to the appropriate state agency which is responsible for the licensing or certification of the long-term care facility involved and to the appropriate federal agency. Each state agency responsible for licensing or certification of long-term care facilities shall coordinate its activities with the statewide uniform reporting system by submitting to the department in a timely manner all complaints and information it receives on conditions that adversely affect the health, safety, welfare, or personal or civil rights of residents; provided, that the information is not privileged under the law.

SECTION 5. AMENDMENT. Subsection 1 of section 50-10.1-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A resident, or a legal representative guardian or attorney-in-fact, consents in writing to the release of the information and designates to whom the information shall be disclosed;

Approved March 22, 1985

CHAPTER 525

HOUSE BILL NO. 1170
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

FOSTER FAMILY CARE HOMES FOR ADULTS

AN ACT to amend and reenact sections 50-11-06.1 and 50-11-06.3 of the North Dakota Century Code, relating to the definition of foster family care home for adults and the requirement that such homes be licensed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-06.1. Foster family care home for adults defined. As used in this chapter, the term foster family care home for adults shall mean any home means a licensed occupied private residence in which four or less fewer adults, who are eligible for or receiving public assistance and not related by blood or marriage to the licensee of said home, are received, kept, and provided with food, shelter, and care for hire or compensation.

SECTION 2. AMENDMENT. Section 50-11-06.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-06.3. License required - Term - Revocation. No person shall keep, operate, conduct, or manage a foster family care home for adults as defined in this chapter; No person shall provide food, shelter, and care for adults in a private residence without holding a valid license issued by the department of human services as herein provided unless care is provided to only one person or to only two persons who are related to each other. The license shall not be valid for more than one year. Any license may be revoked by the department for violation of the provisions of this chapter and the rules which may be prescribed by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for, promote or authorize payment for, care provided in a foster family care home for adults which does not have a valid license issued by the department.

Approved March 31, 1985

CHAPTER 526

HOUSE BILL NO. 1293
 (Representatives Nalewaja, DeMers, Haugland)
 (Senators Mushik, Todd)

EARLY CHILDHOOD FACILITY LICENSURE

AN ACT to amend and reenact sections 50-11.1-01, 50-11.1-02, 50-11.1-02.1, 50-11.1-03, 50-11.1-04, 50-11.1-06.1, 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3, 50-11.1-07.4, 50-11.1-07.5, 50-11.1-07.7, 50-11.1-08, 50-11.1-09, 50-11.1-11, and 50-11.1-12 of the North Dakota Century Code, relating to early childhood services, license requirements for early childhood facilities, and penalties; to repeal section 50-11.1-04.1 of the North Dakota Century Code, relating to applications for child care certificates and licenses; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
 STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-01. Purpose. The purpose of this chapter is to assure that children receiving supplemental parental care early childhood services be provided food, shelter, safety, comfort, supervision, and learning experiences commensurate to their age and capabilities, so as to safeguard the health, safety, and development of those children.

SECTION 2. AMENDMENT. Section 50-11.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-02. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Child care center" means a child care an early childhood facility where supplemental parental care is regularly early childhood services are provided to nineteen or more children.

2. "Child care facility" means any facility where supplemental parental care is regularly provided, whether the facility is known as a day care home, day care center, day nursery, nursery school, kindergarten, child play school, progressive school, child development center, preschool or known by any other name.
3. "County agency" means the county social service board in each of the counties of the state.
- 4- 3. "Department" means the department of human services.
4. "Early childhood facility" means any facility where early childhood services are provided, whether the facility is known as a child care center, day care home, day care center, day nursery, family child care home, group child care home, preschool educational facility nursery school, kindergarten, child play school, progressive school, child development center, preschool or known by any other name.
5. "Early childhood services" means the care, supervision, education, or guidance of a child or children, unaccompanied by the child's parent, guardian, or custodian, which is provided in exchange for money, goods, or other services and is, or is anticipated to be, ongoing for periods of two or more hours per day for a part of three or more days per week. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15-45 or a nonpublic elementary school program approved pursuant to subsection 1 of section 15-34.1-03.
 - d. Child care provided to preschool age handicapped children in any educational facility through a program approved by the superintendent of public instruction.
 - e. Child care provided in facilities operated in connection with a church, shopping center, business, or other establishment where children are cared for during periods of time not exceeding four continuous hours while the child's parent, guardian, or custodian is attending church services, shopping, or engaged in other activities, other than employment, on or near the premises.

- f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism or other classes for religious instruction.
- g. Summer resident or day camps for children which serve no preschool age children for more than two weeks.
- h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
- i. Headstart programs that are federally funded and meet federal headstart standards.
6. "Family child care home" means an occupied private residence in which supplemental parental care is regularly early childhood services are provided for no more than seven children from more than one family or no more than four children ages two and under at any one time.
- 6- 7. "Group child care home" or "group child care facility" means a child care facility where supplemental care is regularly early childhood services are provided for eight to through eighteen children or a facility, other than an occupied private residence, which serves fewer than eight children.
- 7- 8. "In-home provider" means any person who provides supplemental parental care early childhood services to children in the children's home.
- 8- 9. "License" means the right, authority, or permission granted by the department to operate a family child care home, group child care facility or, child care center, or the right, authority, or permission, granted by the department, to hold out a family child care home as inspected and approved by the department, or preschool educational facility.
10. "Multiple licensed facility" means an early childhood facility that provides more than one type of early childhood services.
11. "Preschool educational facility" means a facility that offers early childhood services and follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled in the facility and that serves no child for more than three hours per day.
- 9- 12. "Registrant" means the holder of a registration certificate document issued by the department in accordance with the provisions of this chapter.

- ~~10-~~ 13. "Registration" means the process whereby the board department maintains a record of all in-home providers who have certified stated that they have complied or will comply with the prescribed standards and promulgated regulations adopted rules.
- ~~11-~~ 14. "Registration certificate document" is a written instrument issued by the department to publicly document that the certificate holder registrant has certified compliance complied with this chapter and the applicable regulations rules and standards as prescribed by the department.
12. "Supplemental parental care" means the care, supervision, education, or guidance of a child or children, unaccompanied by the child's parent, guardian, or custodian, which is, or is anticipated to be, ongoing for periods of four or more hours per day or for three or more days per week. Supplemental parental care shall not include-
- a- Substitute parental child care provided pursuant to chapter 50-11.
 - b- Child care provided in any educational facility, whether public or private, in grade one or above.
 - c- Child care provided in a kindergarten which has been established pursuant to chapter 15-45.
 - d- Child care provided to preschool age handicapped children in any educational facility through a program approved by the superintendent of public instruction.
 - e- Child care provided in facilities operated in connection with a church, shopping center, business, or other establishment where children are cared for during periods of time not exceeding four continuous hours while the child's parent, guardian, or custodian is attending church services, shopping, or engaged in other activities, other than employment, on or near the premises.
 - f- Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism or other classes for religious instruction.
 - g- Summer resident or day camps for children.
 - h- Child care provided in a preschool educational facility which offers and follows a curriculum and course of study designed primarily to enhance the educational development of the children in care.

employs a supervising instructor who possesses at least a bachelor's degree or a teaching certificate, complies with fire safety standards applicable to educational or school facilities for elementary or younger students, which serves no child for more than four hours per day, and which has a governing body or advisory committee, consisting of at least five members, which meets at least quarterly and which includes a majority of parents who have children in care-

- i- Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult-

SECTION 3. AMENDMENT. Section 50-11.1-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-02.1. Number of children in care program - How determined. For the purpose of determining the number of children in a child care an early childhood facility, all children of the operator or employees, present in the facility and under the age of fourteen twelve years, shall be counted except for purposes of determining fire, safety, or zoning requirements.

SECTION 4. AMENDMENT. Section 50-11.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-03. Operation of family child care home, group child care facilities facility, preschool educational facility, and child care centers center - License required - Fees.

1. A license for a family child care home is required if early childhood services are provided for four or more children ages twenty-four months and under or six or more children at any one time. Those persons not required by this subsection to hold a family child care license may voluntarily apply for and receive such a license.
2. No person, partnership, firm, corporation, association, or nongovernmental organization shall may establish or operate a group child care facility, preschool educational facility, or child care center unless licensed to do so by the department. No governmental organization shall may establish or operate a group child care facility, preschool educational facility, or child care center without first certifying, to the department, that it has complied with all rules and regulations applicable to group child care facilities, preschool educational facilities, or child care centers.

3. An applicant for a license must submit the following nonrefundable fees with the application:
- a. The operator of a family child care home applying for a license shall pay an annual license fee of twenty dollars or if the license is issued for a two-year period, a fee of thirty-five dollars.
 - b. The operator of a group child care home applying for a license shall pay an annual license fee of twenty-five dollars or if the license is issued for a two-year period, a fee of forty-five dollars.
 - c. The operator of a preschool educational facility applying for a license shall pay an annual license fee of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five dollars.
 - d. The operator of a child care center applying for a license shall pay an annual license fee of forty dollars or if the license is issued for a two-year period, a fee of seventy-five dollars.
 - e. The operator of a multiple licensed facility applying for a license shall pay an annual license fee of fifty dollars or if the license is issued for a two-year period, a fee of ninety-five dollars.
4. In addition to any criminal sanctions or other civil penalties which may be imposed pursuant to law, the operator of an early childhood facility who, after being given written notice by a representative of the department, continues to provide early childhood services without a license as required by this section is subject to a civil penalty of fifty dollars per day for each day of operation without such license. The civil penalty may be imposed by the courts or by the department through an administrative hearing pursuant to chapter 28-32.

* SECTION 5. AMENDMENT. Section 50-11.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term. Applications for ~~child care~~ early childhood facility licenses ~~shall~~ must be made on forms provided, in the manner prescribed, by the department. The county agency shall investigate the applicant's activities and proposed standards of care and shall make an inspection of ~~the facility~~ all facilities applying for a license. A The applicant for a license and the applicant's employees, and if the license is for an occupied private residence every person living or working in that residence, may be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a

* NOTE: Section 50-11.1-04 was also amended by section 1 of House Bill No. 1354, chapter 530.

finding of probable cause for child abuse or neglect filed against them. Except as otherwise provided, the department shall grant a license for the operation of a child care an early childhood facility or child care center shall be granted by the department upon a showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide for the health and safety for all children who may be received;
2. The persons in charge of the facility and their assistants are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules and regulations of the department;
3. The facility will be maintained according to the standards prescribed for its conduct by the rules and regulations of the department; and
4. The facility has not had a previous license revoked within the one hundred eighty days prior to the date of the current application; and
5. The facility has paid its license fees and any penalties assessed against the facility as required by section 50-11.1-03.

The license issued to the operator of an early childhood facility shall be in force and effect for a period of not more than ~~one~~ two years. ~~Previously licensed facilities must make the same showing as initially licensed facilities.~~

SECTION 6. AMENDMENT. Section 50-11.1-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-06.1. Conviction not bar to licensure - Exceptions. Conviction of an offense shall not disqualify a person from licensure under this chapter unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a child care an early childhood facility or as an in-home provider, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 7. AMENDMENT. Section 50-11.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07. Investigation of applicants, licensees, and registrants - Maintenance of records - Confidentiality of records.

1. The department and the county agency at any time may investigate and inspect the conditions of the facility, the qualifications of the providers of ~~supplemental parental care~~ early childhood services in any ~~child care~~ early childhood facility, and the qualifications of any in-home provider seeking or holding a license or registration ~~certificate document~~ under the provisions of this chapter. Upon request of the department or the county agency, the state department of health or the state fire marshal, or his designee, shall inspect any facility for which a license is applied for or issued and shall report its findings to the county agency.
2. Licensees and registrants shall:
 - a. Maintain such records as the department may prescribe regarding each child in their care and control, and shall report to the department, when requested, such facts as the department may require with reference to the children upon forms furnished by the department; and
 - b. Admit for inspection authorized agents of the department or the county agency and open for examination all records, books, and reports of the home or facility.
3. All records and information maintained with respect to children receiving ~~supplemental parental care~~ early childhood services are confidential and must be properly safeguarded and shall not be disclosed except:
 - a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted boards or agencies; or
 - c. To persons having a definite interest in the well-being of the child or children concerned and who, in the judgment of the department, are in a position to serve their interests should that be necessary.

SECTION 8. AMENDMENT. Section 50-11.1-07.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.1. Notice. After each inspection or reinspection, the county agency shall, by certified mail, send copies of any correction order or notice of noncompliance, to the ~~child care~~ early childhood facility.

SECTION 9. AMENDMENT. Section 50-11.1-07.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.2. Correction orders. Whenever the county agency finds, upon inspection of a ~~child care~~ an early childhood facility, that the facility is not in compliance with the provisions of this chapter, or the rules and regulations promulgated thereunder, a correction order shall be issued to the facility. The correction order shall cite the specific statute or regulation violated, state the factual basis of the violation, state the suggested method of correction, and specify the time allowed for correction. The correction order shall also specify the amount of any fiscal sanction to be assessed if the correction order is not complied with in a timely fashion. The department shall, by rule promulgated pursuant to subsection 2 of section 50-11.1-08, establish a schedule of allowable time periods for correction of deficiencies.

SECTION 10. AMENDMENT. Section 50-11.1-07.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.3. Reinspections. A ~~child care~~ An early childhood facility issued a correction order under section 50-11.1-07.2 shall be reinspected at the end of the period allowed for correction. If, upon reinspection, it is determined that the facility has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order shall be mailed by certified mail to the facility. The notice shall specify the violations not corrected and the penalties assessed in accordance with section 50-11.1-07.5.

SECTION 11. AMENDMENT. Section 50-11.1-07.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.4. Fiscal sanctions. A ~~child care~~ An early childhood facility, if issued a notice of noncompliance with a correction order, shall be assessed fiscal sanctions in accordance with a schedule of fiscal sanctions established by rules promulgated pursuant to subsection 2 of section 50-11.1-08. The fiscal sanction shall be assessed for each day the facility remains in noncompliance after the allowable time period for the correction of deficiencies ends and shall continue until a notice of correction is received by the county agency in accordance with section 50-11.1-07.6. No fiscal sanction for a specific violation may exceed twenty-five dollars per day of noncompliance.

SECTION 12. AMENDMENT. Section 50-11.1-07.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.5. Accumulation of fiscal sanctions. A ~~child care~~ An early childhood facility shall promptly notify the county agency in writing when a violation noted in a notice of noncompliance is corrected. Upon receipt of written notice by the county agency, the daily fiscal sanction assessed for the deficiency shall stop accruing. The facility shall be reinspected within three working

days after receipt of the notification. If, upon reinspection, it is determined that a deficiency has not been corrected, the daily assessment of fiscal sanction shall resume and the amount of fiscal sanction which otherwise would have accrued during the period prior to resumption shall be added to the total assessment due from the facility. The county agency shall notify the facility of the resumption by certified mail. Recovery of the resumed fiscal sanction shall be stayed if the operator of the facility makes a written request for an administrative hearing in the manner provided in chapter 28-32; provided, that written request for the hearing is made to the department within ten days of the notice of resumption.

SECTION 13. AMENDMENT. Section 50-11.1-07.7 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-07.7. Disposition of fiscal sanctions. Any fiscal sanction which shall be is collected for any violation of this chapter or of ~~regulations promulgated thereunder~~ rules adopted pursuant to this chapter, shall be paid into the state treasury for the general fund, after the costs of recovering the fiscal sanction are deducted therefrom.

SECTION 14. AMENDMENT. Section 50-11.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-08. Minimum standards - Rules and regulations - Inspection by a governmental unit. The department may:

1. Establish reasonable minimum standards for the operation of ~~child care~~ early childhood facilities, and the registration of in-home providers. In appropriate circumstances and upon good cause shown, specific minimum standards may be substituted by alternate, equivalent standards, approved by the department.
2. Take such action and make such reasonable rules and regulations for the regulation of ~~supplemental parental care~~ early childhood services as may be necessary to carry out the purposes of this chapter and entitle the state to receive aid from the federal government.
3. Authorize a governmental unit to:
 - a. Inspect any home or facility for which a license is applied for or issued under this chapter; and
 - b. Certify to the department that the home or facility meets the requirements of this chapter and the minimum standards prescribed by the department.

SECTION 15. AMENDMENT. Section 50-11.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-09. Revocation of license or registration certificate document. The department may revoke the license of any ~~child care~~ early childhood facility, or the registration ~~certificate document~~ of any in-home provider upon proper showing of any of the following:

1. Any of the applicable conditions set forth in section 50-11.1-04 as prerequisites for the issuance of the license no longer exist.
2. The licensee or registrant is no longer in compliance with the minimum standards prescribed by the department.
3. The license or registration ~~certificate document~~ document was issued upon fraudulent or untrue representation.
4. The licensee or registrant has violated any rules ~~and regulations~~ of the department.
5. The licensee or registrant has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as a licensee or registrant.
6. The licensee has been convicted of any offense and the ~~board department~~, acting pursuant to section 12.1-33-02.1, has ~~determined~~ that he has not been sufficiently rehabilitated.

SECTION 16. AMENDMENT. Section 50-11.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-11. Public agency purchase of supplemental parental care early childhood services. No agency of state or local government ~~shall~~ may purchase ~~supplemental parental care~~ early childhood services, including care provided by or in the home of a relative, unless the ~~day care center, registered family day care home, early childhood facility or child care~~ early childhood services attendant is licensed, registered, or approved by the department.

SECTION 17. AMENDMENT. Section 50-11.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-12. Violation of chapter or regulations - Injunction. The department may seek injunctive action against a ~~child care~~ an early childhood facility in the district court through proceedings instituted by the attorney general on behalf of the department if:

1. There is a violation of this chapter or a ~~regulation promulgated rule adopted~~ thereunder;
2. A ~~child care~~ An early childhood facility, after notice and opportunity for hearing on the notice of noncompliance, or on the resumption of the fiscal sanction, or after administrative hearing confirming and upholding the fiscal sanction, does not pay a properly assessed fiscal sanction in accordance with section 50-11.1-07.6.

SECTION 18. REPEAL. Section 50-11.1-04.1 of the North Dakota Century Code is hereby repealed.

SECTION 19. CONTINUING APPROPRIATION. There is hereby appropriated on a continuing basis all fees collected under subsection 2 of section 50-11.1-03 to the counties that collected those fees. These funds must be used for the purpose of investigating the eligibility of applicants for early childhood facility licenses issued by the department of human services.

Approved April 16, 1985

CHAPTER 527

HOUSE BILL NO. 1656

(Strinden)

(Approved by the Committee on Delayed Bills)

GRAFTON STATE SCHOOL AND STATE HOSPITAL
CARE EXPENSES

AN ACT to create and enact a new section to chapter 25-02, five new sections to chapter 25-04, and a new chapter to title 50 of the North Dakota Century Code, relating to payment and waiver of payment of expenses of care and treatment for patients at the state hospital and Grafton state school and the imposition and collection of fees and expenses by the department of human services; and to repeal chapter 25-09 of the North Dakota Century Code, relating to expenses for care of patients at the state hospital and Grafton state school.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Disposition of nonresidents - Exceptions - Reciprocal agreements. If a person who has no legal residence in this state or whose residence is unknown is found to be a person requiring treatment in the state hospital, the person shall be sent to the state hospital in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of the person, and, if the residence is found to be in another state or country, the supervising department may arrange for transportation of the person to the place of legal residence or legal settlement. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of persons requiring treatment who are within one state but have legal residence or legal settlement in another state. The agreements must not contain any provision conflicting with any law of this state.

SECTION 2. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Disposition of nonresidents - Exceptions - Reciprocal agreements. If a person who has no legal residence in this state or whose residence

is unknown is found to be a person requiring care and treatment in the state school, the person shall be sent to the state school in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of the person or the person's responsible relatives, and, if the residence is found to be in another state or country, the supervising department shall arrange for transportation of the person to the place of legal residence or legal settlement unless the person can be accommodated at the state school without depriving a North Dakota resident of care and treatment at the state school and adequate costs of care are paid for within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of the nonresident. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally deficient persons who are within one state but have legal residence or legal settlement in another state. The agreements must not contain any provision conflicting with any law of this state.

SECTION 3. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Expenses chargeable against patient or patient's estate - Filing claims.
 Expenses for care and treatment of each patient over twenty-one years of age at the Grafton state school shall, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health. The supervising department shall, if possible, recover monthly from the patient or from a discharged patient expenses for care and treatment. If any patient is receiving social security benefits or is a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, such expenses are a current claim against the patient and may be recovered monthly by the supervising department except that any amount required by the payor of such benefits to be paid directly to the patient shall, upon approval of the director of institutions, be credited to the patient's personal account from any money thus received.

SECTION 4. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Nonresident patients - Nonresident patients at the Grafton state school and nonresident responsible relatives of patients are liable for the full costs of care and treatment at the state school. For the purposes of this Act:

1. "Nonresident patient at the Grafton state school" includes:
 - a. Any patient at the school who is under eighteen years old and whose responsible relative is not a bona fide resident of this state.

- b. Any Indian patients for whom the United States government has, through its statutes and regulations, a responsibility for their care.
2. "Nonresident responsible relative" includes the patient's nonresident spouse, father, or mother. It includes the bureau of Indian affairs in those cases involving Indian patients for whom the United States government has, through its statutes and regulations, a responsibility for their care.

SECTION 5. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Expenses chargeable against guardianship estate of patient - Restrictions.
The expenses incurred by the state for the care and treatment of any patient over twenty-one years of age at the Grafton state school shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of such estate would result in undue hardship to such dependents.
2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the director of institutions.
3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the state school unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.
4. No claim shall be made to recover from the estate of a former resident of the state school who has left the state school and married, and leaves a spouse or issue dependent upon such estate.

SECTION 6. A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Waiver of payment - Use of income tax data - Confidentiality - Definition.

1. The patient, former patient, personal representative, or guardian may make application to the supervising

department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state school. Such application shall be accompanied by proof of the patient's or the estate of the patient's inability to pay. Upon receipt of such application, the supervising department shall direct the county social service board of the county from which the patient was admitted to determine whether the patient, former patient, or the patient's estate is able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county social service board. The determination made by the supervising department may be appealed to the district court of the county of residence of the patient. Any patient, former patient, guardian, or personal representative who seeks relief from the payment of the cost of care and treatment by filing an application for relief of payment, shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.

2. When any official or employee of the state school who, pursuant to subsection 1, obtains income tax information or other tax information from the state tax commissioner the confidentiality of which is protected by law, such official or employee shall not divulge such information except to the extent necessary for the administration of this chapter or when otherwise directed by judicial order or when otherwise provided by law.
3. As used in this chapter, "supervising department" means the director of institutions, or the director's designee.

SECTION 7. A new chapter to title 50 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this chapter, "department" means the department of human services, including the state hospital.

Fees for services at regional centers. The department may charge and collect fees and expenses for services provided through its regional human service centers, and may authorize charging of fees for child support services. The department may establish fee scales which recognize the service recipient's or responsible relative's ability

to pay. The department shall adopt such rules as are necessary to implement this chapter and to define terms used in this chapter.

Fees and expenses chargeable against patients. Expenses for care and treatment of each patient at the state hospital must be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health. The department shall recover monthly expenses for care and treatment. The department shall not recover expenses under this chapter for care and treatment of a patient transferred to the state hospital from a jail or regional corrections center. If any patient is receiving social security benefits or is a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veteran's administration, the expenses are a current claim against the patient and may be recovered monthly by the department except that any amount required by the payor of the benefits to be paid directly to the patient shall be credited to the patient's personal account from any money thus received.

Liability for payment. The recipient, patient, recipient's or patient's estate and spouse are liable for fees and expenses for services rendered by the department, through its regional human service centers, and for care and treatment at the state hospital. The parents of a recipient or patient are liable for fees and expenses incurred prior to the eighteenth birthday of the recipient or patient.

Handicapped patients - Limitation. Notwithstanding any other provision of this chapter, no handicapped patient under twenty-one years of age or the estate or the parent of such patient may be charged for educational or related services provided at the state hospital. However, the department shall have prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workmen's compensation, or medical care and disability provisions of programs administered by the department. For the purposes of this section, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services, other than medical and medically related services, shall be paid by the state hospital, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each such agency and political subdivision shall be liable. The department of public instruction may adopt rules necessary to implement the provisions of this section.

Application for waiver of fees and expenses - Review procedure.

1. Any person liable for the expenses of care and treatment at the state hospital may make application to the department to pay less than the expenses charged. The application shall be accompanied by proof of the applicant's inability to pay. Any person who seeks relief from the payment of expenses for services provided by the state hospital shall do so with the understanding that the department may verify any statement made in such application by a request for information from financial institutions, including commercial banks. Notwithstanding the provisions of section 57-38-57, this verification may include a review of the applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota, or any of its political subdivisions.
2. Upon receipt of an application made pursuant to subsection 1, the department shall direct the county social service board of the applicant's county of residence to determine the applicant's ability to pay all, a portion, or none of the expenses charged. The department shall approve, reject, or amend the determination made by the county social service board. The determination made by the department may be appealed to the district court of the applicant's county of residence.

Claims against the estate of recipients or patients. Claims for fees and expenses charged by the state under this chapter may be filed by the department against the estate of a person liable for the fees and expenses at any time prior to the final distribution of the estate with the same priority as claims of general creditors which are filed against the estates of decedents. Any claim denied or rejected by a personal representative must clearly state, in a written notice to the department, the reason for denial or rejection. Every personal representative, upon the granting of letters of administration or testamentary, shall, at the time that publication of notice to creditors is made, forward to the department a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective county court, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. If no notice is required by the proceedings, the personal representative must forward to the department a copy of the petition or application commencing the proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate. Unless a properly filed claim of the department is paid in full, the personal representative must provide to the department a statement of assets and disbursements.

Reduction or write-off of accounts - Reports required. The department may authorize the reduction or writing off of a recipient's or patient's past due account from the department's financial records upon making a determination that the account is not collectible. The department, thirty days after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year, which report must include the following:

1. An aging by recipient classification of accounts remaining unpaid.
2. The amounts by recipient classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

Expenses chargeable against guardianship estate of patient - Restrictions.

The expenses incurred by the state for the care and treatment of any patient at the state hospital shall be charged against the guardianship estate of the patient, if the patient has an estate, subject to the following restrictions:

1. No part of the estate shall be taken if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of the estate would result in undue hardship to those dependents.
2. No real property belonging to the estate shall be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the department.
3. No personal property belonging to the estate may be sold within five years from the date upon which the patient was sent to the institution unless the property is ordered sold by the county court having jurisdiction of the estate for the reason that the property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to the provisions of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of the patient's dependents, or used to pay the costs of care and treatment of the patient.

State's attorneys or attorney general to bring action for expenses - Contract for collections.

1. Upon the request of the department to a state's attorney or the attorney general, in regard to fees and expenses charged pursuant to this chapter, the state's attorney or the attorney general shall bring an action against the person or estate liable for the fees and expenses for the payment of the amount due the state.
2. The department is permitted to contract with collection agencies for the collection of amounts due the state under this chapter.

Statute of limitations not bar to recovery. No statute of limitations or similar statute or the doctrine of laches shall bar the right of recovery for fees and expenses under this chapter, but this section does not apply to claims that may be otherwise barred by law prior to July 1, 1961. It is not necessary to bill currently any person for those accounts determined to be inactive, or currently uncollectible, or for which it has been determined as provided by law that there is no present ability to pay. Current billings shall be made for amounts chargeable by law or for which it has been determined the patient or responsible relative presently has an ability to pay, but the manner of billing shall in no way affect the total amount due.

* **SECTION 8. REPEAL.** Chapter 25-09 of the North Dakota Century Code is hereby repealed.

Approved April 4, 1985

- * **NOTE:** Section 25-09-02 which was repealed by section 8 of House Bill No. 1656 was amended by section 10 of House Bill No. 1062, chapter 311.

CHAPTER 528

SENATE BILL NO. 2488
(Senators Stenehjem, Christensen)
(Representatives Gates, Conmy)

FOSTER CARE PROVIDERS INFORMATION

AN ACT to amend and reenact section 50-11-06.6 of the North Dakota Century Code, relating to information which must be furnished by the department of human services or county social service boards to foster care providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-06.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-06.6. Department to furnish information when requested.

1. It shall be the duty of the department of human services whenever called upon by any person, organization, or corporation interested in establishing such a foster family care home for children or adults to furnish information concerning the minimum requirements for such home, and concerning the need for such foster family care home for children or adults in any given community.
2. Any person, organization, or corporation is entitled, upon request, to be advised by the department or county social service boards regarding the policy, procedure, and intentions of the department or county social service boards toward placement of children in that person's, organization's, or corporation's facility if:
 - a. The person, organization, or corporation is licensed to provide foster care for children under this chapter and has not received a placement for twelve months or more; or
 - b. The person, organization, or corporation is applying for or renewing its license to provide foster care for children under this chapter.

Approved March 28, 1985

CHAPTER 529

SENATE BILL NO. 2486
(Senators Stenehem, Christensen)
(Representative Gates, Conmy)

FOSTER CARE LICENSURE

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to the licensing of foster care homes and facilities for children and adults; and to amend and reenact section 50-11-08 of the North Dakota Century Code, relating to the denial or revocation of a foster care license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

License approval or denial - Time requirements. Except as otherwise provided in this section, an application to the department for a license required by this chapter to provide foster care to adults or children must be approved or denied within sixty days of its receipt by the department of human services. The department has an additional forty-five days to grant or deny an initial license required by this chapter if the department notifies the applicant that the additional time is necessary.

SECTION 2. AMENDMENT. Section 50-11-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-08. Denial or revocation of license - Hearing - Appeals. Before any application for a license under the provisions of this chapter shall be is denied, or before revocation of any such license shall take takes place, written charges as to the specific reasons therefor, a copy of the statutes and department rules authorizing such action, and notice of the applicant's or licensee's right to a hearing on the matter before the department shall be served upon the applicant or licensee. Such The applicant or licensee shall also be notified in writing of his or her right to be represented at such hearing by counsel, to examine all files and documents in the custody of the department regarding the applicant or licensee, to present witnesses at the hearing on behalf of the applicant or licensee and to present documentary evidence, to present testimony

and cross-examine adverse witnesses, and the right to an impartial hearing officer. The applicant or licensee shall have has the right to a hearing before the department of human services if such the hearing is requested within ten twenty days after service of the written charges. The department must hold the hearing within sixty days after the hearing request unless the applicant or licensee agrees to a later date. At any such hearing, the evidence submitted by the department in support of its denial or revocation of the applicant's or licensee's license must be limited to supporting only those reasons which were given by the department in its original notice of denial or revocation to the applicant or licensee. An applicant or licensee may appeal under the provisions of chapter 28-32 any final decision of the department regarding the application for or issuance or renewal of a license required by this chapter.

Approved March 28, 1985

CHAPTER 530

HOUSE BILL NO. 1354
(Rydell)

CHILD CARE LICENSURE

AN ACT to amend and reenact section 50-11.1-04 of the North Dakota Century Code, relating to prerequisites for the issuance of a child care license; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 50-11.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term. Applications for child care licenses shall be made on forms provided, in the manner prescribed, by the department. The county agency shall investigate the applicant's activities and proposed standards of care and shall make an inspection of the facility. A license for the operation of a child care facility or child care center shall be granted by the department upon a showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide for the health and safety for all children who may be received;
2. The persons in charge of the facility and their assistants are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules and regulations of the department;
3. The facility will be maintained according to the standards prescribed for its conduct by the rules and regulations of the department; and
4. The facility has not had a previous license revoked within the one hundred eighty days prior to the date of the current application; and

* NOTE: Section 50-11.1-04 was also amended by section 5 of House Bill No. 1293, chapter 526.

5. The group child care or child care center facility maintains at all times during which supplemental parental care is provided at least one person who has received training and is currently certified in rescuer cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department.

The license shall be in force and effect for a period of not more than one year. Previously licensed facilities must make the same showing as initially licensed facilities.

SECTION 2. EFFECTIVE DATE. Section 1 of this Act becomes effective on July 1, 1987.

Approved March 31, 1985

CHAPTER 531

SENATE BILL NO. 2081
(Legislative Council)
(Interim Judiciary "B" Committee)

CHARITABLE ORGANIZATION EXPENSES

AN ACT to repeal section 50-22-04.1 of the North Dakota Century Code, relating to limitations on the amount that a charitable organization may incur for solicitation and fundraising expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 50-22-04.1 of the 1983 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 27, 1985

CHAPTER 532

SENATE BILL NO. 2082
(Legislative Council)
(Interim Judiciary "B" Committee)

CHARITABLE SOLICITATION AGREEMENTS AND FRAUD

AN ACT to create and enact two new sections to chapter 50-22 of the North Dakota Century Code, relating to the use of fraud to solicit contributions, and the filing of charitable solicitation agreements with the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Two new sections to chapter 50-22 of the North Dakota Century Code are hereby created and enacted to read as follows:

Fraud - Misrepresentation. No charitable organization, professional fundraiser, or professional solicitor, or any agent or employee of a charitable organization, professional fundraiser, or professional solicitor, may use any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the solicitation of a contribution for or on behalf of a charitable organization.

Filing. Every contract, written agreement, or written statement of the nature of the arrangement to prevail in the absence of a contract between a professional fundraiser or professional solicitor and a charitable organization shall be filed by the professional fundraiser and the charitable organization with the secretary of state within ten days after such contract, written agreement, or written statement is concluded.

Approved March 22, 1985

CHAPTER 533

SENATE BILL NO. 2053
(Legislative Council)
(Interim Budget "C" Committee)

LONG-TERM CARE FACILITY REIMBURSEMENT

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to reimbursement by the department of human services to long-term care facilities for care provided to persons under the medical assistance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Reimbursement of long-term care facility - Limitation - Allowable costs.
The department of human services shall reimburse a long-term care facility for bad debts expense; personal comfort items as may be determined proper by the department, but including the cost of telephone, television, and radio located in patient accommodations; and customary advertising costs incurred by long-term care facilities. No reimbursement may be made under this section to any long-term care facility that charges private pay patients a daily room rate that exceeds the rate paid by the department for persons eligible under the medical assistance program. The department may not limit reimbursements for compensation of administrators, fees of the board of directors, pension expense, and other costs of administration, except to the extent those costs exceed the costs of the applicable percentile group established by the department for those costs of long-term care facilities.

Approved April 11, 1985

CHAPTER 534

HOUSE BILL NO. 1168
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

NONINSTITUTIONAL PERSONAL CARE

AN ACT to amend and reenact sections 50-24.2-01 and 50-24.2-02 of the North Dakota Century Code, relating to noninstitutional personal care and family home care; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.2-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24.2-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Adult foster care" means those services provided by a licensed foster family care home as defined under section 50-11-06.1.
2. "County agency" means the county social service board.
3. "Department" means the department of human services.
4. "Eligible elderly or disabled person" means an individual:
 - a. Who has been determined eligible for the receipt of medical assistance under chapter 50-24.1, or who would be determined eligible but for the fact that the individual's available income, reduced by the cost of incurred medical expenses, exceeds the maximum amount allowed in establishing such eligibility, provided that the excess is no more than the maximum rate set under section 50-24.2-02;
 - b. Who has been determined by the department to have a medical need for services provided in a skilled or intermediate care facility or, if a former resident of Grafton state school or San Haven released after

August 31, 1982, who has been determined by the department to have a developmental need for services provided in an intermediate care facility for the developmentally disabled; and

- c. Who is at least sixty-five years of age or disabled as defined by the rules of the department.
5. "Family home care" means the provision of room, board, supervisory care and personal services to an eligible elderly or disabled persons person by the spouse, parent, or grandparent, or the adult children child, brother, sister, or grandchild of an the eligible elderly or disabled person.
6. "Remedial services" means those services, provided in a licensed boarding home for the aged and infirm, an adult foster care home, or a family home supervised by a county agency, which produce the maximum reduction of physical or mental disability and restoration of the eligible elderly or disabled person's best possible functional level.
7. "Rest home services" means those services provided by boarding homes for the aged and infirm licensed under chapter 50-18-

SECTION 2. AMENDMENT. Section 50-24.2-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24.2-02. Payment and election for noninstitutional personal care on behalf of elderly and disabled persons. From funds otherwise available for payments under chapter 50-24.1, the department shall make payment on behalf of eligible elderly or disabled persons who elect to receive family home care which is supervised and approved by the county agency, or adult foster care, or rest home services. If the alternative care is elected, the payment may be made directly to the eligible elderly or disabled person, to the protective payee of such person, or to the individual or entity providing remedial services on behalf of the eligible elderly or disabled person. If direct payment will cause a reduction in the amount of benefits, received by the eligible elderly or disabled person, through title XVI or title XIX of the Social Security Act, the county agency shall make any payment to the provider of the remedial services. Rates of payment, to be determined by the department, may not exceed the nonfederal share of the statewide average of payments for intermediate care under chapter 50-24.1. The determination whether family home care, or adult foster care, or rest home care will be received as an alternative to skilled or intermediate care is the sole responsibility of the elderly or disabled individual, or guardian of such person, if any, in consultation with an attending physician and family members.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 16, 1985

CHAPTER 535

SENATE BILL NO. 2204
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

INTERMEDIATE CARE FACILITY RESIDENT ASSESSMENT

AN ACT to provide for a program of preadmission assessment of the health and social needs for all prospective residents of skilled nursing facilities, intermediate care facilities, or hospital swing-bed facilities who are, or within one hundred eighty days of admission may become, eligible for medical assistance program benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Assessment mechanism - Establishment. The department of human services shall establish a mechanism to assess, prior to admission to a skilled nursing facility, intermediate care facility, or a hospital swing-bed facility approved to furnish skilled or intermediate care services, the health and social needs of medical assistance recipients and individuals who may become eligible for medical assistance within one hundred eighty days of admission to such facilities.

SECTION 2. Assessment process - Professional involvement. The assessment process shall involve the services of a registered nurse, a social worker, and such other personnel or professionals as may be determined appropriate by the department. A physician shall be available for consultation. The consulting physician shall be a part of the assessment mechanism with respect to any recommendation made in the course of a consultation. The individual's attending physician may be present during the assessment of the individual if that physician chooses to participate. If the individual is being discharged from an acute care facility, a discharge planner from that facility may be present, at the facility's request, during the assessment of the individual. The individual's attending physician and a discharge planner from an acute care facility discharging the individual may participate in discussions, but not in any recommendation made pursuant to section 3 of this Act unless delegated, by the department of human services, the authority to make recommendations.

SECTION 3. Department of human services - Powers and duties. The department of human services shall have the following powers and duties which it may delegate to any acute care facility which provides discharge planning services approved by the department:

1. To seek cooperation from other public and private agencies in the community which offer services to disabled and elderly persons.
2. To provide information and education to the general public regarding availability of the assessment program.
3. To accept referrals from individuals, families, human services professionals and nursing home personnel.
4. To assess the health and social needs of referred individuals.
5. To identify available noninstitutional services to meet the needs of referred individuals.
6. To prepare recommendations for individuals receiving assessment program services as to the need for skilled nursing care, or intermediate care as provided in a facility, or other care which is available in the community.

SECTION 4. Assessment of persons. Prior to admission to a skilled nursing facility or an intermediate care facility, the department shall assess the needs of all persons receiving medical assistance and, if requested to do so, of all persons who, due to income and resource considerations, reasonably anticipate the necessity to apply for medical assistance within one hundred eighty days of admission to a nursing home, except patients transferred from other nursing homes or patients who, having entered acute care facilities from nursing homes, are returning to nursing home care. Any other interested person may be assessed upon payment of a fee based upon a sliding fee scale to be established by the department of human services.

Approved April 11, 1985

CHAPTER 536

HOUSE BILL NO. 1169
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

CHILD ABUSE AND NEGLECT

AN ACT to create and enact a new section to chapter 50-25.1, a new subsection to section 50-25.1-02, and a new subsection to section 50-25.1-11 of the North Dakota Century Code, relating to child abuse and neglect; to amend and reenact section 12.1-20-01, subsection 3 of section 50-25.1-02, sections 50-25.1-04.1, 50-25.1-05, subsection 2 of section 50-25.1-05.2, and sections 50-25.1-09 and 50-25.1-13 of the North Dakota Century Code, relating to sex offenses and child abuse and neglect; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-20-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-01. General provisions.

1. In sections 12.1-20-03 through 12.1-20-08:
 - a. When the criminality of conduct depends on a child's being below the age of fifteen, it is no defense that the actor did not know the child's age, or reasonably believed the child to be older than fourteen;
 - b. When criminality depends on the victim being a minor, it is an affirmative defense that the actor reasonably believed the victim to be an adult.
2. In sections 12.1-20-04 through 12.1-20-09, an offense excludes conduct with an actor's spouse. The exclusion shall be inoperative as respects spouses living apart under a decree of judicial separation, a temporary or permanent adult abuse protection order, or an interim order issued in connection with a divorce or separation action. Where an offense excludes conduct with a spouse, this shall not preclude conviction of a spouse as an

accomplice in an offense which he causes another person to perform.

- 3. No If the alleged victim was an adult, not otherwise incompetent to make complaint, no prosecution may be instituted or maintained under sections 12.1-20-03 through 12.1-20-08 or section 12.1-20-12 unless the alleged offense was brought to the notice of public authority within three months of its occurrence or, where the alleged victim was a minor or otherwise incompetent to make complaint, within three months after a parent, guardian, or other competent person specifically interested in the victim, other than the alleged offender, learned of the offense.
- 4. If the alleged victim was a minor or otherwise incompetent to make complaint, no prosecution may be instituted or maintained under sections 12.1-20-03 through 12.1-20-08 or section 12.1-20-12 unless the alleged offense was brought to the notice of public authority within three months after a parent, guardian, or other competent person specifically interested in the victim, learned of the offense. The three-month limitation does not begin to apply unless the person learning of the offense is someone other than the offender or a spouse, child, sibling, or parent of the offender.

* SECTION 2. AMENDMENT. Subsection 3 of section 50-25.1-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 3. "Division" means the social services division of children and family services of the department of human services.

SECTION 3. A new section to chapter 50-25.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Employee discipline prohibited. An employer who imposes any form of employee discipline against an employee solely because that employee reported having reasonable cause to suspect that a child was abused or neglected shall be guilty of a class B misdemeanor. It shall be a defense to any charge brought under this section that the presumption of good faith, described in section 50-25.1-09, has been rebutted.

SECTION 4. A new subsection to section 50-25.1-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team

* NOTE: Section 50-25.1-02 was also amended by section 8 of House Bill No. 1166, chapter 521.

with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, shall be staff members of the public or private agencies which they represent or shall serve without remuneration. In no event shall an attorney member of the child protection team be appointed to represent the child or the parents at any subsequent court proceeding nor shall the child protection team be composed of fewer than three members.

SECTION 5. AMENDMENT. Section 50-25.1-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-04.1. State child protection team - How created - Duties. The director of the division shall name the members of the state child protection team. The members shall be appointed for three-year staggered terms. The member who represents the division shall serve as chairperson and shall be responsible for the transmittal of all team reports made pursuant to this chapter. The chairperson shall set meetings for the purposes of fulfilling the duties set forth in sections 50-25.1-02, 50-25.1-04, and 50-25.1-05.1. Under procedures adopted by the team, it may meet at any time, confer with any individuals, groups, and agencies, and may issue reports or recommendations on any aspect of child abuse or neglect it deems appropriate. All reports or recommendations issued shall be subject to the provisions of section 50-25.1-11, except that the team shall make available information reflecting the disposition of reports of institutional child abuse or neglect, where the identity of persons reporting, and of the children and parents of children involved, is protected.

SECTION 6. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-05. Investigation. The director of the division shall forthwith investigate, or cause to be investigated, ~~any initial~~ report of child abuse or neglect made directly to ~~him~~ the director, including the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.

SECTION 7. AMENDMENT. Subsection 2 of section 50-25.1-05.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In all other cases, upon a determination that probable cause exists to believe that child abuse or neglect is indicated, the director of the division or ~~his~~ a designee of the director shall promptly make written report to the juvenile court having jurisdiction in the matter.

SECTION 8. AMENDMENT. Section 50-25.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-09. Immunity from liability. Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation, furnishing information to an investigator, or in providing protective services under this chapter, is immune from any liability, civil or criminal, that otherwise might result from reporting the alleged case of abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse or neglect shall be presumed.

SECTION 9. A new subsection to section 50-25.1-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

A person who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.

SECTION 10. AMENDMENT. Section 50-25.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-13. Penalty for failure to report. Any person required by this chapter to report a case of known or suspected child neglect or abuse who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor.

Approved March 29, 1985

CHAPTER 537

SENATE BILL NO. 2470
(Matchie)

ABUSED CHILDREN

AN ACT to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to the disposition of reports of child abuse which implicate a person who is not responsible for the child's health or welfare; and to amend and reenact subsection 2 of section 50-25.1-02 of the North Dakota Century Code, relating to the definition of abused child for purposes of child abuse reports and protection.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-25.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Disposition of reports implicating a person not responsible for the child's health or welfare. Upon determination by the division or its designee that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the division may refer the report to an appropriate law enforcement agency for investigation and disposition.

SECTION 2. AMENDMENT. Subsection 2 of section 50-25.1-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's health or welfare, or who is suffering from or was subjected to any act involving that individual in violation of sections 12.1-20-01 through 12.1-20-08.

Approved April 4, 1985

CHAPTER 538

HOUSE BILL NO. 1546
(D. Olsen, Hill, Hoffner, Haugland, Nalewaja)

HUMAN SERVICES CASELOAD AND REIMBURSEMENT

AN ACT to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to department of human services caseload standards and reimbursement to counties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-25.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Caseload standards - Reimbursement. The department of human services shall adopt caseload standards establishing minimum staff to client ratios for the investigation of reports of child abuse or neglect and the provision of protective services. Within the limits of legislative appropriation therefor, the department of human services shall reimburse each county, upon claim being made by the county, for seventy-five percent of additional staff costs caused by the imposition of such caseload standards. Upon a determination that legislative appropriations are insufficient to reimburse each claiming county in the amount of seventy-five percent of such additional staff costs, the department of human services shall reimburse each claiming county for that percentage of additional staff costs which the appropriation is sufficient to defray.

Approved March 27, 1985

CHAPTER 539

SENATE BILL NO. 2371
(Senators Stromme, Holmberg)
(Representatives Martinson, Hedstrom)

CHILDREN'S TRUST FUND

AN ACT to establish a children's trust fund as a special fund in the state treasury for the purpose of funding activities that aid in the prevention of child abuse and neglect; to amend and reenact sections 23-02.1-29 and 50-26-01 of the North Dakota Century Code, relating to an additional fee for the issuance of a certified copy of a birth certificate and the composition of the executive committee on children and youth of the governor's council on human resources; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Creation and administration of children's trust fund. There is hereby created in the state treasury a special fund known as the children's trust fund. The executive committee on children and youth of the governor's council on human resources shall administer the fund. The chairperson of the committee, or such other person as the committee may designate, and the state treasurer shall deposit in the children's trust fund at such times as they may become available, all moneys designated for the fund from whatever source derived. The state treasurer shall invest such funds in interest bearing accounts as is designated by the committee, and the interest earned shall be deposited in the children's trust fund.

SECTION 2. Expenditures from fund - Definition of child abuse prevention. Expenditures from the children's trust fund may only be for the purposes of administering and maintaining the fund, aiding in the prevention of child abuse and neglect as defined in chapter 50-25.1, and developing child abuse prevention programs. For purposes of sections 1 through 3 of this Act, "prevention of child abuse and neglect" means those activities which seek to:

1. Anticipate the occurrence of and act to prevent child abuse and neglect.

2. Provide public information and education as to the means by which child abuse and neglect may be identified, prevented, remedied, or alleviated.

SECTION 3. Authority of the executive committee on children and youth. In addition to the powers and duties enumerated in section 50-26-02, the executive committee on children and youth of the governor's council on human resources is authorized to:

1. Apply for and receive public funds from any source, devises, legacies, bequests, gifts, and donations from private individuals, organizations, or funds from any other source not contrary to law.
2. Meet at least twice each year for the purpose of administering the children's trust fund.
3. Create such advisory committees as may be deemed necessary to assure public involvement in the planning, development, and administration of the children's trust fund.
4. Hire or arrange for appropriate staff, as deemed necessary, to administer and maintain properly the children's trust fund.
5. Develop, implement, and periodically review a written plan to be used in administering the funds expended from and retained in the children's trust fund. The written plan must include the types of activities to be funded, the nature of organizations preferred for funding, the criteria for eligible fund applicants, and the mechanisms for the monitoring and evaluating of funded activities.
6. Award grants from the children's trust fund in accordance with sections 1 through 3 of this Act and any rules that have been adopted.
7. Adopt, after public notice and an opportunity for comment has been given, any rules it determines to be necessary to carry out sections 1 through 3 of this Act.
8. Contract with persons or organizations, including political subdivisions and school districts.
9. Prepare and submit to the executive director of the department of human services a report at the end of each biennium.

The executive director of the department of human services shall designate a person with a demonstrated expertise in the prevention of child abuse and neglect as executive secretary to the executive committee of the children and youth committee to assist in the administration of the children's trust fund.

SECTION 4. AMENDMENT. Section 23-02.1-29 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02.1-29. Fees.

1. The state department of health shall prescribe the fees, if any, not to exceed five dollars, to be paid for the following:
 - a. Each certified copy of a certificate or record.
 - b. Each certified statement of the facts of birth other than a copy of the original birth certificate.
 - c. Each filing of a new certificate of birth or fetal death following adoption, legitimation, or determination of paternity.
 - d. Each filing of a delayed certificate of birth or death except as provided for in subsection 3 of section 23-02.1-18.
 - e. Each filing of an amendment to a birth or death certificate.
 - f. A search of the files or records when no copy is made.

The fee for each additional copy of the same document, requested at the same time, may not exceed two dollars.

2. Fees Except as otherwise provided in subsection 3, fees collected under this section by the state registrar shall be deposited in the general fund of this state, according to procedures established by the state treasurer. When a local registrar of any county in the state shall have been duly authorized, by the state registrar, to prepare and issue certified copies of death certificates or fetal death certificates, said local registrar shall be entitled to charge a fee, not to exceed five dollars, for the first certified copy, and not to exceed two dollars for each additional certified copy of the same document requested at the same time. Fees collected under this section by local registrars shall be deposited to the general fund of the respective counties.
3. The state department of health shall charge a fee, in addition to those fees authorized by subsection 1, in the amount of two dollars for the issuance of each certified copy of a birth certificate. This additional fee shall be paid to the state registrar prior to the issuance of each certified copy of a birth certificate. The state registrar shall quarterly pay the additional fees

collected pursuant to this subsection into the children's trust fund created by section 1 of this Act.

SECTION 5. AMENDMENT. Section 50-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-26-01. Establishment of governor's council on human resources - Certain committees to constitute - Appointment. There is hereby established a governor's council on human resources, to be maintained within the department of human services, which shall consist of a committee on aging, a committee on children and youth, a committee on employment of the handicapped, and other committees having a related interest in human resources as may be appointed. Each of these committees shall consist of an executive committee of no more than nine members, each of whom, except as provided by this section, shall be appointed by the governor for a term of three years, staggered so that the terms of one-third of the members of each committee expire July first of each year, except that initial appointments to the committees shall be made on the basis of a one-year term for one-third of the members of each committee; a two-year term for one-third of the members of each committee; and a full three-year term for the remaining members of each committee. At least one-third of the members appointed to the executive committee on children and youth must have expertise in the prevention of child abuse and neglect. Each of the executive committees of the governor's council on human resources may appoint to their committee the chairman of the mayor's committee or his designated representative. A vacancy occurring other than by reason of the expiration of a term shall be filled in the same manner as original appointments, except that such appointment shall be made for the remainder of the unexpired term only.

SECTION 6. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much thereof as may be necessary, to the executive committee on children and youth of the governor's council on human resources for the purpose of funding activities in aid of the prevention of child abuse and neglect for the biennium beginning July 1, 1985, and ending June 30, 1987.

SECTION 7. APPROPRIATION. There is hereby appropriated all funds which may become available through grants, gifts, or other sources to the executive committee on children and youth of the governor's council on human resources for the purpose of funding activities in aid of the prevention of child abuse and neglect. Federal funds appropriated pursuant to this subsection may be spent only after approval of the emergency commission pursuant to North Dakota Century Code section 54-16-04.1.

SECTION 8. APPROPRIATION. There is hereby appropriated out of the children's trust fund the sum of \$100,000, or so much thereof as may be available or necessary, to the executive committee on children and youth of the governor's council on human resources for the purpose of aiding in the prevention of child abuse and neglect. This appropriation is not subject to section 54-44.1-11.

Approved April 16, 1985