

Sixty-second  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1039**

Introduced by

Legislative Management

(Judiciary Committee)

1 A BILL for an Act to amend and reenact subdivision a of subsection 2 of section 14-15-17,  
2 section 15-12-25, subsections 2 and 3 of section 15-52-03, sections 23-34-02, 23-34-02.1,  
3 43-04-40, 43-53-04, and 50-06-05.1, subsection 1 of section 61-06-13, subsection 5 of section  
4 61-07-03, section 61-11-03, and subdivision a of subsection 2 of section 65-02-03.1 of the North  
5 Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant,  
6 missing, or obsolete references; and to repeal sections 4-32-09 and 40-05-21 of the North  
7 Dakota Century Code, relating to obsolete provisions.

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

9 **SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 14-15-17 of the North  
10 Dakota Century Code is amended and reenacted as follows:

11 2. a. To obtain a validation of a foreign decree of adoption, the adoptive parent shall  
12 provide to the court a petition for validation of foreign adoption, an admission  
13 stamp in the adopted individual's passport which indicates that the individual was  
14 admitted to the United States with an IH-3 or IR-3 visa, the individual's foreign  
15 birth certificate and English translation, the individual's foreign adoption decree  
16 and English translation, and a signed affidavit from the agency which states that  
17 the foreign adoption is valid and which states the name by which the individual is  
18 to be known. The petition for validation of foreign adoption must be signed and  
19 verified by the petitioner, filed with the clerk of the court, and state:  
20 (1) The date and place of birth of the individual to be adopted, if known;  
21 (2) The name to be used for the individual whose foreign adoption decree is  
22 being petitioned for validation;  
23 (3) The date the petitioner acquired custody or the date of placement of the  
24 individual and the name of the foreign country's placing agency;

- 1 (4) The full name, age, place, and duration of residence of the petitioner; and
- 2 (5) The marital status of the petitioner, including the date and place of marriage,
- 3 if married.

4 **SECTION 2. AMENDMENT.** Section 15-12-25 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **15-12-25. Grants and contributions - Continuing appropriation.**

7 The economic feasibility institute may contract for, accept, and receive grants, gifts, and  
8 contributions of money, property, services, or other things of value from individuals, the federal  
9 government, limited liability companies, private and public corporations, political subdivisions of  
10 the state, and other sources. All revenue received from gifts, grants, and contributions is hereby  
11 appropriated for use by the economic feasibility institute in carrying out the provisions of  
12 sections 15-12-22 through 15-12-26. ~~Any state funding for the institute may be provided through~~  
13 ~~legislative appropriation to technology transfer, incorporated, for that purpose.~~

14 **SECTION 3. AMENDMENT.** Subsections 2 and 3 of section 15-52-03 of the North Dakota  
15 Century Code are amended and reenacted as follows:

- 16 2. The council consists of fifteen members:
  - 17 a. (1) Two members of the senate, one of whom must be from the majority party
  - 18 and one of whom must be from the minority party, selected by the chairman
  - 19 of the legislative management; and
  - 20 (2) Two members of the house of representatives, one of whom must be from
  - 21 the majority party and one of whom must be from the minority party, to be
  - 22 selected by the chairman of the legislative management;
  - 23 b. One member selected by each of the following:
    - 24 (1) The department of human services;
    - 25 (2) The state board of higher education;
    - 26 (3) The state department of health;
    - 27 (4) The North Dakota medical association;
    - 28 (5) The North Dakota ~~healthcare~~hospital association;
    - 29 (6) The veterans administration hospital in Fargo; and
    - 30 (7) The university of North Dakota center for rural health; and

1           c. Four members selected by the dean of the university of North Dakota school of  
2           medicine and health sciences, one from each of the four campuses of the school  
3           of medicine and health sciences with headquarters in Bismarck, Fargo, Grand  
4           Forks, and Minot.

5       3. The representatives named by the state agencies and boards must be selected to  
6       serve as members of the advisory council for periods of at least one year, but may not  
7       serve longer than their term of office on the public agency. The representatives from  
8       the North Dakota state medical association and the North Dakota healthcarehospital  
9       association shall serve a term of three years or until their successors are named and  
10      qualified.

11      **SECTION 4. AMENDMENT.** Section 23-34-02 of the North Dakota Century Code is  
12      amended and reenacted as follows:

13      **23-34-02. Peer review records - Confidentiality.**

- 14      1. Peer review records are confidential and may be used by a peer review organization  
15      and the organization members only for conducting a professional peer review.
- 16      2. A health care organization may release reports, data compilations, analyses, and  
17      summaries, which are prepared by a peer review organization and which identify or  
18      analyze trends in medical errors to the state department of health, the North Dakota  
19      healthcarehospital association, and the North Dakota hospital foundation.
- 20      3. The state department of health, the North Dakota healthcarehospital association, and  
21      the North Dakota hospital foundation may release any information provided under  
22      subsection 2 to the public.
- 23      4. This section does not prohibit access of the state department of health to peer review  
24      records to determine compliance with requirements of federal or state law for the  
25      survey and certification of a health care facility or for trauma center designation and as  
26      authorized under any rules issued under section 23-01.2-01 or 23-01-11 to enable the  
27      state to be in compliance with any federal laws to qualify for any federal funds related  
28      to medical facilities or agencies licensed by the state department of health.

29      **SECTION 5. AMENDMENT.** Section 23-34-02.1 of the North Dakota Century Code is  
30      amended and reenacted as follows:

1       **23-34-02.1. Peer review organization reports - Admissibility.**

2       Any report, data, data compilation, analyses, or summary that is generated by a peer review  
3 organization and made available to the state department of health or the public by the state  
4 department of health, the North Dakota ~~healthcare~~hospital association, or the North Dakota  
5 hospital foundation, may not be introduced into evidence, for any purpose, in any civil or  
6 administrative proceeding.

7       **SECTION 6. AMENDMENT.** Section 43-04-40 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9       **43-04-40. Refusal and revocation of certificate.**

10       The board either may refuse to issue or renew a certificate of registration to practice  
11 barbering or may suspend or revoke the same for any one, or a combination, of the following  
12 causes:

- 13       1. Conviction of an offense, shown by a certified copy of the record of conviction,  
14       determined by the board to have a direct bearing upon a person's ability to serve the  
15       public as a barber, or the board determines, following conviction of any offense, that  
16       the person is not sufficiently rehabilitated under section 12.1-33-02.1.
- 17       2. Gross malpractice or gross incompetency.
- 18       3. Continued practice by a person knowingly having an infectious or contagious disease.
- 19       4. Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other  
20       habit-forming drug.
- 21       5. Advertising by means of knowingly false or deceptive statements.
- 22       6. Immoral and unprofessional conduct.
- 23       7. When satisfied that any such person has violated any provision of this chapter.
- 24       8. Repeated violations of the sanitary rules and regulations of the state board of health-  
25       and board of barber-examiners governing the sanitary ~~regulations~~regulation of  
26       barbershops and barber schools.

27       **SECTION 7. AMENDMENT.** Section 43-53-04 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29       **43-53-04. Marriage and family ~~therapist~~therapy licensure board.**

- 30       1. The North Dakota marriage and family ~~therapist~~therapy licensure board consists of  
31       five members. The governor shall appoint the board members to serve terms of four

years, except for those first appointed one member must continue in office for two years, two for three years, and two, including the chairman, for four years.

2. The governor shall appoint members of the board from among individuals who meet the following qualifications:

- a. At least three members must be licensed practicing marriage and family therapists; and each must have been for at least five years immediately preceding appointment actively engaged as marriage and family therapists in rendering professional services in marriage and family therapy; in the education and training of master's, doctoral, or postdoctoral students of marriage and family therapy; or in marriage and family therapy research. A member under this subdivision must have spent the majority of the time devoted by that member to such activity during the two years preceding appointment residing in this state.
- b. At least one member must be a representative of the general public and may not have any direct affiliation with the practice of marriage and family therapy or another mental health profession.
- c. The initial appointees, with the exception of any representative of the general public, are deemed to be and become licensed practicing marriage and family therapists immediately upon appointment and qualification as members of the board.

3. The governor shall nominate a new member to fill a vacancy on the board within thirty days of the vacancy. A member chosen to fill a board vacancy must be appointed for the unexpired term of the board member whom that member is succeeding. Upon the expiration of a member's term of office, a board member shall continue to serve until a successor is appointed. An individual may not be appointed more than once to fill an unexpired term or appointed to more than two consecutive full terms. A member may not serve as chairman for more than four years. The appointment of any member of the board automatically terminates thirty days after the date the member is no longer a resident of this state.

4. The governor may remove any member of the board or the chairman from the position as chairman for neglect of duty or malfeasance or conviction of a felony or crime of moral turpitude while in office, but for no other reason. A member may not be removed

1           until after a hearing on the charges and at least thirty days' prior written notice to such  
2           accused member of the charges and of the date fixed for such hearing.

3           5. A board member may not participate in any matter before the board in which that  
4           member has a pecuniary interest, personal bias, or other similar conflict of interest. A  
5           board member shall serve without compensation but is entitled to be reimbursed for  
6           the member's actual and necessary expenses incurred in the performance of official  
7           board business.

8           **SECTION 8. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is  
9           amended and reenacted as follows:

10          **50-06-05.1. Powers and duties of the department.**

11          The department has the following powers and duties to be administered by the department  
12          through its state office or through regional human service centers or otherwise as directed by it:

- 13          1. To act as the official agency of the state in any social welfare or human service activity  
14             initiated by the federal government not otherwise by law made the responsibility of  
15             another state agency.
- 16          2. To administer, allocate, and distribute any state and federal funds that may be made  
17             available for the purpose of providing financial assistance, care, and services to  
18             eligible persons and families who do not have sufficient income or other resources to  
19             provide a reasonable subsistence compatible with decency and health.
- 20          3. To provide preventive, rehabilitative, and other human services to help families and  
21             individuals to retain or attain capability for independence or self-care.
- 22          4. To do needed research and study in the causes of social problems and to define  
23             appropriate and effective techniques in providing preventive and rehabilitative  
24             services.
- 25          5. To provide for the study, and to promote the well-being, of deprived, unruly, and  
26             delinquent children.
- 27          6. To provide for the placing and supervision of children in need of substitute parental  
28             care, subject to the control of any court having jurisdiction and control of any such  
29             child.
- 30          7. To recommend appropriate social legislation to the legislative assembly.

- 1       8.   To direct and supervise county social service board activities as may be financed in
- 2       whole or in part by or with funds allocated or distributed by the department.
- 3       9.   To inform the public as to social conditions and ways of meeting social needs.
- 4       10. To secure, hold, and administer for the purpose for which it is established any property
- 5       and any funds donated to it either by will or deed, or otherwise, or through court order
- 6       or otherwise available to the department, and to administer those funds or property in
- 7       accordance with the instructions in the instrument creating them or in accordance with
- 8       the instructions in the court order or otherwise.
- 9       11. To formulate standards and make appropriate inspections and investigations in
- 10      accordance with such standards in connection with all licensing activities delegated by
- 11      law to the department including child care facilities, nonmedical adult care facilities
- 12      and maternity homes, and persons or organizations receiving and placing children,
- 13      and to require those facilities, persons, and organizations to submit reports and
- 14      information as the department may determine necessary.
- 15      12. To permit the making of any surveys of human service needs and activities if
- 16      determined to be necessary.
- 17      13. To issue subpoenas, administer oaths, and compel attendance of witnesses and
- 18      production of documents or papers whenever necessary in making the investigations
- 19      provided for herein or in the discharge of its other duties. A subpoena may not be
- 20      issued to compel the production of documents or papers relating to any private
- 21      child-caring or child-placing agency or maternity hospital or to compel the attendance
- 22      as a witness of any officer or employee of those facilities except upon the order of a
- 23      judge of the district court of the judicial district in which the facilities are located.
- 24      14. To provide insofar as staff resources permit appropriate human services, including
- 25      social histories, social or social-psychological evaluations, individual, group, family,
- 26      and marital counseling, and related consultation, when referred by self, parent,
- 27      guardian, county social service board, court, physician, or other individual or agency,
- 28      and when application is made by self (if an adult or emancipated youth), parent,
- 29      guardian, or agency having custody; also, on the same basis, to provide human
- 30      services to children and adults in relation to their placement in or return from the

developmental center at westwood park, Grafton, state hospital, or North Dakota youth correctional center.

15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.

16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.

17. To act as the official agency of the state in the administration of the food stamp program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act.

18. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.

19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and



commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.

20. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.

21. To exercise and carry out any other powers and duties granted the department under state law.

22. To coordinate services for pregnant women.

23. To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:

a. "Transitional living facility" means a specific site, identified by a licensed child-placing agency and approved by the department, for the provision of transitional living services.

b. "Transitional living program" means a program that provides transitional living services and may include an identified program operations location approved by the department.

c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care

1 services and who have reached age seventeen, but who have not reached age  
2 twenty-one, to achieve independence and self-sufficiency.

3 24. With the approval of the governor, to lease or transfer use of any part of the  
4 developmental center facilities or properties, located in section thirteen, township one  
5 hundred fifty-seven north, range fifty-three west, located in Walsh County, North  
6 Dakota, to the federal government, or any public or private agency, organization, or  
7 business enterprise, or any worthy undertaking, under the following provisions:

8 a. The department determines that the facility or property is not needed to serve  
9 any present or reasonably foreseeable need of the developmental center.

10 b. The transaction is exempt from the provisions of section 50-06-06.6.

11 c. The term of any lease may not exceed ninety-nine years.

12 d. All required legal documents, papers, and instruments in any transaction must be  
13 reviewed and approved as to form and legality by the attorney general.

14 e. Any funds realized by any transaction must be deposited in the state's general  
15 fund.

16 25. To act as a decedent's successor for purposes of collecting amounts due to the  
17 department. Any affidavit submitted by the department under section 30.1-23-01 must  
18 conform to the requirements of that section except that the affidavit may state that  
19 twenty days have elapsed since the death of the decedent.

20 26. To provide those services necessary for the department and for county social service  
21 boards to comply with the provisions of any law, rule, order, or regulation of the United  
22 States or any federal agency or authority requiring civil service or merit standards or  
23 classifications as a condition for providing funds administered by the department.

24 ~~27. To provide for the qualifications for and the membership of a qualified board as~~  
25 ~~required by section 12.1-32-15.~~

26 ~~28.~~ For purposes of administration of programs, and subject to legislative appropriation,  
27 funds are obligated at the time a written commitment is made to pay a vendor or  
28 contractor for services or supplies either delivered or to be delivered. This subsection  
29 applies to payments and commitments made on or after January 1, 1997.

29-28. Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

**SECTION 9. AMENDMENT.** Subsection 1 of section 61-06-13 of the North Dakota Century Code is amended and reenacted as follows:

1. At least fifteen days before an election in an irrigation district, the secretary shall prepare and have ~~typewritten, mimeographed, or~~ printed an official ballot containing the names of all candidates which have been filed with the secretary. The ballot must:
  - a. Be headed "Official Ballot";
  - b. Contain all names thus filed;
  - c. Show the name of the district;
  - d. State the number of individuals to be voted for;
  - e. Have blank spaces below for writing in other names; and
  - f. State any question or resolution submitted to the electors by the board of directors.

**SECTION 10. AMENDMENT.** Subsection 5 of section 61-07-03 of the North Dakota Century Code is amended and reenacted as follows:

5. Establish bylaws and rules for distribution to and for the information of electors of the district and water users, and fix charges or rentals to be paid by water users. The bylaws and rules shall be printed, ~~typewritten, or mimeographed~~ in convenient form.

**SECTION 11. AMENDMENT.** Section 61-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**61-11-03. Ballots to be provided - Form.**

The board shall provide printed, ~~typewritten, or mimeographed~~ ballots for an election held pursuant to the provisions of this chapter. Such ballots shall be substantially in the following form:

The irrigation district of \_\_\_\_\_ County, North Dakota, shall be dissolved and its property sold:

Yes ☐

No ☐

1 The board shall cause such ballots to be prepared at least fifteen days before the election and  
2 shall place the ballots in the hands of the election officers of the district prior to the opening of  
3 the polls on the day of such election.

4 **SECTION 12. AMENDMENT.** Subdivision a of subsection 2 of section 65-02-03.1 of the  
5 North Dakota Century Code is amended and reenacted as follows:

6 a. A departing member representing an employer must be replaced by a member  
7 representing an employer, most of whose employees are in a different rate  
8 classification than those of the employer represented by the departing member.  
9 The governor shall appoint the member for an employer representative from a list  
10 of three potential candidates submitted by a coordinating committee appointed by  
11 the governor, composed of representatives from the associated general  
12 contractors of North Dakota, the North Dakota petroleum council, the greater  
13 North Dakota chamber of commerce, the North Dakota motor carriers  
14 association, the North Dakota ~~healthcare~~hospital association, the national  
15 federation of independent business, the lignite energy council, and other  
16 statewide business interests.

17 **SECTION 13. REPEAL.** Sections 4-32-09 and 40-05-21 of the North Dakota Century Code  
18 are repealed.