

PUBLIC WELFARE

CHAPTER 504

HOUSE BILL NO. 1553
(Representatives Flaagan, Scherber, Price)
(Senator Mathern)

COUNTY HUMAN SERVICES FUND

AN ACT to amend and reenact sections 50-01-01, 50-02-05, 50-03-01, 50-03-02, 50-03-03, 50-03-04, 50-03-05, 50-03-06, 50-03-07, 50-06.2-05, and subsection 34 of section 57-15-06.7 of the North Dakota Century Code, relating to the human services fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

50-01-01. County obligated to support poor - Eligibility for assistance - Transfer of property as security for assistance. Within the limits of the county ~~poor relief~~ human services appropriation therefor, and utilizing reimbursement under section 50-01-09.2, each county in this state is obligated, upon receipt of a written application on a form prescribed by the department of human services, to relieve and support persons who are residents of the county and who are in need of poor relief. To be eligible for such relief, the applicant:

1. May not at any time before or after making application for county poor relief have made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter.
2. Shall comply with the written eligibility standards for county poor relief established by the county social service board. A copy of the written standards must be available upon request. Pursuant to this requirement, the ownership of real or personal property by an applicant for county poor relief, or by the spouse of such applicant, either individually or jointly, or of insurance on the life of the applicant does not preclude the granting of such relief if the applicant is without funds for his support. However, as a condition to the granting of county poor relief, the applicant may be required to transfer such property in trust by appropriate instrument as security for relief the applicant may thereafter receive, unless the property consists of one of the following:
 - a. A homestead.
 - b. A life insurance policy having a cash surrender value of less than three hundred dollars.

- c. Personal property of a value less than three hundred dollars, not including household goods, wearing apparel, and personal effects, such as money.
- d. Property selected by the applicant having a value of less than three hundred dollars.
- e. Real or personal property held in trust for the applicant by the federal government.
- f. Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States.

SECTION 2. AMENDMENT. Section 50-02-05 of the North Dakota Century Code is amended and reenacted as follows:

50-02-05. Residence in county - How acquired after relief given. If any person who has not acquired residence within the state, or within a county within the state, for poor relief purposes, receives any type of poor relief or public assistance or becomes an inmate of any hospital, poorhouse, jail, prison, or other public institution, or receives any aid or relief from the poor human services fund of any county, or from funds provided by the state or federal government, the period of time under which residence may be acquired begins with the date of the last type of aid or poor relief or other assistance which was given, or the date of discharge from any such institution.

SECTION 3. AMENDMENT. Section 50-03-01 of the North Dakota Century Code is amended and reenacted as follows:

50-03-01. Board of county commissioners may levy poor human services tax. The board of county commissioners, if it deems it expedient, annually at its session at which the county tax is ordered to be levied and assessed, may levy and assess a human services tax for the support of the poor of needy persons in its county.

SECTION 4. AMENDMENT. Section 50-03-02 of the North Dakota Century Code is amended and reenacted as follows:

50-03-02. County poor relief human services fund. Each county in this state shall maintain a fund to be known as the county poor relief human services fund into which the county treasurer, immediately upon receipt thereof, shall pay that proportion of the tax receipts which the county poor relief human services appropriation bears to the total county appropriations.

SECTION 5. AMENDMENT. Section 50-03-03 of the North Dakota Century Code is amended and reenacted as follows:

50-03-03. Relief expenditures paid from poor relief human services fund. All expenditures by the county for the relief of the poor needy must be paid out of the county poor relief human services fund. Such The fund ~~shall~~ is not be subject to any other charges and is exempt from ~~the~~ provisions of section 21-02-08.

SECTION 6. AMENDMENT. Section 50-03-04 of the North Dakota Century Code is amended and reenacted as follows:

50-03-04. Transfer of money to poor relief human services fund. If the human services appropriation made by a board of county commissioners ~~for poor relief purposes~~ is not sufficient to meet the expenditures required by law, the county auditor, on order of the board of county commissioners, may make a transfer to the county poor relief human services fund from any other fund, except sinking and interest funds set aside to pay the principal or interest on outstanding bond issues, or funds set aside to retire any other outstanding indebtedness.

SECTION 7. AMENDMENT. Section 50-03-05 of the North Dakota Century Code is amended and reenacted as follows:

50-03-05. Emergency expenditures - Special warrants. If the unexpended balance in any fund or funds of the county which may be transferred to the county poor relief human services fund is insufficient to meet an emergency created by unusual and unanticipated demands ~~for the relief of the poor on the human services fund~~, the board of county commissioners, by resolution, may authorize the expenditure of an amount in excess of budget appropriations and may obligate the county in excess of such appropriations for the purpose of replenishing the poor relief human services fund. For such emergency expenditures, the county auditor immediately shall issue special warrants to be known and designated as "warrant for emergency poor relief human services". ~~The provisions of section Section 21-02-08 do does~~ not apply to such emergency expenditures.

SECTION 8. AMENDMENT. Section 50-03-06 of the North Dakota Century Code is amended and reenacted as follows:

50-03-06. Expenditure of total county appropriation - How appropriation following year determined. If the board of county commissioners of any county, due to an emergency, expends in any one year such an amount for poor relief human services purposes that the total county appropriations for that year are exceeded, the appropriations for the following year, to make up the deficit caused by such expenditures, shall not be included within the appropriations subject to the tax levy limitation for general county purposes provided by law.

* SECTION 9. AMENDMENT. Section 50-03-07 of the North Dakota Century Code is amended and reenacted as follows:

50-03-07. Appropriation for food stamp program administration - Financial agreement. Subject to subsection 18 of section 50-06-05.1, the board of county commissioners of each county annually shall appropriate and make available to the poor relief human services fund an amount sufficient to pay the local expenses of administration of the food stamp program and shall enter into a food stamp financial agreement with the department of human services.

SECTION 10. AMENDMENT. Section 50-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-05. Appropriation of county funds. The board of county commissioners of each county shall annually appropriate and make available to the poor relief human services fund an amount sufficient to pay the local expenses of administration and provision of the human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies

* NOTE: Section 50-03-07 was also amended by section 7 of Senate Bill No. 2268, chapter 328.

under the provisions of this title. For purposes of this section, the board of county commissioners may levy an annual tax for ~~poor relief~~ human services purposes not exceeding the limitation in subsection 34 of section 57-15-06.7, and if this amount is not sufficient, may levy for deficiency purposes under chapter 50-03.

SECTION 11. AMENDMENT. Subsection 34 of section 57-15-06.7 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

34. Counties levying an annual tax for ~~poor relief~~ human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding twenty mills.

Approved March 25, 1991

Filed March 26, 1991

CHAPTER 505

HOUSE BILL NO. 1160
(Committee on Political Subdivisions)
(At the request of the Department of Human Services)

COUNTY SOCIAL SERVICE BOARD MEMBER REMOVAL

AN ACT to amend and reenact section 50-01-10 of the North Dakota Century Code, relating to the removal of members of county social service boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-01-10 of the North Dakota Century Code is amended and reenacted as follows:

50-01-10. Removal of members of the board. A member of the county social service board may be removed without cause by resolution to that effect adopted by the board of county commissioners ~~and the department of human services. The resolution may be initiated either by the board of county commissioners or the department of human services.~~

Approved March 25, 1991

Filed March 26, 1991

CHAPTER 506

SENATE BILL NO. 2033

(Legislative Council)

(Interim Budget Committees on Long-Term Care and Human Services)

MULTICOUNTY SOCIAL SERVICE DISTRICTS

AN ACT to create and enact a new section to chapter 50-01.1 of the North Dakota Century Code, relating to financial incentives provided by the department of human services for creating multicounty social service districts; to amend and reenact sections 50-01.1-01, 50-01.1-02, 50-01.1-03, and 50-01.1-04 of the North Dakota Century Code, relating to multicounty social service districts; and to provide an appropriation from the state aid distribution fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Financial incentives for creation of multicounty social service districts. The state department, within the limits of legislative appropriations and in accordance with rules adopted by the department, shall provide financial incentives for the creation of multicounty social service districts pursuant to plans approved as provided in section 50-01.1-03. The incentives may be based upon achieved economies of scale, adherence to caseload standards for economic assistance and social service functions, reduced administrative costs, specialized qualifications of staff, and quality of services provided. Financial incentives are limited to a six-year period and must be phased out during the last three years of the period. The incentives may be extended beyond the six-year period, at the discretion of the state department, to promote appropriate expansion of established districts. In addition, the state department shall pay for the costs incurred by counties in the development of multicounty social service districts, including related travel and materials costs. The department shall make the payments in reimbursement of the relevant costs upon approval of applications that comply with requirements established by rules adopted by the department.

SECTION 2. AMENDMENT. Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "County board agency" means the county social service boards board.
2. "State department" means the department of human services.

SECTION 3. AMENDMENT. Section 50-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-02. Consolidation of county boards agencies into multicounty welfare social service districts. In order to provide optimum services service, reduce program costs, and benefit recipients of social services within this state, any county board may two or more counties, by agreement entered into through action of their boards of county commissioners, may combine and consolidate with the county board or boards of any contiguous county or counties their county agencies into a multicounty social service district in the manner provided in this chapter in order to form a multicounty welfare district. Such multicounty welfare. Multicounty social service districts shall succeed to all the powers and duties enumerated for county boards agencies, and shall perform all the functions and responsibilities assigned to such county boards agencies by this title. Where consistent with the provisions of this chapter, all provisions relating to county boards agencies contained in this title apply to and govern multicounty welfare social service districts. Any The board of county commissioners of any county board wishing desiring to become a member of a multicounty welfare social service district shall file with the state department a written request for such membership with the state department, together with a plan for the creation of such a district, if such a district does not already exist. The plan must be prepared as prescribed in section 50-01.1-04. The request must be approved or disapproved by the state department, with the determination being made in accordance with the provisions of section 50-01.1-03. In permitting the creation of such a district, the state department shall, to as great a degree as possible, allow the consolidation of county boards agencies in such a manner as will:-

- 1- Conform conform with the existing pattern of the trade area-
- 2- Conform and with any regional pattern established by the executive department of this state.

SECTION 4. AMENDMENT. Section 50-01.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-03. Manner of determination - Notices - Hearings. In determining whether the creation of a multicounty welfare social service district should be approved, the state department shall refer to, among other pertinent factors, the following:

1. Whether the affected county boards agencies are able to supply an adequate level and quality of social and economic assistance services.
2. The number and qualifications of staff personnel serving the affected county boards agencies.
3. The ratio of the number of cases handled by the affected county boards agencies to the number of their staff personnel.
4. The geographical area and population served by the affected county boards agencies.
5. The distance of recipients from the affected county boards agencies.

6. The benefits ~~which~~ that would be realized from the creation of ~~such~~ the district in terms of lower costs, increased availability of services, new services, and improvement of services.

~~Any county which that is denied approval to become a member of a multicounty welfare social service district, or any member of that board, shall have the right to may request a hearing thereon. Such county~~ The state department shall notify the board must be notified of such county commissioners of the right by the state department, and shall have to appeal. The board has thirty days from the time after receipt of the notice to request such a hearing. If a hearing is requested, it must be scheduled by the state department shall hold the hearing within fifteen days after receipt of the request for the same, and it must be held at the state capitol. At the hearing, evidence may be presented relative to the creation of the proposed multicounty welfare social service district. The hearing must be conducted in accordance with the applicable provisions of chapter 28-32.

SECTION 5. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Distribution of property - Governing board - Compensation of members.

1. A plan for the creation of a multicounty welfare social service district prepared by a county board must provide for describe the method of operation of the consolidated district office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability of for funds and manner of reporting receipts and disbursements. The plan must provide that all services provided by county officials to county boards agencies under the provisions of this code must be provided by those county officials residing within the same county wherein the district office of the multicounty welfare social service district is located. The plan must also provide for the distribution of property owned by each of the county boards agencies affected by the consolidation; and for the method of resolution of any disagreement between the boards of county commissioners involved in the multicounty district or between the governing board and one or more boards of county commissioners. The plan, once approved, may be continued for a definite term or until rescinded or terminated in accordance with its terms. The plan may also provide that the regional director of a regional human service center shall serve as the director of the multicounty welfare social service district.
2. The governing board of the multicounty social service district annually shall prepare a proposed budget for the district at the time and in the manner in which a county budget is adopted and shall submit the proposed budget to the board of county commissioners of each county in the district for approval. The amount budgeted and approved must be sufficient to defray the anticipated expenses of administration and the delivery of social and economic assistance services, exclusive of grants, and must be prorated among the counties based on an agreed to cost distribution formula that takes into consideration such factors as caseload, population, taxable valuation, and geographical area of the respective counties comprising the district. Within ten days

following approval of the proposed budget by the boards of county commissioners, the governing board of the district shall certify the budget to the respective county auditors of the counties in the district, and this amount must be included in the levies of the counties. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated costs of poor relief and that county's share of grants as provided under this title. The amounts budgeted and approved by the several boards of county commissioners must be periodically deposited with the treasurer of the county in which the district office is located, as may be requested by the treasurer, and must be placed in a special multicounty social service district fund. The governing board, or its president and secretary when authorized by the governing board, shall audit all claims against the fund. The governing board at its regularly scheduled meeting shall approve or ratify all claims against the fund. The county treasurer shall pay approved or ratified claims from the fund. Unexpended funds remaining at the end of a fiscal year may be carried over to the next fiscal year.

3. The governing board of a multicounty welfare social service district ~~shall consist~~ consists of ~~seven, nine, or eleven~~ not more than fifteen members, as determined by the plan. The plan must provide that there must be appointed as members to ~~such~~ the board from each respective county, the number of members in the ratio that each county's population bears to the total population of the multicounty welfare social service district; provided, that each county to be included in such district must be represented by at least one board member. ~~Appointments must be made by committees created in~~ The board of county commissioners of each county ~~included in the~~ within the multicounty social service district, and composed of the chairman of the board of county commissioners, the county judge, and the state's attorney of each such county acting with the advice and consent of the state department shall make the appointments to the governing board. Members must be appointed for a term of three years, or until a successor has been appointed and qualifies. However, the members appointed to the initial governing board of a multicounty district must be appointed to staggered terms determined in accordance with the plan approved pursuant to section 50-01.1-03. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and filing the same oath with the county auditor in his of the county of residence. No person may serve as a board member for more than two three consecutive three-year terms. No person may be appointed to the board who has served within three years prior to appointment, unless he is being reappointed to a second consecutive term. Vacancies occurring on the board must be filled in the same manner as regular appointments; provided, however, that a person appointed to fill the unexpired term of a member is eligible for appointment to another term only if his consecutive service on the board after completion of such term will not exceed six years. No person is eligible for appointment if he would become seventy-one years of age or older before the end of such term. Each sex must be fairly represented on the board, and each county must be represented on the board by at least one county commissioner of that county. Members shall elect from the governing board a president, a secretary, and other officers as the board deems necessary.

3- 4. The members Each member of the governing board ~~shall each is~~ entitled to receive ~~the sum of fifteen~~ forty-five dollars per day, ~~not to exceed forty-five days in any calendar year,~~ for each day necessarily spent in the performance of ~~their~~ official duties. In addition, ~~such members must~~ each member is entitled to be permitted the reimbursement of travel and board and lodging paid for mileage and actual expenses incurred in connection with their attending meetings and in the performance of official duties, at the same rate and under the same conditions as in the amounts provided by law for state officials and officers.

SECTION 6. APPROPRIATION. Notwithstanding the provisions of section 57-39.2-26.1, there is hereby appropriated out of any moneys in the state aid distribution fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much thereof as may be necessary, to the department of human services to provide funds for financial incentives for, and related county costs incurred in the development of, multicounty social service districts for the biennium beginning July 1, 1991, and ending June 30, 1993.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 507

HOUSE BILL NO. 1292
(Representatives Hanson, Williams, Kroeber)
(Senator Marks)

STATE HOSPITAL LAND TRANSFER

AN ACT to authorize the director of the department of human services to transfer title and convey certain land owned by the state of North Dakota at the state hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State hospital land transfer authorized. The director of the department of human services may transfer title and convey the following property:

1. A tract of land located within the SW 1/4, Section 1, T139N, R64W of the Fifth Principal Meridian, known as Auditor's Lot 1-1, more particularly described as follows:

Commencing at the SW corner of said Section one; thence $N0^{\circ}27'26''W$ along the west line of said section one, 1,204.01 feet to the point of beginning; thence continuing $N0^{\circ}27'26''W$ along the west line of said section one, 1,057.57 feet to a point on the southwesterly right-of-way line of Interstate Highway 94, said right-of-way being 175.00 feet in width on the southwesterly side of the centerline of said Interstate Highway 94 and said centerline being in a $2^{\circ} - 500'$ spiral curve; thence southeasterly along said right-of-way line, parallel to and 175.00 feet distant from the centerline of said Interstate Highway 94 along a spiral curve having a chord bearing of $S70^{\circ}28'36''E$ and a chord distance of 79.79 feet to a point on said right-of-way line that is 75.00 feet easterly of the west line of said section one, measured at right angles to said west line of section one; thence $S0^{\circ}27'26''E$, parallel to the west line of said section one, 1,030.69 feet; thence $S89^{\circ}50'00''W$, 75.00 feet to the point of beginning, said Auditor's Lot 1-1 containing 1.80 acres more or less.

2. A tract of land located within the SW 1/4, Section 1, T139N, R64W of the Fifth Principal Meridian, known as Auditor's Lot 1-2, more particularly described as follows:

Commencing at the SW corner of said section one; thence $N0^{\circ}27'26''W$ along the west line of said section one, 1,204.01 feet; thence $N89^{\circ}50'00''E$, 75.00 feet to the point of beginning; thence $N0^{\circ}27'26''W$, parallel to the west line of said section one, 1,030.69 feet to a point on the southwesterly right-of-way line of Interstate Highway 94, said right-of-way being 175.00 feet in width on the southwesterly side of the centerline of said Interstate Highway 94 and said centerline being in a $2^{\circ} - 500'$ spiral curve;

thence southeasterly along said right-of-way line, parallel to and 175.00 feet distant from the centerline of said Interstate Highway 94, along a spiral curve having a chord bearing of $S71^{\circ}36'05''E$ and a chord distance of 87.10 feet to a point on said right-of-way line; thence $S1^{\circ}42'11''W$, 1,003.47 feet; thence $S89^{\circ}50'00''W$, 44.60 feet to the point of beginning, said Auditor's Lot 1-2 containing 1.49 acres more or less.

The transfer of title and conveyance of this property must be at no cost to the department of human services. An independent appraisal must be obtained for the property described in subsections 1 and 2 and the sales price for the property must be not less than the appraised value or three hundred dollars per acre, whichever is greater. The provisions of sections 54-01-05.2 and 54-01-05.5 do not apply to the transfer authorized by this Act. The commissioner of university and school lands or the commissioner's designee shall provide technical assistance and advice to the director of the department of human services in the transaction authorized by this Act. All legal documents, papers, and instruments required by the transaction authorized by this Act must be reviewed and approved as to form and legality by the attorney general.

Approved April 8, 1991

Filed April 8, 1991

CHAPTER 508

SENATE BILL NO. 2237

(Committee on Human Services and Veterans Affairs)

(At the request of the Office of Management and Budget)

HUMAN SERVICES' COMMITTEES

AN ACT to create and enact a new section to chapter 50-27 of the North Dakota Century Code, relating to the administration of the children's trust fund by the committee on children and youth; to amend and reenact sections 25-01-01.1, 50-06-01.2, 50-06-01.4, subdivision d of subsection 1 of section 50-25.2-05, sections 50-26-01, 50-26-05, 50-27-01, and 50-27-03 of the North Dakota Century Code, relating to the various committees of the governor's council on human resources, the developmental disabilities council, the protection and advocacy project, and the children's trust fund; and to repeal section 18 of chapter 333 of the 1989 Session Laws of North Dakota, relating to the duties of the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01.1. State council on developmental disabilities. There must be maintained in the office of the governor department of human services a state council on developmental disabilities consisting of one representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

1. Office of superintendent of public instruction.
2. North Dakota department of human services.
3. State department of health and consolidated laboratories.
4. Developmental center at Grafton.
5. Job service North Dakota.
6. ~~Director of institutions.~~

The council shall ~~have consumer,~~ at a minimum, include representation in conformity with that conforms to federal regulations law requirements regarding state councils on developmental disabilities. All members of the council must be appointed by the governor ~~from the list of designees provided by agency heads pursuant to this section.~~ The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and

* NOTE: Section 25-01-01.1 was also amended by section 7 of Senate Bill No. 2245, chapter 592.

may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, and review and comment on all state plans in the state which relate to programs affecting persons with developmental disabilities; ~~provide protection and advocacy to developmentally disabled individuals when requested by a state department, division, institution, or organization; and establish a committee on professional standards and certification which will develop rules for the certification of developmental disability professionals.~~ The council may take any action reasonably necessary to secure and administer any money made available to state councils on developmental disabilities through the Developmentally Disabled and Bill of Rights Act [Pub. L. 95-602; 92 Stat. 2955; 42 U.S.C. 6000 et seq.]. The council, ~~with the approval of~~ if approved by the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of developmentally disabled persons in North Dakota, and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

SECTION 2. AMENDMENT. Section 50-06-01.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.2. Department of human services - Creation. The North Dakota department of human services is hereby created to assume the functions, powers, and duties of the following governmental agencies:

1. The social service board of North Dakota, including all of the statutory authority and responsibilities set out in chapters 27-21, 50-06, 50-06.1, 50-09, 50-10, 50-11, 50-11.1, 50-12, 50-18, 50-19, 50-20, 50-21, 50-24.1, and 50-25.1.
2. ~~The governor's council on human resources as established by chapter 50-26.~~
- 3- The mental health and retardation division of the state department of health and consolidated laboratories as established by chapter 25-10, including the state hospital and any other institutions under the jurisdiction of the mental health and retardation division.
- 4- 3. The division of alcoholism and drug abuse of the state department of health and consolidated laboratories as established by chapter 54-38.
- 5- 4. The state council on developmental disabilities as established by section 25-01-01.1.

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

50-06-01.4. Structure of the department. The department includes the state hospital; ~~the committees on aging, children and youth, employment of~~

* NOTE: Section 50-06-01.4 was also amended by section 25 of Senate Bill No. 2245, chapter 592.

persons with disabilities, and related committees established by the governor, of the governor's council on human resources; the commission on the status of women; the regional human service centers; a vocational rehabilitation unit; and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

1. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.
2. Administration of programs for persons with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
3. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001, et seq.], home and community-based services, licensure of adult family care homes, and the fund matching program for city or county tax levies for senior citizen activities and services.
4. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.
5. Administration of programs for crippled children, including the provision of services and assistance to crippled children and their families, and the development and operation of clinics for the identification, screening, referral, and treatment of crippled children.
6. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.
7. Administration of economic assistance programs, including aid to families with dependent children, food stamps, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.
8. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening,

diagnosis and treatment, the licensure of basic care facilities, utilization control, and claims processing.

The executive director shall consult with and maintain a close working relationship with the state department of health and consolidated laboratories; with the director of institutions and the superintendents of the school for the deaf and the school 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. The executive director shall also maintain a close liaison with county social service agencies.

SECTION 4. AMENDMENT. Subdivision d of subsection 1 of section 50-25.2-05 of the North Dakota Century Code is amended and reenacted as follows:

- d. Coordinate the assessment and the provision of other adult protective services with other state or local agencies, departments, or institutions, including the agency of the protection and advocacy project under the supervision of the executive committee of the governor's council on human resources, or private agencies, organizations, and professionals providing services necessary or advisable for the vulnerable adult.

* SECTION 5. AMENDMENT. Section 50-26-01 of the North Dakota Century Code is amended and reenacted 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 office of the governor. The council must consist of a committee on aging, a committee on children and youth, a committee on employment of persons with disabilities, a commission on the status of women, and other committees having a related interest in human resources as may be appointed. The commission on the status of women and the committees on aging, children and youth, employment of persons with disabilities, and other committees having a related interest in human resources appointed by the governor must be maintained in the department of human services. Each committee member must 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 must 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 committee on children and youth must have expertise in the prevention of child abuse and neglect. Each of the committees of the governor's council on human resources may appoint to their committee the chairman of the mayor's committee or the chairman's designated representative. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for the remainder of the unexpired term only.

SECTION 6. AMENDMENT. Section 50-26-05 of the North Dakota Century Code is amended and reenacted as follows:

- * NOTE: Section 50-26-01 was also amended by section 24 of Senate Bill No. 2068, chapter 54.

50-26-05. Expenses of council - Payment - Offices. All expenses of any member of any committee of the governor's council on human resources or any employee thereof and any other expenses of the council must be paid upon by voucher signed by the chairman of the council's executive committee or other member of the executive committee if the chairman is unable to act. Upon approval of such vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget. Suitable office space must be made available to the governor's council on human resources in the state capitol building. Expenses of the members of the commission on the status of women and of the members of the committees on aging, children and youth, employment of persons with disabilities, and other related committees established by the governor must be paid from the appropriation for the department of human services, and expenses of the members of the executive committee, when meeting as the executive committee, must be paid from the appropriation for the governor's office.

SECTION 7. AMENDMENT. Section 50-27-01 of the North Dakota Century Code is amended and reenacted as follows:

50-27-01. 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 must be deposited in the children's trust fund. The department of human services shall provide administrative and clerical support for the children's trust fund.

SECTION 8. AMENDMENT. Section 50-27-03 of the North Dakota Century Code is amended and reenacted as follows:

50-27-03. Authority of the committee on children and youth. In addition to the powers and duties enumerated in section 50-26-02, the committee on children and youth of the governor's council on human resources may:

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- 3. Hire or arrange for appropriate staff, as deemed necessary, to administer and maintain properly the children's trust fund.
- 5- 4. 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-~~ 5. Award grants from the children's trust fund in accordance with this chapter and any rules that have been adopted.
- ~~7-~~ 6. Adopt, after public notice and an opportunity for comment has been given, any rules it determines to be necessary to carry out this chapter.
- ~~8-~~ 7. Contract with persons or organizations, including political subdivisions and school districts.
- ~~9-~~ 8. Prepare and submit to the executive director of the department of human services a report at the end of each biennium.

~~The governor~~ The 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 children and youth committee to assist in the administration of the children's trust fund.

SECTION 9. A new section to chapter 50-27 of the North Dakota Century Code is created and enacted as follows:

Governor's council on human resources. The executive committee of the governor's council on human resources and its functions must be maintained in the governor's office.

SECTION 10. REPEAL. Section 18 of chapter 333 of the 1989 Session Laws of North Dakota is repealed.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 509

SENATE BILL NO. 2384

(Senators Mathern, Mushik, Traynor)

(Representatives Scherber, Trautman, Nowatzki)

FAMILY SUPPORT PROGRAMS

AN ACT to adopt a statement of legislative policy relating to the family; to provide for family life education; to create and enact two new sections to title 50, a new subsection to section 50-06-05.1, a new section to chapter 50-09, and a new section to chapter 50-11.1 of the North Dakota Century Code, relating to the coordination of services for pregnant women, benefits for pregnant women, aid to dependent children and medical assistance for adopted children with special needs, and early childhood services resource and referral programs; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Statement of legislative policy. The state must advocate for the family by using political, economic, social, and judicial measures that support the unity and stability of the family so that the family can exercise its specific function of nurturing and protecting its members. If the family is to be nurtured and its members protected, the state must support programs that offer assistance for pregnant women and their families. Unjust social and economic structures such as poverty, sexism, and lack of adequate health care and information should be addressed. Women must have the ability to make responsible decisions concerning a pregnancy without losing other opportunities for a fulfilled life. Ensuring the dignity and rights of women and children and families is the operative principle underlying this Act.

SECTION 2. Family life education program. The department of human services shall enter into an agreement with the North Dakota state university extension service for the design of a program to educate and support individuals at all points within the family life cycle. The program must provide support for families and youth with research-based information relating to personal, family, and community concerns and must contain a research component aimed at evaluation of planned methods or programs for prevention of family and social problems. The program must address the following interrelated topics:

1. Child and youth development.
2. Parent education with an emphasis on parents as educators.
3. Human development.
4. Interpersonal relationships.
5. Family interaction and family systems.

6. Family economics.
7. Intergenerational issues.
8. Impact of societal changes on the family.
9. Coping skills.
10. Community networks and supports for families.

SECTION 3. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

To coordinate services for pregnant women.

SECTION 4. A new section to title 50 of the North Dakota Century Code is created and enacted as follows:

Coordination of services for pregnant women. The department shall:

1. Collect information concerning all existing private and public organizations in this state offering services to pregnant women who are experiencing problems in connection with their pregnancies due to medical, economic, social, or psychological factors. The information must be geographically indexed and designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is a dependent, including adoption agencies. This information must include the nature of the services offered, the conditions under which and the locations at which services are available, the service area covered, and the legal status and organizational structure of the organization.
2. Disseminate information collected under this subsection to all existing organizations offering services to pregnant women and to potential organizations desiring to offer such services. This information must be disseminated in such a manner that existing and potential organizations are assisted in their efforts to serve pregnant women.
3. Serve as a clearinghouse for information and advice on creating, administering, and maintaining an effective organization offering services to pregnant women.
4. Establish and widely advertise a statewide toll-free telephone number that persons may call to obtain information concerning organizations near them offering services to pregnant women, and in other ways disseminate information concerning organizations offering services to pregnant women.

SECTION 5. A new section to title 50 of the North Dakota Century Code is created and enacted as follows:

Benefits for pregnant women. The department shall pay a benefit during the first six months of pregnancy to the mother of an unborn child who would otherwise be eligible for a benefit under chapter 50-09. The benefit paid under this section must be equal to the benefit available under chapter

50-09. An applicant for a benefit under this section shall provide medical verification of her pregnancy. If the applicant is unable to provide the verification, a medical examination to provide such verification must be provided by the department.

SECTION 6. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Assistance for adopted children with special needs. Assistance provided under this chapter or chapter 50-24.1 after adoption to a child with special needs must be provided without regard to the income or resources of the adopting parents. Except as provided in this section, such assistance continues until the adopted child becomes eighteen years of age, is emancipated, or dies; the adoption is terminated; or a determination of ineligibility is made by the county agency, whichever occurs earlier. If sufficient funds are available, the county agency may continue assistance for an adopted child until the child reaches twenty-one years of age if the agency determines that the adopted child is a student regularly attending a secondary, postsecondary, or vocational school in pursuance of a course of study leading to a diploma, degree, or gainful employment. Assistance provided to an adopted child must continue regardless of the residence of the adopting parents. A state or county agency may require, as a condition of receiving assistance under this chapter or chapter 50-24.1, that the adopting parents enter into a contract or agreement regarding the type of assistance to be received; the amount of assistance; the identity of the physical, mental, or emotional condition for which medical assistance is received; or any conditions for continued receipt of assistance. A child with special needs is a child legally available for adoptive placement whose custody has been awarded to the department or a county social services board and who is five years of age or older; under eighteen years of age with a physical, emotional, or mental handicap; a member of a minority; or a member of a sibling group.

SECTION 7. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Resource and referral program - Authority of department to make grants - Federal funds - Program components.

1. The department may make grants to public and private nonprofit entities for the planning, establishment, expansion, improvement, or operation of early childhood services. Public or private entities may apply to the department for funding. Applicants shall apply for such grants on forms provided by the department. Applications for grants using funds received by the state under subsection 2 must include assurances that federal requirements have been met.
2. The department shall submit an application annually to the United States secretary of health and human services for the purpose of obtaining the state's allotment of funds authorized under chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. 9871-9877] or under any subsequent federal law providing funding for child care and development programs.
3. Each program must identify all existing early childhood services through information provided by all relevant public and private

entities in the areas of service and must develop a resource file of the services which must be maintained and updated at least quarterly. The services must include early childhood services and service providers as defined in section 50-11.1-02.

4. Each program providing early childhood resource and referral services must establish a referral process that responds to parental needs for information, fully ensures the confidentiality of records and information as required under subsection 3 of section 50-11.1-07, affords parents maximum access to all referral information, and includes telephone referral available for no less than twenty hours per week. Each program shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.
5. All early childhood services resource and referral programs must maintain documentation of the number of calls and contacts to the program. A program may collect and maintain the following information:
 - a. Ages of children served.
 - b. Time category of child care request for each child.
 - c. Special time category, such as nights, weekends, or swing shift.
 - d. The reason that the child care is needed.
6. Each program must have available, as an educational aid to parents, information on available parent, early childhood, and family education programs in the community and information on aspects of evaluating the quality and suitability of early childhood services, including licensing regulation, financial assistance availability, child abuse reporting procedures, and appropriate child development information.
7. A program may provide technical assistance to existing and potential providers of all types of early childhood services and to employers. This assistance must include:
 - a. Information on all aspects of initiating new early childhood services including licensing, zoning, program and budget development, and assistance in finding information from other sources.
 - b. Information and resources which help existing early childhood service providers to maximize their ability to serve the children and parents of their community.
 - c. Dissemination of information on current public issues affecting the local and statewide delivery of early childhood services.
 - d. Facilitation of communication between existing early childhood service providers and child-related services in the community served.

- e. Recruitment of licensed providers.
 - f. Options, and the benefits available to employers utilizing the various options, to expand child care services to employees.
8. Services prescribed by this section must be designed to maximize parental choice in the selection of early childhood services and to facilitate the maintenance and development of such services and resources.

SECTION 8. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,034,050, or so much thereof as may be necessary, to the department of human services for the purpose of implementing sections 2 through 7 of this Act for the biennium beginning July 1, 1991, and ending June 30, 1993. Of the total amount, \$45,000 must be distributed for the purpose of implementing section 2 of this Act, \$128,250 must be distributed for the purpose of implementing sections 3 and 4 of this Act, \$635,000 must be distributed for the purpose of implementing section 5 of this Act, and \$225,800 must be distributed for the purpose of implementing section 7 of this Act.

SECTION 9. EFFECTIVE DATE. Section 5 of this Act becomes effective July 1, 1992.

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 510

SENATE BILL NO. 2153

(Committee on Human Services and Veterans Affairs)
(At the request of the Department of Human Services)

CHILD SUPPORT ENFORCEMENT PROGRAM PAYMENTS

AN ACT to create and enact a new section to chapter 50-09 of the North Dakota Century Code, relating to state prepayment for projected county child support expenditures; and to amend and reenact section 50-09-20.1 of the North Dakota Century Code, relating to reimbursement by the state for certain county expenditures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-20.1 of the North Dakota Century Code is amended and reenacted as follows:

50-09-20.1. Amounts state liable for - Reimbursement by state. The state agency shall reimburse each county, upon claim being made therefor by the county agency, for fifty percent of the amount expended by the county agency in excess of the amount provided by the federal government for the administration of ~~the child support enforcement program~~, the early childhood services program, the job opportunity and basic skills training program, the transportation program, and the case management program.

SECTION 2. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Amount state liable for - Prepayment by state. The state agency shall pay to or on behalf of each county, upon claim being made therefor by the county agency, fifty percent of the amount projected to be expended by the county agency in each month in excess of the amount provided by the federal government for the administration of the child support enforcement program. At the end of each quarter year, the projections must be reconciled with actual expenditures, and the monthly payment next following the reconciliation must be adjusted to account for any increase or decrease required by the reconciliation.

Approved March 14, 1991
Filed March 15, 1991

CHAPTER 511

SENATE BILL NO. 2457
(Senators Nalewaja, Lindgren, Evanson)
(Representative Kelsch)

CHILD CARE PROVIDER INFORMATION

AN ACT to create and enact a new section to chapter 50-11.1 and a new section to chapter 50-25.1 of the North Dakota Century Code, relating to criminal history record investigations of prospective child care providers and the establishment of a carecheck registry and a child abuse information index; to amend and reenact sections 14-09-22, 50-11.1-07, subsection 1 of section 50-25.1-03, and section 50-25.1-05.2 of the North Dakota Century Code, relating to penalties for child abuse, background investigations, release of information maintained by child care providers, persons required to report suspected child abuse, and entry of child abuse reports in a child abuse information index; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-22 of the North Dakota Century Code is amended and reenacted as follows:

14-09-22. Neglect Abuse or neglect of child - Penalty. A

1. Except as provided in subsection 2, a parent, guardian, or other custodian of any child who shall cruelly abuse or willfully neglect or refuse to provide subsistence, education, or other necessary care for the health, morals, or well-being of such child, or who shall willfully permit and allow any such child to be in a disreputable place or associate with vagrants, vicious or immoral persons; or engage in an occupation forbidden by the laws of North Dakota; or to engage in an occupation injurious to his health or morals or to the health or morals of others; or any such parent, guardian, or custodian who, in the supervision and control of such child, shall fail to exercise reasonable diligence in preventing such child from being in a disreputable place or from associating with vagrants, vicious or immoral persons; or from engaging in an occupation forbidden by the laws of North Dakota; or from engaging in any occupation injurious to his health or morals or to the health and morals of others shall be commits any of the following offenses is guilty of a class C felony:

- a. Inflicts, or allows to be inflicted, upon the child, physical or mental injury.
- b. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control

necessary for the child's physical, mental, or emotional health, or morals.

- c. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
 - d. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under subdivision a of subsection 1 is guilty of a class B felony. Any such person who commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.

SECTION 2. AMENDMENT. Section 50-11.1-07 of the North Dakota Century Code is amended and reenacted 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 early childhood services in any early childhood facility, and the qualifications of any in-home provider seeking or holding a license or registration document under this chapter. Upon request of the department or the county agency, the state department of health and consolidated laboratories or the state fire marshal, or ~~his~~ the fire marshal's designee, shall inspect any facility for which a license is applied for or issued and shall report ~~its~~ the 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~~ Except as provided in subsection 4, all records and information maintained with respect to children receiving early childhood services are confidential and must be properly safeguarded and may 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.

4. A provider of early childhood services, upon the request of the parent or guardian of a child for whom the provider provides such services, shall make available to the parent or guardian a list of the names, telephone numbers, and addresses of the parents or guardians of children for whom early childhood services are provided. The list may only include the names, telephone numbers, or addresses of parents or guardians who grant the provider permission to disclose that information.

SECTION 3. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Carecheck registry - Child care providers - Background investigations - Fees. Placement in the carecheck registry is voluntary. To apply for placement in the carecheck registry, an in-home provider, a family child care home exempt from licensure, or a licensed early childhood services provider shall obtain two sets of that person's own fingerprints from a law enforcement agency or other local agency authorized to take fingerprints and shall request the agency to submit the fingerprints and a completed fingerprint card for each set to the division of children and family services of the department or to any division as determined appropriate by the department. If the division has no record of a determination of probable cause for child abuse or neglect, the division shall submit one set of the fingerprints to the federal bureau of investigation and one set to the bureau of criminal investigation to determine if there is any criminal history record information regarding the applicant for carecheck. The results of the investigations must be forwarded to the division of children and family services of the department or to any other division as determined appropriate by the department. The applicant for placement in the carecheck registry, after satisfying requirements imposed by the department, must be placed in the carecheck registry if no relevant criminal history record information is found and no report of a determination of probable cause for child abuse or neglect filed pursuant to section 50-25.1-05.2 is found which would disqualify the person. The division may charge the applicant a fee not to exceed thirty dollars for the purpose of processing the application. The division is not subject to the fee imposed under section 12-60-16.9 when requesting criminal history record information from the bureau of criminal investigation. The division, within one hundred eighty days after the effective date of this Act, shall provide, through a toll-free telephone line maintained by the department, a means to allow interested parents or guardians, employment agencies, or child care referral groups to determine if a person has met the requirements for placement in the carecheck registry. The division shall undertake a public awareness effort to explain the existence and purpose of the carecheck toll-free telephone line. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.

SECTION 4. AMENDMENT. Subsection 1 of section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, addiction counselor, social worker, day care center or any other child care worker, police or law enforcement officer, or member of the clergy having knowledge of or reasonable cause to suspect that a child is abused or neglected shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

SECTION 5. AMENDMENT. Section 50-25.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.2. Report to the court - Entry of report in the child abuse information index.

1. The state child protection team, upon a determination that institutional child abuse or neglect is indicated, shall promptly make a written report of a determination of probable cause for child abuse or neglect to the juvenile court having jurisdiction in the matter. When the subject of the report is a state-operated institution, the state child protection team shall promptly notify the governor that such a report has been made to the juvenile court.
2. In all other cases, upon a determination that probable cause exists to believe that child abuse or neglect is indicated, the department or the department's designee shall promptly make a written report of a determination of probable cause for child abuse or neglect to the juvenile court having jurisdiction in the matter.
3. The state child protection team or the department or the department's designee, as applicable, shall promptly file a report of a determination of probable cause for child abuse or neglect made under this section in the child abuse information index.

SECTION 6. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Child abuse information index - Establishment. The division of children and family services or other division as determined appropriate by the department shall maintain a child abuse information index of all reports of determinations of probable cause for child abuse or neglect filed pursuant to section 50-25.1-05.2.

SECTION 7. EFFECTIVE DATE. Section 3 of this Act becomes effective on July 1, 1992.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 512

HOUSE BILL NO. 1591
(Representatives Kerzman, Scherber)
(Senator Krauter)

FUEL ASSISTANCE ELIGIBILITY

AN ACT to amend and reenact section 50-24.1-02.3 of the North Dakota Century Code, relating to exemption of pre-need funeral plan from eligibility determination.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When pre-need funeral plan not to be considered in eligibility determination. In determining eligibility for medical assistance or fuel assistance, the department of human services may not consider as an available resource any prepayments or deposits which total three thousand dollars or less, and the interest accrued thereon, made under a pre-need funeral service contract by an applicant for or recipient of medical assistance or fuel assistance. A pre-need funeral service contract deposit is not a multiple-party account for purposes of chapter 30.1-31. No claim for payment of funeral expenses may be made against the estate of a deceased medical assistance or fuel assistance recipient except to the extent that prepayments or deposits on pre-need funeral service contracts total less than one thousand four hundred dollars.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 513

SENATE BILL NO. 2485
(Senators Stenehjem, Mathern, Nalewaja)
(Representative Larson)

MEDICAL ASSISTANCE FOR PSYCHOLOGIST SERVICES

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage for services provided by psychologists; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Medical assistance - Services provided by psychologists. Within the limits of legislative appropriations, the department of human services shall provide medical assistance to eligible recipients for services provided by psychologists licensed under chapter 43-32.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 1992.

Approved April 3, 1991
Filed April 4, 1991

CHAPTER 514

HOUSE BILL NO. 1277
(Representatives D. Olsen, Cleary, Trautman)
(Senators Nalewaja, Robinson, Mushik)

SKILLED NURSING ALTERNATIVES

AN ACT to repeal sections 50-24.3-04 and 50-24.3-05 of the North Dakota Century Code, relating to preadmission assessment of persons prior to admission to a skilled nursing facility, intermediate care facility, or a hospital swing-bed facility; to provide a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 50-24.3-04 and 50-24.3-05 of the North Dakota Century Code are repealed.

SECTION 2. LEGISLATIVE INTENT - IN-HOME AND COMMUNITY-BASED SERVICES. It is the intent of the legislative assembly that the department of human services, through senior agencies and senior centers, provide information to the elderly on available in-home and community-based services.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 515

HOUSE BILL NO. 1136
(Committee on Human Services and Veterans Affairs)
(At the request of the State Department of Health and
Consolidated Laboratories)

HEALTH DEPARTMENT TO CLASSIFY NURSING HOME PAYMENTS

AN ACT to amend and reenact subsections 1 and 2 of section 50-24.4-01.1 of the North Dakota Century Code, relating to replacing the state department of health and consolidated laboratories with the department of human services with regard to nursing home resident payment classifications and procedures for reconsideration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 50-24.4-01.1 of the North Dakota Century Code are amended and reenacted as follows:

1. For purposes of this section:-

a. ~~"Department"~~ means the department of health and consolidated laboratories.

b. ~~"Resident's"~~ "resident's representative" includes the resident's guardian or conservator, a person authorized or required to pay the nursing home expenses of the resident, or any other person designated by the resident in writing.

2. The department ~~of human services~~ shall establish resident payment classifications for the care of residents of nursing homes.

Approved March 7, 1991
Filed March 7, 1991

CHAPTER 516

HOUSE BILL NO. 1595
(Representative Rydell)
(Senators Graba, Holmberg)

NURSING HOME PRIVATE ROOM RATES

AN ACT to create and enact a new section to chapter 50-24.4 of the North Dakota Century Code, relating to payments for private rooms in nursing homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.4 of the North Dakota Century Code is created and enacted as follows:

Rates for private rooms - Payments by a third party on behalf of medical assistance recipients.

1. Notwithstanding section 50-24.4-19, a nursing home may receive a payment, in addition to payment of the rate set under this chapter, for the use of a private room by a resident who receives medical assistance benefits if:
 - a. The private room is not medically necessary;
 - b. The resident, or another person acting on behalf of the resident, has requested the private room and the nursing home informs the person making the request, at the time of the request, of the amount of the payment; and
 - c. The payment does not exceed the amount that the nursing home charges private paying residents for a private room under subsection 1 of section 50-24.4-19.
2. For purposes of this chapter, a private room is a covered service only if medically necessary for the care of a resident.

Approved April 8, 1991
Filed April 8, 1991

CHAPTER 517

HOUSE BILL NO. 1031
(Legislative Council)
(Interim Budget Committee on Long-Term Care)

NURSING HOME PROPERTY COST REIMBURSEMENT

AN ACT relating to a property cost reimbursement study and property cost reimbursement to certain nursing homes; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Property reimbursement study - Reimbursement in certain cases.

1. The department of human services shall study the medical assistance property cost reimbursement system for the nursing home industry in the state of North Dakota. The department shall establish a nine-member advisory committee for the study consisting of departmental staff, at least three representatives of the long-term care industry, and three legislative members appointed by the chairman of the legislative council. The department may expend funds to engage a qualified consulting firm to assist in the study and shall from time to time report on the progress of the study and any findings to the legislative council or a committee designated by the council. The legislative council shall report any findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-third legislative assembly.
2. The department shall reimburse nursing home providers that are vendors in the medical assistance program for the use of real estate and depreciable equipment that was purchased by the nursing home provider after July 1, 1985, and before January 1, 1991, based on property costs created by good faith, arm's length purchase agreements. For purposes of this Act, "property costs" means property taxes including special assessments, lease and rental costs of personal property and reasonable legal expense, all to the extent allowable under chapter 50-24.4 and rules adopted by the department; interest expense allowable under rules adopted by the department without the application of subdivision f of subsection 1 of section 75-02-06-04 of the North Dakota Administrative Code; personal property depreciation based upon purchase price paid by the buyer; and real property depreciation based upon current reproduction cost of those assets depreciated on a straight-line basis over their useful lives to the date of acquisition by the buyer and increased by one-half of the percentage increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of

acquisition by the buyer, or the purchase price paid by the buyer, whichever is lower.

SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$75,000, or so much thereof as may be necessary, and \$75,000 from special funds, to the department of human services for the purpose of undertaking the study provided for in section 1 of this Act, for the period beginning July 1, 1991, and ending June 30, 1993.

SECTION 3. Property cost reimbursement. The department of human services shall provide the additional property cost reimbursement required by this Act from funds appropriated to the department in Senate Bill No. 2002 of the fifty-second legislative assembly. It is the intent of the legislative assembly that the \$783,345, of which \$184,086 is from the general fund, necessary to fund the additional reimbursement required by this Act, will be available through the department's recapture of depreciation related to the sales between the Benedictine health systems and Beverly enterprises.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 1993, and after that date is ineffective.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 518

SENATE BILL NO. 2437
(Senators Keller, Solberg, Tomac)
(Representative Wald)

REIMBURSEMENT FOR NEW OR EXPANDED NURSING HOMES

AN ACT to amend and reenact section 50-24.4-16 of the North Dakota Century Code, relating to special cost payment rates for nursing homes with a capacity increase and for newly constructed nursing homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-16 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-16. Special rates.

1. For nursing homes with a significant capacity increase and for newly constructed nursing homes, which first provide services on or after July 1, 1988, and which are not included in the calculation of the percentile for any group, the department shall establish by rule procedures for determining interim operating cost payment rates. The interim payment rate may not be in effect for more than fifteen eighteen months. The department shall establish procedures for determining the interim rate and for making a retroactive cost settle-up after the first year of operating; the cost settled operating cost per diem may not exceed one hundred ten percent of the sixtieth percentile established for the appropriate group for periods when an interim rate was in effect.
2. As soon as is practicable following the establishment of the procedures required by subsection 1, the department shall apply the special rates for all affected facilities for rate periods beginning on or after January 1, 1990.

Approved March 14, 1991

Filed March 15, 1991

CHAPTER 519

SENATE BILL NO. 2494
(Heigaard)

NURSING HOME PATIENT BENEFITS FILING

AN ACT to amend and reenact section 50-24.4-27 of the North Dakota Century Code, relating to medicare certification and charges by nursing homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-27 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-27. Medicare certification. All nursing ~~homes~~ facilities certified ~~as skilled nursing facilities~~ under the medical assistance program shall participate in medicare part A and part B with respect to ~~every skilled bed~~ at least thirty percent of the beds in the facility unless, after submitting an application, medicare certification is denied by the federal health care financing administration. The facility shall file on behalf of each patient or assist each patient in the filing of requests for any third-party benefits to which the patient may be entitled. Medicare review must be conducted at the time of the annual medical assistance review. Charges for medicare-covered services provided to residents who are simultaneously eligible for medical assistance and medicare must be billed to medicare part A or part B before billing medical assistance. Medical assistance may be billed only for charges not reimbursed by medicare.

Approved April 5, 1991
Filed April 8, 1991