

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, 57-38-30, and 57-43.2-02.3,~~ subsection 1 of section  
4 61-06-13, subsection 5 of section 61-07-03, section 61-11-03, and subdivision a of subsection 2  
5 of section 65-02-03.1 of the North Dakota Century Code, relating to technical corrections and  
6 improper, inaccurate, redundant, missing, or obsolete references; and to repeal sections  
7 4-32-09 and 40-05-21 of the North 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

- 1           years, except for those first appointed one member must continue in office for two  
2           years, two for three years, and two, including the chairman, for four years.
- 3        2.   The governor shall appoint members of the board from among individuals who meet  
4        the following qualifications:
- 5           a.   At least three members must be licensed practicing marriage and family  
6           therapists; and each must have been for at least five years immediately  
7           preceding appointment actively engaged as marriage and family therapists in  
8           rendering professional services in marriage and family therapy; in the education  
9           and training of master's, doctoral, or postdoctoral students of marriage and family  
10          therapy; or in marriage and family therapy research. A member under this  
11          subdivision must have spent the majority of the time devoted by that member to  
12          such activity during the two years preceding appointment residing in this state.
- 13          b.   At least one member must be a representative of the general public and may not  
14          have any direct affiliation with the practice of marriage and family therapy or  
15          another mental health profession.
- 16          c.   The initial appointees, with the exception of any representative of the general  
17          public, are deemed to be and become licensed practicing marriage and family  
18          therapists immediately upon appointment and qualification as members of the  
19          board.
- 20        3.   The governor shall nominate a new member to fill a vacancy on the board within thirty  
21        days of the vacancy. A member chosen to fill a board vacancy must be appointed for  
22        the unexpired term of the board member whom that member is succeeding. Upon the  
23        expiration of a member's term of office, a board member shall continue to serve until a  
24        successor is appointed. An individual may not be appointed more than once to fill an  
25        unexpired term or appointed to more than two consecutive full terms. A member may  
26        not serve as chairman for more than four years. The appointment of any member of  
27        the board automatically terminates thirty days after the date the member is no longer a  
28        resident of this state.
- 29        4.   The governor may remove any member of the board or the chairman from the position  
30        as chairman for neglect of duty or malfeasance or conviction of a felony or crime of  
31        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

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

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

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

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

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

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

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

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

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

16 22. To coordinate services for pregnant women.

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

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

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

30 c. "Transitional living services" may include housing, supervision, and supportive  
31 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.

1 ~~29-28.~~ Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance  
2 and children's health insurance program benefits when the department receives a joint  
3 application for these benefits.

4 **SECTION 9. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **57-38-30. Imposition and rate of tax on corporations.**

7 A tax is hereby imposed upon the taxable income of every domestic and foreign corporation  
8 which must be levied, collected, and paid annually as in this chapter provided:

9 1. ~~a.~~ For the first twenty-five thousand dollars of taxable income, at the rate of two and  
10 one-tenth percent.

11 ~~b.2.~~ On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty  
12 thousand dollars, at the rate of five and twenty-five hundredths percent.

13 ~~c.3.~~ On all taxable income exceeding fifty thousand dollars, at the rate of six and  
14 four-tenths percent.

15 ~~2. A corporation that has paid North Dakota alternative minimum tax in years beginning~~  
16 ~~before January 1, 1991, may carry over any alternative minimum tax credit remaining~~  
17 ~~to the extent of the regular income tax liability of the corporation for a period not to~~  
18 ~~exceed four taxable years.~~

19 **SECTION 10. AMENDMENT.** Section 57-43.2-02.3 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **57-43.2-02.3. Exemptions.**

22 1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax  
23 exemption purposes and sold for an agricultural, industrial, or railroad purpose is  
24 exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is  
25 sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03.  
26 Special fuel known as diesel fuel which is dyed for federal fuel tax exemption  
27 purposes and sold for use as heating fuel is exempt from the special fuel tax imposed  
28 by ~~section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under~~  
29 ~~section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is~~  
30 ~~exempt from the special fuel tax imposed by~~ sections 57-43.2-02 and 57-43.2-03. Fuel

1 purchased for use in a licensed motor vehicle is not exempt from the tax imposed by  
2 section 57-43.2-02.

- 3 2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad  
4 purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time  
5 the fuel is sold to the consumer and is subject instead to the tax imposed by section  
6 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax  
7 imposed by ~~section 57-43.2-02 and subject to a tax at a rate of one percent under~~  
8 ~~section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is~~  
9 ~~exempt from the special fuel tax imposed by~~ sections 57-43.2-02 and 57-43.2-03 at  
10 the time the fuel is sold to the consumer. Special fuel, other than diesel fuel and  
11 propane, sold for use as heating fuel is exempt from the special fuel tax imposed by  
12 ~~section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section~~  
13 ~~57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt~~  
14 ~~from the special fuel tax imposed by~~ sections 57-43.2-02 and 57-43.2-03 at the time  
15 the fuel is sold to the consumer. Fuel purchased for use in a licensed motor vehicle is  
16 not exempt from the tax imposed by section 57-43.2-02.
- 17 3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a  
18 component part of tangible personal property intended to be sold ultimately at retail is  
19 exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax  
20 imposed by section 57-43.2-03.

21 **SECTION 11. AMENDMENT.** Subsection 1 of section 61-06-13 of the North Dakota Century  
22 Code is amended and reenacted as follows:

- 23 1. At least fifteen days before an election in an irrigation district, the secretary shall  
24 prepare and have ~~typewritten, mimeographed, or~~ printed an official ballot containing  
25 the names of all candidates which have been filed with the secretary. The ballot must:
- 26 a. Be headed "Official Ballot";
  - 27 b. Contain all names thus filed;
  - 28 c. Show the name of the district;
  - 29 d. State the number of individuals to be voted for;
  - 30 e. Have blank spaces below for writing in other names; and



1                    federation of independent business, the lignite energy council, and other  
2                    statewide business interests.

3            **SECTION 15. REPEAL.** Sections 4-32-09 and 40-05-21 of the North Dakota Century Code  
4            are repealed.