

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2142

Introduced by

Senators J. Lee, Mathern, Berry

Representatives Delmore, Hawken, Weisz

1 A BILL for an Act to amend and reenact sections 15.1-02-16, 15.1-18-05, and 15.1-18-06,
2 subsection 4 of section 15.1-32-01, subsection 4 of section 20.1-03-04, subsection 11 of section
3 25-03.1-02, subsections 3, 4, and 8 of section 25-03.3-01, section 25-03.3-07, subsection 2 of
4 section 25-03.3-08, subsection 2 of section 25-03.3-09, sections 25-03.3-10, 25-03.3-11, and
5 25-03.3-12, subsection 1 of section 25-03.3-18, sections 25-03.3-19, 25-16.1-02, 25-18-01, and
6 25-18-15, subsection 4 of section 26.1-36-22, subsection 1 of section 27-20-34, subsection 2 of
7 section 50-06-05.3, subsection 1 of section 50-24.1-07, subsection 9 of section 50-25.1-02,
8 subsection 7 of section 57-38-01, and sections 57-63-01, 57-63-02, 57-63-03, and 57-63-13 of
9 the North Dakota Century Code, relating to changing mental retardation to intellectual disability
10 and mentally retarded to individual with an intellectual disability; and to provide for reconciliation
11 by the legislative council of these terms in statutory provisions.

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

13 **SECTION 1. AMENDMENT.** Section 15.1-02-16 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **15.1-02-16. Superintendent of public instruction - Issuance of credentials to teachers**
16 **and administrators.**

17 The superintendent of public instruction may adopt rules governing the issuance of:

- 18 1. Credentials for teachers of driver's education;
- 19 2. Credentials for teachers of early childhood special education;
- 20 3. Credentials for elementary school principals;
- 21 4. Credentials for teachers of students who are emotionally disturbed;
- 22 5. Credentials for teachers of students who are gifted and talented;
- 23 6. Credentials for secondary school principals;
- 24 7. Credentials for library media;

- 1 8. Credentials for teachers of title I;
- 2 9. Credentials for teachers of students who are ~~mentally retarded~~have intellectual
- 3 disabilities;
- 4 10. Credentials for teachers of students who are physically disabled;
- 5 11. Credentials for coordinators of programs for students with limited English proficiency;
- 6 12. Credentials for school counselors;
- 7 13. Credentials for special education directors;
- 8 14. Credentials for special education strategists;
- 9 15. Credentials for teachers of students who have specific learning disabilities;
- 10 16. Credentials for superintendents;
- 11 17. Credentials for teachers of students who have vision impairments;
- 12 18. Credentials for teachers of students who are deaf or hard of hearing; and
- 13 19. Certificate of completion for paraprofessionals.

14 **SECTION 2. AMENDMENT.** Section 15.1-18-05 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **15.1-18-05. Special education strategist credential.**

17 In addition to any other credential, the superintendent of public instruction shall implement a
18 special education strategist credential, effective August 1, 2001. Any individual who obtains a
19 special education strategist credential and meets all other teacher licensure requirements
20 imposed by statute may provide special education services in the areas of ~~mental-~~
21 ~~retardation~~intellectual disabilities, emotional disturbance, and specific learning disabilities.

22 **SECTION 3. AMENDMENT.** Section 15.1-18-06 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **15.1-18-06. Provisional special education strategist credential.**

25 Beginning August 1, 2001, upon application the superintendent of public instruction shall
26 issue a provisional special education strategist credential to any individual who is licensed to
27 teach by the education standards and practices board or approved to teach by the education
28 standards and practices board and who holds a credential applicable to the areas of ~~mental-~~
29 ~~retardation~~intellectual disabilities, emotional disturbance, or specific learning disabilities. The
30 provisional credential must be made available to the individual for the lesser of three years or

1 the period of time required by the individual to complete the requirements for a special
2 education strategist credential.

3 **SECTION 4. AMENDMENT.** Subsection 4 of section 15.1-32-01 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. a. "Student with a disability" means an individual who is at least three years of age
6 but who has not reached the age of twenty-one before September first of the year
7 in which the individual turns twenty-one and who requires special education and
8 related services because of:

- 9 (1) ~~Mental retardation~~An intellectual disability;
- 10 (2) A hearing impairment, including deafness;
- 11 (3) Deaf-blindness;
- 12 (4) A speech or language impairment;
- 13 (5) A visual impairment, including blindness;
- 14 (6) An emotional disturbance;
- 15 (7) An orthopedic impairment;
- 16 (8) Autism;
- 17 (9) A traumatic brain injury;
- 18 (10) Other health impairment; or
- 19 (11) A specific learning disability.

20 b. "Student with a disability" includes a student age eighteen through twenty-one
21 who is incarcerated in an adult correctional facility and who, in the last
22 educational placement prior to incarceration, was identified as being a student
23 with a disability and did not have an individualized education program or was
24 identified as being a student with a disability and had an individualized education
25 program.

26 **SECTION 5. AMENDMENT.** Subsection 4 of section 20.1-03-04 of the North Dakota
27 Century Code is amended and reenacted as follows:

28 4. Developmental center at westwood park, Grafton patients, North Dakota youth
29 correctional center students, school for the deaf students, North Dakota vision
30 services - school for the blind students, state hospital patients, ~~community health and~~
31 ~~retardation service unit patients~~clients of regional human service centers under direct

1 therapeutic care, and residents of facilities licensed by the state department of health
2 and the department of human services may fish without a resident fishing license.
3 Patients of these institutions must be identified. The department shall issue authority
4 to each institution.

5 **SECTION 6. AMENDMENT.** Subsection 11 of section 25-03.1-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 11. "Mentally ill person" means an individual with an organic, mental, or emotional
8 disorder which substantially impairs the capacity to use self-control, judgment, and
9 discretion in the conduct of personal affairs and social relations. "Mentally ill person"
10 does not include ~~a mentally retarded person~~ an individual with an intellectual disability
11 of significantly subaverage general intellectual functioning which originates during the
12 developmental period and is associated with impairment in adaptive behavior,
13 although a person who is ~~mentally retarded~~ intellectually disabled may also suffer from
14 a mental illness. Chemical dependency does not per se constitute mental illness,
15 although persons suffering from that condition may also be suffering from mental
16 illness.

17 **SECTION 7. AMENDMENT.** Subsections 3, 4, and 8 of section 25-03.3-01 of the North
18 Dakota Century Code are amended and reenacted as follows:

- 19 3. ~~"Mental retardation"~~ "Intellectual disability" means mental retardation as defined in the
20 "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric
21 association, fourth edition (1994), text revision (2000).
- 22 4. "Qualified expert" means an individual who has an expertise in sexual offender
23 evaluations and who is a psychiatrist or psychologist trained in a clinical program and
24 licensed pursuant to this state's law or a psychologist approved for exemption by the
25 North Dakota board of psychologist examiners. For purposes of evaluating an
26 individual with ~~mental retardation~~ an intellectual disability, the qualified expert must
27 have specialized knowledge in sexual offender evaluations of individuals with ~~mental-~~
28 ~~retardation~~ an intellectual disability.
- 29 8. "Sexually dangerous individual" means an individual who is shown to have engaged in
30 sexually predatory conduct and who has a congenital or acquired condition that is
31 manifested by a sexual disorder, a personality disorder, or other mental disorder or

1 dysfunction that makes that individual likely to engage in further acts of sexually
2 predatory conduct which constitute a danger to the physical or mental health or safety
3 of others. It is a rebuttable presumption that sexually predatory conduct creates a
4 danger to the physical or mental health or safety of the victim of the conduct. For these
5 purposes, ~~mental retardation~~intellectual disability is not a sexual disorder, personality
6 disorder, or other mental disorder or dysfunction.

7 **SECTION 8. AMENDMENT.** Section 25-03.3-07 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **25-03.3-07. Appointment of guardian ad litem.**

10 At any stage of a proceeding under this chapter, on application of any individual or on its
11 own motion, the court may appoint a guardian ad litem for a minor or an individual with ~~mental-~~
12 ~~retardation~~an intellectual disability who is a respondent or witness or otherwise involved in the
13 proceeding, if the minor or an individual with ~~mental retardation~~an intellectual disability has no
14 parent, guardian, or custodian appearing on behalf of the minor's minor or the ~~mentally retarded-~~
15 ~~individual's behalf~~individual with an intellectual disability or the interests of those persons
16 conflict with those of the minor or an individual with ~~mental retardation~~an intellectual disability.
17 The department of human services shall pay the expense of the guardian ad litem fee as
18 established by the court.

19 **SECTION 9. AMENDMENT.** Subsection 2 of section 25-03.3-08 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 2. If the state's attorney knows or believes the respondent named in the petition is an
22 individual with ~~mental retardation~~an intellectual disability, the state's attorney shall
23 notify the court in the petition and shall advise the court of the name of the legal
24 guardian of the respondent or, if none is known, the court may appoint a guardian ad
25 litem for the respondent. Before service of the notice required in section 25-03.3-10,
26 the court shall appoint an attorney for the respondent. An individual with ~~mental-~~
27 ~~retardation~~an intellectual disability may be detained in a correctional facility before the
28 probable cause hearing only when no other secure facility is accessible, and then only
29 under close supervision.

30 **SECTION 10. AMENDMENT.** Subsection 2 of section 25-03.3-09 of the North Dakota
31 Century Code is amended and reenacted as follows:

1 2. After consultation with counsel, the respondent may waive the right to counsel or the
2 right to any hearing provided pursuant to this chapter by notifying the court in writing.
3 The notification must clearly state the respondent's reasons for the waiver and the
4 respondent's counsel shall separately certify that counsel has explained to the
5 respondent the proceedings, the legal and factual issues, potential defenses, the
6 burden of proof, and possible outcomes of the proceedings. No guardian, guardian ad
7 litem, attorney, or other individual may waive the right to counsel on behalf of an
8 individual with ~~mental retardation~~ an intellectual disability.

9 **SECTION 11. AMENDMENT.** Section 25-03.3-10 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **25-03.3-10. Notice.**

12 If a respondent is detained pursuant to section 25-03.3-08, the state's attorney shall provide
13 the respondent, or the respondent's guardian, if appropriate, with a copy of the petition filed with
14 the court. The state's attorney shall provide the respondent with written notice of the
15 respondent's right to a preliminary hearing and a commitment hearing, if probable cause is
16 found to exist; the right to counsel and that counsel will be appointed for the respondent, if the
17 respondent is indigent; and the right to have an expert of the respondent's choosing conduct an
18 evaluation and testify on the respondent's behalf or, if the respondent is indigent, that the court
19 will appoint a qualified expert for the respondent. The notice must state the date, time, and
20 place for the preliminary hearing. If notice is given to a respondent who the state's attorney
21 knows or believes is an individual with ~~mental retardation~~ an intellectual disability, the state's
22 attorney also shall give notice to the respondent's attorney, guardian, and guardian ad litem, if
23 any.

24 **SECTION 12. AMENDMENT.** Section 25-03.3-11 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **25-03.3-11. Preliminary hearing - Probable cause.**

27 The respondent is entitled to a preliminary hearing within seventy-two hours of being taken
28 into custody pursuant to an order of the court, excluding weekends and holidays, unless the
29 respondent knowingly waives the preliminary hearing pursuant to section 25-03.3-09. The
30 respondent has a right to be present, to testify, and to present and cross-examine witnesses at
31 any preliminary hearing. The court may receive evidence that would otherwise be inadmissible

1 at a commitment hearing. If the court determines after a preliminary hearing that there is
2 probable cause to believe the respondent is a sexually dangerous individual, the court shall
3 order that the respondent be transferred to an appropriate treatment facility for an evaluation as
4 to whether the respondent has a congenital or acquired condition that is manifested by a sexual
5 disorder, a personality disorder, or other mental disorder or dysfunction that makes the
6 respondent likely to engage in further acts of sexually predatory conduct. If the court determines
7 that probable cause does not exist to believe that the respondent is a sexually dangerous
8 individual, the court shall dismiss the petition. If the respondent waives the preliminary hearing,
9 then the respondent must be immediately transferred to an appropriate treatment facility for an
10 evaluation as to whether the respondent has a congenital or acquired condition that is
11 manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction
12 that makes the respondent likely to engage in further acts of sexually predatory conduct. An
13 individual with ~~mental retardation~~ an intellectual disability may be evaluated under this chapter at
14 a facility only if that facility provides care and treatment to individuals with ~~mental retardation~~ an
15 intellectual disability.

16 **SECTION 13. AMENDMENT.** Section 25-03.3-12 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **25-03.3-12. Sexually dangerous individual - Evaluation.**

19 The evaluation must be conducted by one or more experts chosen by the executive
20 director. Whenever a respondent is subject to an evaluation pursuant to this chapter, the
21 respondent may retain an expert to perform an evaluation or testify on the respondent's behalf.
22 When the respondent is an adult with ~~mental retardation~~ an intellectual disability and a guardian
23 or guardian ad litem has not been appointed for the respondent, the court shall appoint an
24 expert to perform an evaluation on behalf of the respondent. In the case of a respondent who is
25 indigent, the court shall appoint a qualified expert to perform an examination or participate in the
26 commitment proceeding on the respondent's behalf. The department of human services shall
27 compensate any qualified expert appointed by the court on behalf of an indigent respondent in a
28 reasonable amount based on time and expenses. An expert retained on behalf of the
29 respondent must have reasonable access to the respondent for the purpose of the examination
30 and to all relevant medical, psychological, and court records and reports.

1 **SECTION 14. AMENDMENT.** Subsection 1 of section 25-03.3-18 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 1. Annually, the executive director shall provide the committed individual with written
4 notice that the individual has a right to petition the court for discharge. The notice must
5 explain to the committed person when the committed person has a right to a hearing
6 on the petition. The notice must inform the committed person of the rights this chapter
7 affords the committed person at a discharge hearing. The executive director shall
8 forward a copy of the notice to the committing court. If the committed individual is
9 ~~mentally retarded~~ an individual with an intellectual disability, the executive director shall
10 also provide the written notice to the individual's attorney, guardian, and guardian ad
11 litem, if any.

12 **SECTION 15. AMENDMENT.** Section 25-03.3-19 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **25-03.3-19. Appeal.**

15 The respondent has the right to an appeal from an order of commitment or an order denying
16 a petition for discharge. Upon entry of an appealable order, the court shall notify the respondent
17 of the right to appeal and the right to counsel. The notice of appeal must be filed within thirty
18 days after entry of the order. The appeal must be limited to a review of the procedures, findings,
19 and conclusions of the committing court. Pending a decision on appeal, the order appealed
20 from remains in effect. If the respondent is a ~~mentally retarded~~ an individual with an intellectual
21 disability, the court shall provide notice of the right to appeal to the respondent's attorney, the
22 respondent's guardian, and guardian ad litem.

23 **SECTION 16. AMENDMENT.** Section 25-16.1-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **25-16.1-02. Conditions for appointment of receiver.**

26 When the department has revoked the license of a treatment or care center, or when the
27 operator of a center has requested, the department may file a petition with the district court to
28 place the center under the control of a receiver if necessary to protect the health or safety of
29 clients at the center. The court may grant the petition upon a finding that the health or safety of
30 the clients at the center would be seriously threatened if a condition existing at the time the
31 petition was filed is permitted to continue. Such a finding may be based upon evidence

1 concerning the physical plant, the program and services offered by the center, but not solely
2 upon evidence that a center:

- 3 1. Has been denied a license to operate as a center, or has had a previously issued
4 license revoked; or
- 5 2. Has been denied certification as an intermediate care facility for ~~the mentally-~~
6 retarded individuals with intellectual disabilities, or has lost or had revoked such
7 certification.

8 **SECTION 17. AMENDMENT.** Section 25-18-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **25-18-01. Definitions.**

11 In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Department" means the department of human services.
- 13 2. "Treatment or care center" means an entity providing services to individuals with
14 developmental disabilities and licensed by the department as an intermediate care
15 facility for ~~the mentally-retarded~~individuals with intellectual disabilities as defined in
16 section 1905(d) of the Social Security Act [42 U.S.C. § 1396d(d)]; group home; or a
17 provider of day supports, supported living arrangement, extended services, or infant
18 development services.

19 **SECTION 18. AMENDMENT.** Section 25-18-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **25-18-15. Payment for services to medically fragile children.**

22 The department may consider the unique level of care, the additional cost required to
23 provide services to medically fragile clients under twenty-one years of age, and the actual and
24 reasonable cost of providing services to developmentally disabled individuals when reimbursing
25 an intermediate care facility for ~~the mentally-retarded~~individuals with intellectual disabilities.

26 **SECTION 19. AMENDMENT.** Subsection 4 of section 26.1-36-22 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 4. A policy that provides that coverage for a dependent child of an employee or other
29 member of the covered group terminates upon attainment of the limiting age for
30 dependent children specified in the policy does not operate to terminate the coverage
31 of a dependent child while the child is a full-time student and has not attained the age

1 of twenty-six years or while the child is and continues to be both incapable of
2 self-sustaining employment by reason of ~~mental retardation~~intellectual disability or
3 physical ~~handicap~~disability and chiefly dependent upon the employee or member for
4 support and maintenance, provided proof of incapacity and dependency is furnished to
5 the insurer by the employee or member within thirty-one days of the child's attainment
6 of limiting age and subsequently as may be required by the insurer but not more
7 frequently than annually after the two-year period following the child's attainment of
8 the limiting age.

9 **SECTION 20. AMENDMENT.** Subsection 1 of section 27-20-34 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 1. After a petition has been filed alleging delinquency based on conduct which is
12 designated a crime or public offense under the laws, including local ordinances or
13 resolutions of this state, the court before hearing the petition on its merits shall transfer
14 the offense for prosecution to the appropriate court having jurisdiction of the offense if:
 - 15 a. The child is over sixteen or more years of age and requests the transfer;
 - 16 b. The child was fourteen years of age or more at the time of the alleged conduct
17 and the court determines that there is probable cause to believe the child
18 committed the alleged delinquent act and the delinquent act involves the offense
19 of murder or attempted murder; gross sexual imposition or the attempted gross
20 sexual imposition of a victim by force or by threat of imminent death, serious
21 bodily injury, or kidnapping; or the manufacture, delivery, or possession with
22 intent to manufacture or deliver a controlled substance in violation of
23 subdivision a or b of subsection 1 of section 19-03.1-23, except for the
24 manufacture, delivery, or possession with intent to manufacture or deliver
25 marijuana in an amount less than one pound [.45 kilogram]; or the gratuitous
26 delivery of a controlled substance not a narcotic drug or methamphetamine which
27 is a singular and isolated event involving an amount of controlled substance
28 sufficient solely for a single personal use; or
 - 29 c. (1) The child was fourteen or more years of age at the time of the alleged
30 conduct;

- 1 (2) A hearing on whether the transfer should be made is held in conformity with
2 sections 27-20-24, 27-20-26, and 27-20-27;
- 3 (3) Notice in writing of the time, place, and purpose of the hearing is given to
4 the child and the child's parents, guardian, or other custodian at least three
5 days before the hearing; and
- 6 (4) The court finds that there are reasonable grounds to believe that:
- 7 (a) The child committed the delinquent act alleged;
- 8 (b) The child is not amenable to treatment or rehabilitation as a juvenile
9 through available programs;
- 10 (c) The child is not treatable in an institution for ~~the mentally-~~
11 ~~retarded~~individuals who are intellectually disabled or who are mentally
12 ill;
- 13 (d) The interests of the community require that the child be placed under
14 legal restraint or discipline; and
- 15 (e) If the child is fourteen or fifteen years old, the child committed a
16 delinquent act involving the infliction or threat of serious bodily harm.

17 **SECTION 21. AMENDMENT.** Subsection 2 of section 50-06-05.3 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 2. Regional human service centers shall provide human services to all eligible individuals
20 and families to help them achieve or maintain social, emotional, and economic
21 self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the
22 neglect, abuse, or exploitation of children and of adults unable to protect their own
23 interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or
24 reduce inappropriate institutional care by providing for care while institutionalized or
25 providing for community-based or other forms of less restrictive care; secure referral or
26 admission for institutional care; provide outpatient diagnostic and treatment services;
27 provide information concerning guardianship to people interested in becoming or who
28 are guardians; and provide rehabilitation services for patients ~~suffering from~~with
29 mental or emotional disorders, ~~mental retardation~~an intellectual disability, and other
30 psychiatric conditions, particularly for those patients who have received prior treatment

1 in an inpatient facility. Regional human service centers shall deliver services in the
2 manner prescribed by the department.

3 **SECTION 22. AMENDMENT.** Subsection 1 of section 50-24.1-07 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 1. On the death of any recipient of medical assistance who was a resident of a nursing
6 facility, intermediate care facility for ~~the mentally retarded~~individuals with intellectual
7 disabilities, or other medical institution and with respect to whom the department of
8 human services determined that resident reasonably was not expected to be
9 discharged from the medical institution and to return home, or who was fifty-five years
10 of age or older when the recipient received the assistance, and on the death of the
11 spouse of the deceased recipient, the total amount of medical assistance paid on
12 behalf of the recipient following the determination that the recipient cannot reasonably
13 be expected to be discharged from the medical institution, or the recipient's fifty-fifth
14 birthday, as the case may be, must be allowed as a preferred claim against the
15 decedent's estate after payment, in the following order, of:

- 16 a. Funeral expenses not in excess of three thousand dollars;
17 b. Expenses of the last illness, other than those incurred by medical assistance;
18 c. Expenses of administering the estate, including attorney's fees approved by the
19 court;
20 d. Claims made under chapter 50-01;
21 e. Claims made under chapter 50-24.5;
22 f. Claims made under chapter 50-06.3 and on behalf of the state hospital; and
23 g. Claims made under subsection 4.

24 **SECTION 23. AMENDMENT.** Subsection 9 of section 50-25.1-02 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 9. "Institutional child abuse or neglect" means situations of known or suspected child
27 abuse or neglect when the institution responsible for the child's welfare is a residential
28 child care facility, a treatment or care center for ~~mentally retarded~~individuals with
29 intellectual disabilities, a public or private residential educational facility, a maternity
30 home, or any residential facility owned or managed by the state or a political
31 subdivision of the state.

1 **SECTION 24. AMENDMENT.** Subsection 7 of section 57-38-01 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 7. "Mental disorder" means a substantial disorder of the person's emotional processes,
4 thought, cognition, or memory. Mental disorder is distinguished from:

5 a. Conditions which are primarily those of drug abuse, alcoholism, or ~~mental-~~
6 ~~retardation~~intellectual disability, unless in addition to one or more of these
7 conditions, the person has a mental disorder.

8 b. The declining mental abilities that accompany impending death.

9 c. Character and personality disorders characterized by lifelong and deeply
10 ingrained antisocial behavior patterns, including sexual behaviors which are
11 abnormal and prohibited by statute, unless the behavior results from a mental
12 disorder.

13 **SECTION 25. AMENDMENT.** Section 57-63-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **57-63-01. Definitions.**

16 As used in this chapter:

17 1. "Business" has the meaning provided in section 31-08.1-01.

18 2. "Commissioner" means the state tax commissioner.

19 3. "Facility" includes the operating entity of each intermediate care facility for ~~the mentally-~~
20 ~~retarded~~individuals with intellectual disabilities located in this state.

21 4. "Intermediate care facility for ~~the mentally-retarded~~individuals with intellectual
22 disabilities" means a treatment or care center licensed under chapter 25-16 that
23 provides services eligible for coverage as medical assistance under 42 U.S.C.
24 1396a(a)(31), and also means the developmental center at westwood park, Grafton.

25 5. "Licensed bed" means a bed licensed under chapter 25-16 or approved by the
26 secretary of health and human services pursuant to 42 U.S.C. 1396i.

27 6. "Quarter" means one of four calendar quarters beginning January first, April first, July
28 first, or October first.

29 **SECTION 26. AMENDMENT.** Section 57-63-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **57-63-02. Imposition of assessment.**

2 An assessment must be imposed on each intermediate care facility for the mentally-
3 ~~retarded~~individuals with intellectual disabilities licensed in this state. No waiver otherwise
4 available under this code is applicable to this assessment.

5 **SECTION 27. AMENDMENT.** Section 57-63-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-63-03. Basis of assessment.**

8 Every year beginning July first, each intermediate care facility for the mentally-
9 ~~retarded~~individuals with intellectual disabilities must be assessed a quarterly rate per licensed
10 bed as of the first day of each quarter. The quarterly rate may not exceed a rate calculated by
11 the department of human services as an annual aggregate of gross revenues as of December
12 thirty-first of the preceding year for all intermediate care facilities for the mentally-
13 ~~retarded~~individuals with intellectual disabilities, multiplied by one and one-half percent, and
14 divided by licensed beds as of December thirty-first of the preceding year.

15 **SECTION 28. AMENDMENT.** Section 57-63-13 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-63-13. Provider assessment fund.**

18 There is a special fund in the state treasury known as the provider assessment fund. The
19 fund includes all revenue received from intermediate care facilities for the mentally-
20 ~~retarded~~individuals with intellectual disabilities for remittance to the fund under this chapter. All
21 moneys designated for the fund from whatever source derived must be deposited with the state
22 treasurer in the provider assessment fund.

23 **SECTION 29. LEGISLATIVE COUNCIL TO CHANGE TERMINOLOGY.** The legislative
24 council shall replace "mentally retarded" or "mental retardation" or any derivatives of those
25 terms, which when used in context indicate an intention to refer to those terms, wherever they
26 appear in legislation enacted by the sixty-second legislative assembly of North Dakota and to
27 insert in lieu of each deletion "intellectually disabled", "intellectual disability", or "individual with
28 intellectual disabilities".