

PUBLIC WELFARE

CHAPTER 416

HOUSE BILL NO. 1447

(Representatives Weisz, Lefor, Nelson, Stemen, Vigessaa)
(Senators Bekkedahl, Lee)

AN ACT to create and enact a new chapter to title 50 of the North Dakota Century Code, relating to creation of the opioid settlement fund, creation of the opioid settlement advisory committee, and use of opioid settlement funds; to amend and reenact subsection 1 of section 21-10-06 and section 23-01-42 of the North Dakota Century Code and section 5 of chapter 3 of the 2021 Session Laws, relating to funds under management of the state investment board, opioid antagonist prescription, distribution, possession, or use, and the funding of the opioid treatment and prevention program; to provide an appropriation; to provide for a transfer; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of section 21-10-02, the board shall invest the following funds:
 - a. State bonding fund.
 - b. Teachers' fund for retirement.
 - c. State fire and tornado fund.
 - d. Workforce safety and insurance fund.
 - e. Public employees retirement system.
 - f. Insurance regulatory trust fund.
 - g. State risk management fund.
 - h. Budget stabilization fund.
 - i. Water projects stabilization fund.
 - j. Health care trust fund.
 - k. Cultural endowment fund.
 - l. Petroleum tank release compensation fund.

- m. Legacy fund.
- n. Legacy earnings fund.
- o. Opioid settlement fund.
- p. A fund under contract with the board pursuant to subsection 3.

SECTION 2. AMENDMENT. Section 23-01-42 of the North Dakota Century Code is amended and reenacted as follows:

23-01-42. Opioid antagonist prescription, distribution, possession, or use - Immunity from liability.

1. As used in this section:
 - a. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
 - b. "Opioid antagonist" means a drug:
 - (1) That is approved by the United States food and drug administration for the treatment of a drug overdose and is recognized by the department of health and human services for the treatment of a drug overdose; and
 - (2) That when administered negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense an opioid antagonist, ~~if the health care professional provides training to:~~
 - a. ~~An individual at risk of experiencing an opioid-related overdose; or~~
 - b. ~~A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.~~
3. ~~An individual acting in good faith may receive or possess an opioid antagonist if that individual is:~~
 - a. ~~An individual at risk of experiencing an opioid-related overdose; or~~
 - b. ~~A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.~~
- 4.3. An individual acting in good faith may ~~self-administer an opioid antagonist or~~ administer an opioid antagonist to another individual who the administering individual suspects is at risk of experiencing an opioid overdose.
- 5.4. An individual may receive, possess, or administer an opioid antagonist under subsection 3 ~~or 4~~, regardless of whether the individual is the individual for or to whom the opioid antagonist is prescribed, distributed, or dispensed.

- 6-5. An individual who prescribes, distributes, dispenses, receives, possesses, or administers an opioid antagonist as authorized under this section is immune from civil and criminal liability for such action. A health care professional who prescribes, distributes, or dispenses an opioid antagonist as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional. Immunity from liability or discipline under this subsection does not apply if the individual's actions constitute recklessness, gross negligence, or intentional misconduct.

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

Definitions.

As used in this chapter:

1. "Committee" means the opioid settlement advisory committee.
2. "Department" means the department of health and human services.
3. "Fund" means the opioid settlement fund.
4. "Opioid litigation" means statewide opioid settlement agreements, judgments, or other recoveries in connection with a defendant's actual or alleged liability for contributing to the opioid crisis in this state which must be used for purposes of remediating or abating the opioid crisis in this state.

Opioid settlement fund.

There is created in the state treasury an opioid settlement fund. Moneys recovered by the state as a result of opioid litigation must be deposited in the fund. Moneys recovered by a political subdivision as a result of opioid litigation may be deposited in the fund. The state investment board shall invest moneys in the fund and income earned on the moneys in the fund must be credited to the fund. Moneys in the fund may be used in compliance with any court-ordered restrictions and as authorized by legislative appropriation and this chapter; however, legislative appropriations from the fund may not exceed eight million dollars in a biennium. The fund does not include funds not retained by the state pursuant to law or court order.

Opioid settlement advisory committee.

1. The committee is composed of:
 - a. One member of the North Dakota association of counties appointed by the chairman of the legislative management, who shall serve a term of two years.
 - b. One member of the North Dakota league of cities appointed by the chairman of the legislative management, who shall serve a term of two years.
 - c. One member of the North Dakota state association of city and county health officials appointed by the chairman of the legislative management, who shall serve a term of two years.

- d. One member who represents the highway patrol appointed by the highway patrol superintendent, who shall serve a term of two years.
 - e. The executive director of the department's division of behavioral health.
 - f. The managing director of the office of recovery reinvented.
 - g. One member appointed by the governor who shall serve as a nonvoting member and as the presiding officer of the committee, who shall serve a term of two years.
2. The committee shall forward recommendations to the department on spending decisions of the legislatively appropriated funds for remediation or abatement of the opioid crisis in this state.
 - a. The committee shall develop a process for receiving spending recommendation input from political subdivisions and the public.
 - b. The committee shall develop a process for making recommendations to the department under this subsection.
 - c. The committee shall consider cultural practices and alternative best practice treatment methods when considering and making recommendations to the department under this subsection.

Department of health and human services - Report to budget section.

1. The department shall develop a process for receiving and evaluating spending recommendations of the committee.
2. Annually, each political subdivision that recovers and retains moneys as a result of opioid litigation shall submit to the department a report detailing the decisions of the governing body of the political subdivision regarding use of the moneys.
3. Annually, the department shall make a report to the budget section of the legislative management on the status of the fund and of spending decisions made by the department and the political subdivisions under this chapter.

Opioid remediation and abatement spending decisions - Implementation.

1. The department's spending decisions of the legislatively appropriated funds from the fund for remediating and abating the opioid crisis must include at least twenty percent for opioid use prevention and overdose prevention, including best practices relating to fentanyl drug overdose, and approved use for workforce development.
2. The department shall implement or assist with the implementation of spending decisions made under this chapter.

Political subdivisions - Public health units.

1. A political subdivision that recovers moneys as a result of opioid litigation may deposit the moneys in the fund or may retain the moneys and transfer the moneys to the public health unit that provides services to that political subdivision.

2. A political subdivision that recovers and retains moneys as a result of opioid litigation shall collaborate with a public health unit on the use of the moneys for local programs for remediating and abating the opioid crisis. The use of moneys under this subsection must be in compliance with any court-ordered restrictions. The political subdivision and public health unit shall work together to ensure all reporting requirements are met.
3. All political subdivisions shall provide an allocation plan to the behavioral health division prior to expenditure.

SECTION 4. AMENDMENT. Section 5 of chapter 3 of the 2021 Session Laws is amended and reenacted as follows:

SECTION 5. TRANSFER - LAWSUIT SETTLEMENT PROCEEDS - OPIOID SETTLEMENT FUND - OPIOID ADDICTION PREVENTION AND TREATMENT PROGRAM - APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ONE-TIME FUNDING - REPORT. The office of management and budget shall transfer up to \$2,000,000 from opioid-related lawsuit settlement proceeds deposited in the attorney general refund fund to the ~~department of human services~~ opioid settlement fund which is appropriated to the department of health and human services for the purpose of defraying the expenses of an opioid addiction prevention and treatment program during the biennium beginning July 1, 2021, and ending June 30, 2023. The department of health and human services shall consult with the attorney general on the use of funding for the program. The attorney general shall notify the legislative council and office of management and budget of any lawsuit settlement proceeds that become available for transfer to the department of health and human services for this program. This funding is considered a one-time funding item.

SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - OPIOID REMEDIATION AND ABATEMENT. There is appropriated out of any moneys in the opioid settlement fund in the state treasury, not otherwise appropriated, the sum of \$8,000,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of opioid remediation and abatement efforts under section 2 of this Act, for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 6. TRANSFER - OFFICE OF MANAGEMENT AND BUDGET - OPIOID SETTLEMENT FUND. The office of management and budget shall transfer to the opioid settlement fund all funds received by the state and any political subdivision of the state from opioid settlements and litigation during the period beginning March 1, 2021, and the effective date of this Act, and any additional funds received during the period beginning on the effective date of this Act, and ending June 30, 2025.

SECTION 7. APPLICATION. To initiate staggered terms of the members of the opioid advisory committee, the initial appointments for the positions representing the North Dakota association of counties representative and the North Dakota state association of city and county health officials representative must be for one year.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 29, 2023

Filed May 1, 2023

CHAPTER 417

HOUSE BILL NO. 1046

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-01.1-01, subsection 3 of section 50-01.1-02, and sections 50-01.1-03, 50-01.1-04, 50-01.1-06, 50-01.1-08, 50-35-01, 50-35-04, and 50-35-05 of the North Dakota Century Code, relating to direct and indirect costs, billing practices, and payments to human service zones, human service zones agreements and plans, creation of human service zones, human service zone directors, and the indirect cost plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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. "Department" means the department of health and human services.
2. "Direct costs" means costs that are charged directly to the human service zone human services fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are approved by the department and not identified by the department as an indirect cost.
3. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
5. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
6. "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.
7. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's

- family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
- b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance, remodeling, construction, and improvement costs; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Indirect costs may not include non-space and non-facility costs and expenses that are exclusively attributable to the human service zones.
9. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone office and include:
- a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.

SECTION 2. AMENDMENT. Subsection 3 of section 50-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Counties shall identify other counties with which to enter a human service zone agreement, and together the board of county commissioners shall file with the department a written agreement to create a human service zone ~~no later than December 1, 2019~~. The agreement must identify the proposed counties of the human service zone, host county, identify the human service zone board members, proposed effective date, and agree to seek approval

from the department regarding hiring or dismissal of ~~county social services or~~ human service zone employees. The department shall review and approve all agreements in accordance with section 50-01.1-03. The department may modify the agreements as specified in section 50-01.1-03 or if some of the counties are not included in a human service zone. ~~If counties do not submit an agreement, the department shall create the human service zone.~~ The board of county commissioners shall submit a plan as prescribed in section 50-01.1-04 ~~by June 1, 2020.~~ The department shall approve the plan in accordance with section 50-01.1-04 ~~by January 1, 2024~~within six months of receiving the plan. The board of county commissioners shall provide quarterly updates as requested by the department to the department after the agreement is approved until the plan is submitted as requested. If counties do not submit an agreement or plan or if the agreement or plan is rescinded or terminated by the constituent counties or by the department pursuant to section 50-01.1-02, 50-01.1-04, or 50-01.1-08, the department shall create the human service zone. The department shall establish the date the approved agreement or plan takes effect.

SECTION 3. 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.

1. In determining whether the creation of a human service zone should be approved or established, the department shall refer to, among other pertinent factors, the following:
 - a. Whether the affected county agencies are able to supply an adequate level and quality of human, social, and economic assistance services.
 - b. The number and qualifications of staff personnel serving the affected county agencies.
 - c. The ratio of the number of cases handled by the affected county agencies to the number of their staff personnel.
 - d. The geographical area and population served by the affected county agencies.
 - e. The distance of recipients from the affected county agencies.
 - f. The benefits that would be realized from the creation of the human service zone in terms of lower costs, increased availability of services, new services, and improvement of services.
 - g. The amount of current and future access points for individuals to apply for and receive services within a human service zone.
 - h. The existing pattern of the counties trade area and any regional pattern established by the department.
 - i. Whether the county has a population exceeding sixty thousand individuals according to the 2010 United States census to operate as a single human service zone and whether it is in the best interest of the neighboring counties.

- j. The maximum number of human service zones created may not exceed nineteen.
 - k. Whether the human service zone director can adequately supervise the activities and operations of the human service zone.
 - l. Whether the human service zone board is constituted of individuals that represent the population of the human service zone.
 - m. Budget impact.
 - n. Other good cause.
2. The department has final approval of a human service zone. The department may establish or modify a human service zone based on the criteria set forth in subsection 1. All human service zones must be initially approved or established by January 1, 2020, and may be rescinded or terminated pursuant to section 50-01.1-02, 50-01.1-04, or 50-01.1-08, modified thereafter by the department, or approved by the department through a process developed by the department and in accordance with section 50-01.1-02.

SECTION 4. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Human service zone board.

1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department or approved by the department through a process developed by the department and in accordance with section 50-01.1-02.
2. The human service zone director shall prepare a proposed budget for the human service zone at the time and in the manner as requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the human service zone for review. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted must be sufficient to defray the anticipated expenses of administration and the delivery of human services. Within ten days following review of the proposed budget by the boards of county commissioners, the human service zone director shall certify the budget to the respective county auditors of the counties in the district. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of the human service zone. Indirect

costs of the human service zone may not become direct costs without written approval of the department. Counties may not direct bill human service zones or the department as counties will receive reimbursement of costs through the indirect cost plan and any other expense incurred by the human service zone must be incurred through the human service zone's approved budget. The amounts budgeted, reviewed, and approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the human service zone office is located and must be placed in a special human service zone human services fund. Indirect cost payments received by the human service zone are not required to be deposited in the special human service zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The human service zone board shall establish procedures for the review and approval of all claims against the human service zone human services fund. The human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year pursuant to section 50-35-05. The department may recalculate and adjust each human service zone's payment based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

²²² **SECTION 5. AMENDMENT.** Section 50-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-06. Human service zone directors.

Human service zone directors:

1. ~~Must be employees of the human service zone and located within the human service zone, unless serving more than one human service zone.~~
2. Shall serve as the presiding officer of the human service zone board.
3. May serve one or more human service zones.
4. May hire, take disciplinary actions, and direct the work of a human service zone team member in accordance with the department's policies. The human service zone director has discretion to hire or separate from employment a human service zone team member, on behalf of the human service zone board, subject to the allotted number of approved and funded staff positions by the department.
5. Shall notify the department and appropriate host county staff, as directed by the county commissioners, regarding the hiring, dismissal, demotion, suspension without pay, forced relocation within the human service zone, reduction-in-force, or reprisal of a human service zone team member.

²²² Section 50-01.1-06 was also amended by section 108 of House Bill No. 1165, chapter 229.

6. May notify county commissioners, the human service zone board, or other appropriate county staff regarding transfers of staff between the county and the department.
7. Shall establish, as agreed upon by the department, equitable compensation and salary increases for all human service zone team members within established appropriation.
8. Shall develop a budget for the human service zone in partnership with the department and other human service zone directors to ensure the administration of human services.
9. May serve as a designee of the department to supervise department employees assigned to or located within the human service zone.
10. Are the custodian designees of the executive director of the department for any child in the custody of the department.

SECTION 6. AMENDMENT. Section 50-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-08. Standards of administration - Action upon failure to administer.

1. The department shall adopt standards for administration for human services and shall provide training for the implementation of those standards. Each human service zone shall provide for administration of human services that meet those standards.
2. The department shall develop a system of progressive discipline to address performance issues within the human service zone, including a grievance process. The system shall reserve the most serious actions for severe or chronic failure to meet the standards adopted under subsection 1.
3. The department shall provide ongoing performance notifications to the human service zone board and human service zone director related to the overall compliance with the standards of administration.
4. If a human service zone fails to provide for administration of human services that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the human service zone to prepare and implement a corrective action plan.
 - c. ~~Terminate~~Rescind, terminate, or modify a human service zone, agreement, or plan which may include requiring the reconstituting of the human service zone board or rehiring of a human service zone director as part of a new or modified agreement or plan.
 - d. Recalculate and adjust the human service zone's payments.
 - e. Recommend disciplinary action to the human service zone director or the human service zone board.

²²³ **SECTION 7. AMENDMENT.** Section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

50-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Department" means the department of health and human services.
2. "Director" means the executive director of the department or the executive director's designee.
3. "Direct costs" means costs that are charged directly to the human service zone human services fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are approved by the department and not identified by the department as an indirect cost.
4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.
5. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
6. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
7. "Human services" means:

²²³ Section 50-35-01 was also amended by section 129 of House Bill No. 1165, chapter 229.

- a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; remodeling, construction, and improvement costs; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services. Indirect costs may not include non-space and non-facility costs and expenses that are exclusively attributable to the human service zones.

SECTION 8. AMENDMENT. Section 50-35-04 of the North Dakota Century Code is amended and reenacted as follows:

50-35-04. Calculation of payment - Expenditures.

1. The director shall calculate, in collaboration with the human service zone director or designee, the total payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
 - a. Other factors outlined in subsection 3;
 - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];
 - c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members to the salary increase provided by the legislative assembly for state employees; and
 - d. Current and future duties of and services offered by the human service zone and department.
2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The

department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.

3. The director may recalculate and adjust each human service zone's payment based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified payment.
4. ~~The director, during the period between January 1, 2021, and December 31, 2023, shall calculate payment for indirect costs. Indirect costs of the human service zone may not become direct costs without written approval of the department. The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the must be within legislative appropriation and be based on the annual indirect cost plan, unless a cost reduction or cost savings is achieved by the county starting August 1, 2023, for the counties to budget for the 2024 fiscal year. The 2023 cost allocation plan must be based on the requested information received from the counties.~~
5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.
6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.
7. Counties shall provide the requested information for the cost allocation plan by September fifteenth of each year. The department shall provide notice to the county commissioners and auditors sixty days before the deadline if the county does not participate in providing information for the cost allocation plan. If counties fail to provide the requested information by September fifteenth of each year, the counties may not participate in the cost allocation plan and must be responsible for one hundred percent of all indirect costs.
8. The director may authorize expenditures from the human service finance fund to reimburse all indirect costs associated with a statewide pilot project, service, or program performed by a human service zone.

SECTION 9. AMENDMENT. Section 50-35-05 of the North Dakota Century Code is amended and reenacted as follows:

50-35-05. Human service zone human services fund - Establishment - Fund balance limitations.

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures, excluding indirect costs payments, by the human service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's distribution payment and balance of moneys carried over pursuant to

subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.

2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or two hundred fifty thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

Approved March 30, 2023

Filed April 3, 2023

CHAPTER 418

SENATE BILL NO. 2276

(Senators Cleary, Dever, Lee)

AN ACT to create and enact a new section to chapter 50-06 and a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the establishment of a cross-disability advisory council and a family caregiver service pilot project; to provide an appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Cross-disability advisory council - Appointment - Duties.

1. The cross-disability advisory council shall participate with and provide feedback to the department regarding the implementation, planning, and design of the cross-disability children's waiver, level of care reform for the comprehensive developmental disabilities Medicaid home and community-based waiver, and a service option that will allow payment to a legally responsible individual who provides extraordinary care to an eligible individual through the Medicaid 1915(c) waivers. This subsection does not apply to the Medicaid 1915(c) home and community-based services aged and disabled waivers.
2. The department shall contract with a qualified, independent third party to facilitate and provide support services to the council. The contracted facilitator shall appoint the cross-disability advisory council members in accordance with subsection 3 and establish the length of member terms and the structure of the cross-disability advisory council. A representative from the contracted facilitator shall serve as the presiding officer of the advisory council.
3. The cross-disability advisory council consists of up to fifteen voting members. A majority of the members of the council must be family members of individuals with a disability, or must be individuals with a disability, who receive Medicaid home and community-based services. The remaining members of the council must be appointed based on their professional subject matter expertise in or knowledge of the needs and interests of individuals with disabilities. The council's membership must represent different regions of the state and a broad range of disabilities that pertain to the Medicaid home and community-based services. Upon request of the department, state agency representatives shall participate with the cross-disability advisory council in a nonvoting role.
4. The cross-disability advisory council shall meet at least quarterly and may appoint subcommittees to address specific topics or disabilities, which may include autism spectrum disorder, traumatic brain injury, and fetal alcohol spectrum disorder. A majority of the voting members of the council constitutes a quorum.

5. The cross-disability advisory council shall:
 - a. Discuss strategies to address gaps or needs regarding individuals with disabilities and Medicaid home and community-based services, including eligibility of legally responsible individuals;
 - b. Provide for the active participation of stakeholders, including consumers and providers; and
 - c. Receive information from the department and its consultants.
6. The cross-disability advisory council members, excluding the contracted facilitator, are entitled to reimbursement from the department for travel and lodging at the same rate as provided for state officers and employees.

SECTION 2. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Family caregiver service pilot project - Report.

1. The department shall establish the family caregiver service pilot project to assist in making payments to a legally responsible individual who provides extraordinary care to an eligible individual who is a participant in the Medicaid 1915(c) waivers, excluding the home and community-based services aged and disabled waiver.
2. The family caregiver service pilot project may include funding for extraordinary care, which means care:
 - a. Exceeding the range of activities a legally responsible individual would ordinarily perform in the household on behalf of an individual without extraordinary medical or behavioral needs; and
 - b. Is necessary to assure the health and welfare and avoid institutionalization of the individual in need of care.
3. The department may adopt rules addressing management of the family caregiver service pilot project and establish the eligibility requirements and exclusions for the family caregiver service pilot project. The department shall utilize an assessment of an eligible individual to determine the level of care authorized and to determine the best interests of the individual in need of care. The pilot project may not provide a payment for any care that is otherwise compensated through a Medicaid 1915(c) waiver or the Medicaid state plan.
4. A decision on an application which is issued by the department under this section may be appealed as provided under chapter 28-32. An individual may not appeal a denial, a revocation, a reduction in payment, or the termination of the family caregiver service pilot project administered by the department due to the unavailability of funding received for the purpose of issuing payments as part of the family caregiver service pilot project for the biennium.
5. The department shall provide the legislative management with periodic reports on the impact, usage, and costs associated with the family caregiver service pilot project.

SECTION 3. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ONE-TIME FUNDING - FAMILY CAREGIVER SERVICE PILOT PROJECT - PROJECT COORDINATOR. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of establishing and issuing payments as part of a family caregiver service pilot project, for the biennium beginning July 1, 2023, and ending June 30, 2025. Of this amount, the sum of \$300,000, or so much of the sum as may be necessary, may be used by the department of health and human services for the purpose of hiring up to one full-time equivalent position to serve as the family caregiver service pilot project coordinator, who would be responsible for implementing the pilot project and for establishing a payment portal. Participation in this service pilot project is capped at 120 individuals. The department of health and human services is authorized one full-time equivalent position for this purpose.

SECTION 4. EFFECTIVE DATE. Section 2 of this Act becomes effective January 1, 2024.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2025, and after that date is ineffective; section 2 of this Act is effective until the date the commissioner of the department of health and human services certifies to the legislative council that an approximate or equivalent family caregiver services program is available through a Medicaid and Medicare-approved home and community-based services waiver.

Approved April 26, 2023

Filed April 27, 2023

CHAPTER 419

HOUSE BILL NO. 1480

(Representatives Boschee, Mitskog, Nelson, O'Brien, M. Ruby, Weisz)
(Senators Burckhard, Cleary, Dever, Hogan, Lee, Mathern)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to a pay for success fund; to provide for a legislative management study; to provide for a legislative management report; to provide for a continuing appropriation; to provide for a transfer; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Pay for success fund - Continuing appropriation - Report to legislative management.

1. There is created in the state treasury the pay for success fund. The fund consists of all transfers to the fund and fund earnings. Moneys in the fund are appropriated to the department of health and human services on a continuing basis for defraying the expenses associated with a pay for success program developed by the department. The department shall develop the program with outcomes focused on improving educational, social, or emotional achievement of at-risk children, improving the health of children, and increasing participation in the workforce by individuals who qualify for government assistance.
2. The pay for success program may include a performance-based grant, contract, or other agreement for initiatives to improve outcomes that result in increased public value and social benefits, including improved outcomes, cost-savings, increased public revenue, or minimal administrative requirements.
3. The pay for success program must include the following:
 - a. A provision that a bonus payment may be provided to the recipient of the grant, contract, or agreement to expand capacity for a proposed initiative;
 - b. A provision that a bonus payment may be provided to the recipient of the grant, contract, or agreement only after a twenty-percent cost reduction has been achieved;
 - c. A provision that a bonus payment may not exceed half of the cost reduction;
 - d. A formal evaluation to determine whether the program has met its proposed outcomes; and
 - e. An annual report to the legislative management on the progress of the program.

4. The requirements of chapter 54-44.4 do not apply to the selection of a grant recipient, the grant award, or payments made under this section.
5. All moneys designated for the fund from whatever source derived must be deposited by the state treasurer in the pay for success fund. The state treasurer shall invest moneys in the fund in interest-bearing accounts as is designated by the department of health and human services and the interest earned must be retained in the fund. The state treasurer shall apply the prudent investor rule in investing the moneys in the fund. The executive director of the department of health and human services or the director's designee shall administer the fund.

SECTION 2. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - PAY FOR SUCCESS FUND. During the biennium beginning July 1, 2023, and ending June 30, 2025, the office of management and budget shall transfer the sum of \$2,500,000 from the strategic investment and improvements fund to the pay for success fund. On July 1, 2027, the director of the office of management and budget shall transfer the unobligated balance in the pay for success fund to the strategic investment and improvements fund.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PAY FOR SUCCESS FUNDING MODEL. During the 2023-24 interim, the legislative management shall consider studying the pay for success funding model as a tool to identify ways for state and local government to provide outcomes-based services. The study must review the ways the pay for success model may be implemented at the state and local level, examine pay for success programs of other states, and include input from the executive director of the department of health and human services and the state treasurer.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act is effective January 1, 2024.

Approved April 29, 2023

Filed May 1, 2023

CHAPTER 420

HOUSE BILL NO. 1048

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact subsection 1 of section 50-06-01.4 of the North Dakota Century Code, relating to administration of programs for individuals with developmental disabilities by the department of health and human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁴ **SECTION 1. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, health division, 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:
 - a. 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, certification of shelter care services, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, the establishment funding for family members and corporate guardianships, and the design and implementation of a community-based service system for persons in need of habilitation.
 - c. 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 foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including:
 - (1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of

²²⁴ Section 50-06-01.4 was also amended by section 111 of House Bill No. 1165, chapter 229.

services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and

- (2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
- e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.
 - g. Administration of general assistance.
 - h. Administration of child support.
 - i. Administration of program, services, and licensing outlined in title 23 and other previous duties of the state department of health.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 421

SENATE BILL NO. 2081

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 23-41-04 and 50-06-05.1 of the North Dakota Century Code, relating to maternity hospitals, maternity homes, and medical hospitals; and to repeal chapter 50-19 of the North Dakota Century Code, relating to maternity homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-41-04 of the North Dakota Century Code is amended and reenacted as follows:

23-41-04. Birth report of child with special health care needs made to department.

Within three days after the birth in this state of a child born with a visible congenital deformity, the ~~licensed maternity~~medical hospital ~~or home~~ in which the child was born, or the legally qualified physician or other person in attendance at the birth of the child outside of a ~~maternity~~medical hospital, shall furnish the department a report concerning the child with the information required by the department.

²²⁵ **SECTION 2. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. (Effective through June 30, 2025)

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

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.

²²⁵ Section 50-06-05.1 was also amended by section 1 of House Bill No. 1051, chapter 423, and section 1 of House Bill No. 1312, chapter 422.

4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of a child in need of protection, a child in need of services, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and ~~maternity homes~~, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency ~~or maternity hospital~~ or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.

14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human service agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child,

- including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
 21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
 22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
 23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
 24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
 25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.

26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community, and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role-playing. The provisions of chapter 54-44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.
29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

Powers and duties of the department. (Effective after June 30, 2025) The department has the following powers and duties to be administered by the department through its state office or regional human service centers, human service zones, or otherwise as directed by the department:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.

5. To provide for the study, and to promote the well-being, of a child in need of protection, a child in need of services, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and ~~maternity homes~~, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or ~~maternity hospital~~ or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court.

15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.

20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community.
29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

SECTION 3. REPEAL. Chapter 50-19 of the North Dakota Century Code is repealed.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 422

HOUSE BILL NO. 1312

(Representative Schreiber-Beck)

AN ACT to amend and reenact section 50-06-05.1 of the North Dakota Century Code, relating to continuation of an evidence-based online virtual mental health and suicide prevention simulation-based training program for schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁶ **SECTION 1. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. (Effective through June 30, 20252027)

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

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

²²⁶ Section 50-06-05.1 was also amended by section 1 of House Bill No. 1051, chapter 423, and section 2 of Senate Bill No. 2081, chapter 421.

8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial

participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human service agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.

22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include

information on identifying warning signs, risk factors, and the availability of resources in the community, and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role-playing. The provisions of chapter 54-44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.

29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

Powers and duties of the department. (Effective after June 30, 20252027)

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

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of a child in need of protection, a child in need of services, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.

9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section

54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any

- public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
- a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
 24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
 25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
 26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
 27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
 28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community.
 29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family

First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].

30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

Approved March 27, 2023

Filed March 28, 2023

CHAPTER 423

HOUSE BILL NO. 1051

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-06-05.1 of the North Dakota Century Code, relating to the powers and duties of the department of health and human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁷ **SECTION 1. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. (Effective through June 30, 2025)

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

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

²²⁷ Section 50-06-05.1 was also amended by section 1 of House Bill No. 1312, chapter 422, and section 2 of Senate Bill No. 2081, chapter 421.

8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, ~~probation~~, and aftercare services when requested by the judge of a juvenile court.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, and treatment, ~~and probation and parole services~~, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial

participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human service agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.

22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include

information on identifying warning signs, risk factors, and the availability of resources in the community, and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role-playing. The provisions of chapter 54-44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.

29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].
32. In the event of a disruption of operations, to provide meals at a fair value or without a charge to employees of the department at the North Dakota state hospital, life skills and transition center, and regional human service centers twenty-four hour staffed residential units as required by the job assignments of the employees.

Powers and duties of the department. (Effective after June 30, 2025) The department has the following powers and duties to be administered by the department through its state office or regional human service centers, human service zones, or otherwise as directed by the department:

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

7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, ~~probation~~, and aftercare services when requested by the judge of a juvenile court.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, and treatment, ~~and probation and parole services~~, when requested by the judge in a criminal case.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human

service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement,

- and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
 23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
 24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
 25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
 26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
 27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.

28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community.
29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].
32. In the event of a disruption of operations, to provide meals at a fair value or without a charge to employees of the department at the North Dakota state hospital, life skills and transition center, and regional human service centers twenty-four hour staffed residential units as required by the job assignments of the employees.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 424

SENATE BILL NO. 2079

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-06-06.3 of the North Dakota Century Code, relating to the department of health and human services maintaining a facility staff training system for the providers of community-based care on behalf of individuals with developmental disabilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.3. Facility staff training.

It is the intent of the legislative assembly that the department ~~design and implement~~maintain a facility staff training system ~~in cooperation with the board of higher education~~ to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of individuals with developmental disabilities.

Approved March 20, 2023

Filed March 21, 2023

CHAPTER 425

SENATE BILL NO. 2084

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 50-06-06.11, 50-33-01, 50-33-06, and 50-33-08 of the North Dakota Century Code, relating to child care assistance payments to providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-06.11 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.11. Child care provider payments.

Within the limits of federal regulations, the department, ~~at the election of the early childhood facility,~~ shall directly pay early childhood facilities monthly under child care assistance programs administered by the department.

SECTION 2. AMENDMENT. Section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

50-33-01. Definitions.

For the purposes of this chapter:

1. "Allowable activities" means paid work, job search, attending job training or an education program, any activity in the job opportunity and basic skills program, transportation time related to the activities, temporary illness or incapacity of a current recipient, and temporary illness of the child.
2. "Approved relative" means an individual provider related to a child in that provider's care by marriage, blood, or court decree as a grandparent, step-grandparent, great grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or step-sibling, who has been approved to care for specific children in the provider's own home, but does not mean a sibling provider who resides in the home of a child in that provider's care.
3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request, but does not mean a provider.
4. "Child care assistance unit" means all members of the caretaker's immediate household, including a child through the month of that child's nineteenth birthday, and any parent or stepparent of a child, including an acknowledged or adjudicated father of one or more children in the household, but does not mean any other person who is not acting in the stead of a parent, a child who is nineteen years of age or older, a child for whom the household receives

foster care payments, or a minor parent of a child in the household unless the minor parent also requires child care or is incapable of caring for the child.

5. "Child care center" has the meaning provided in chapter 50-11.1.
6. "Department" means the department of health and human services.
7. "Family child care" has the meaning provided in chapter 50-11.1.
8. "Group child care" has the meaning provided in chapter 50-11.1.
9. ~~"Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department~~ has the meaning provided in section 50-35-01.
10. "In-home provider" has the meaning provided in section 50-11.1-02.
11. "Provider" means an individual who is eighteen years of age or older, licensed as a provider in a family child care, group child care, or child care center, with a self-declaration as a provider of early childhood services who requires no license, registered as a child care provider by a tribal entity, or an approved relative, who meets criteria established by the jurisdiction with authority to regulate child care services.
12. "Recipient" means an individual who is receiving child care assistance.
13. "Tribal entity" means an organization authorized by the government of an Indian tribe within North Dakota to license, register, or otherwise recognize a child care provider operating within the jurisdiction of that Indian tribe.
14. "Work":
 - a. Means any paid employment and any self-employment providing commensurate income; and
 - b. Does not mean any unpaid activity except:
 - (1) With respect to a caretaker who is involved in job opportunity and basic skills or tribal native employment works required by temporary assistance for needy families, any approved activity for the program; and
 - (2) When a state has been determined to have a major disaster, activity by an individual who is residing in the disaster area and involved in unpaid work activities, including the cleaning, repair, restoration, and rebuilding of homes, businesses, and schools.

SECTION 3. AMENDMENT. Section 50-33-06 of the North Dakota Century Code is amended and reenacted as follows:

50-33-06. Approved relative provider.

1. The department may approve a relative provider to provide care for specific children within a specified county. The department shall provide an approved relative provider with a provider identification number. An approved relative

provider may provide care for no more than five children ~~under~~through the age of twelve or three children under the age of two, including the provider's children under the age of twelve.

2. Before approving an individual as an approved relative provider, the department shall seek a criminal history record investigation as provided under section 50-11.1-06.2 and pursuant to section 12-60-24. The department shall consider any criminal history record information available at the time approval decision is made. A background check must be completed for each adult living in the household of the prospective provider.
3. No payment may be made to a relative provider who is not an approved relative provider.

SECTION 4. AMENDMENT. Section 50-33-08 of the North Dakota Century Code is amended and reenacted as follows:

50-33-08. Limitations on in-home child care benefits.

No benefits under this chapter may be provided ~~to~~ an in-home provider or for a child receiving in-home child care unless:

1. A health professional provides written documentation demonstrating to the department's satisfaction that the child's health would be at risk if taken to an outside provider; or
2. A developmental disabilities case manager or a special education case manager provides written documentation demonstrating to the department's satisfaction that the child's disability is such that taking the child to an outside provider creates an undue hardship.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 426

SENATE BILL NO. 2077

(State and Local Government Committee)
(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-06-21 of the North Dakota Century Code, relating to gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-21 of the North Dakota Century Code is amended and reenacted as follows:

50-06-21. Gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

The department shall administer, develop, and implement a gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services program or contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for individuals with a gambling disorder. An individual who provides treatment services must be a licensed professional operating within the individual's scope of practice. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department may establish a sliding payment scale for services under the program. The department may establish a centrally located repository of educational materials on identifying and treating gambling disorders. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's gambling disorder services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering gambling disorder education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of health and human services. The term "gambling disorder" means a chronic, progressive disease that is characterized by a preoccupation with gambling, loss of control over gambling behaviors, and oftentimes disregard for the negative consequences as a result of gambling. Gambling disorder includes gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 427

SENATE BILL NO. 2129

(Senators Myrdal, Dever, Mathern)
(Representatives McLeod, Meier, D. Ruby)

AN ACT to amend and reenact section 50-06-26 of the North Dakota Century Code, relating to the alternatives-to-abortion program; and to provide for an appropriation to the department of health and human services to establish and maintain the alternatives-to-abortion program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-26 of the North Dakota Century Code is amended and reenacted as follows:

50-06-26. Alternatives-to-abortion services program.

~~The department shall disburse funds available through title IV-A of the Social Security Act [42 U.S.C. 601 et seq.] to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program. The services must be outcome-based with positive outcome-based results. The department, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, shall contract to inform the public about this program. For purposes of this section, "alternatives-to-abortion services" are those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.~~

1. As used in this section, "support services" includes medical services and post-abortion services.
2. The department shall establish and maintain an alternatives-to-abortion program that disburses funds to nongovernmental entities that provide services that promote childbirth instead of abortion by providing information, counseling, support services, and material assistance to pregnant women, women who believe they may be pregnant, and parents or other relatives caring for children twelve months of age or younger.
3. The department, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, shall contract to inform the public about this program.
4. A religious organization receiving disbursements under the alternatives-to-abortion program may retain its independence from state and local governments, including the organization's control over the definition, development, practice, and expression of its religious beliefs.
5. The department may not require a religious organization to alter its form of internal governance, or remove religious art, icons, scripture, or other symbols

as a condition to receiving disbursements from the alternatives-to-abortion program.

6. If an individual receiving services under the alternatives-to-abortion program has an objection to the religious character of the entity providing alternatives-to-abortion services, the department shall, within a reasonable period of time after the date of the objection, make reasonable efforts to provide the individual with assistance of an equal value from an alternative provider accessible to the individual.
7. Except as otherwise provided by law, a religious organization may not discriminate against an individual in regard to providing alternatives-to-abortion services on the basis of religion, religious belief, or refusal to actively participate in religious practice.
8. If a religious organization segregates funds received from the alternatives-to-abortion program into a separate account, then only the account in which funds were deposited may be subject to an audit by the state.
9. Funds from the alternatives-to-abortion program may not be used for religious worship, instruction, or proselytization.

SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ALTERNATIVES-TO-ABORTION PROGRAM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of establishing and maintaining the alternatives-to-abortion program, for the biennium beginning July 1, 2023, and ending June 30, 2025.

Approved April 28, 2023

Filed April 29, 2023

CHAPTER 428

SENATE BILL NO. 2034

(Legislative Management)
(Human Services Committee)

AN ACT to amend and reenact section 50-06-43.1 of the North Dakota Century Code, relating to the children's cabinet; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-43.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.1. Children's cabinet - Membership - Duties - Report.

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.
2. The children's cabinet consists of the following members:
 - a. The governor, or the governor's designee;
 - b. The chief justice of the supreme court, or the chief justice's designee;
 - c. ~~The speaker of the house of representatives, or the speaker's designee~~A member of the house of representatives from an even-numbered legislative district and a member of the house of representatives from an odd-numbered legislative district appointed by the majority leader of the house of representatives to serve two-year terms;
 - d. ~~The president pro tempore of the senate, or the president pro tempore's designee~~A member of the senate from an even-numbered legislative district and a member of the senate from an odd-numbered legislative district appointed by the majority leader of the senate to serve two-year terms;
 - e. The superintendent of public instruction, or the superintendent's designee;
 - f. The director of the committee on protection and advocacy, or the director's designee;
 - g. The commissioner of the department, or the commissioner's designee;
 - h. A representative of the tribal nations in the state, who is appointed by the governor; and
 - ~~h.i.~~ Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department for travel and lodging at the same rate as provided for state officers and employees.

3. ~~The chairman of legislative management, or a member of the legislative assembly appointed by the chairman of the legislative management shall appoint one of the legislative members to serve as the presiding officer of the cabinet. The children's cabinet shall select one of its members to serve as the vice-presiding officer.~~ The cabinet shall meet at least quarterly. Additional meetings may be held at the discretion of the presiding officer.
4. The children's cabinet shall:
 - a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;
 - b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;
 - c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;
 - d. Seek to engage cooperation across public and private service providers;
 - e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;
 - f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;
 - g. Provide for the active participation of consumers and providers statewide on advisory committees; ~~and~~
 - h. Receive information and recommendations from the department of health and human services, department of corrections and rehabilitation, and other state agencies; ~~and~~
 - i. Provide an annual report to the legislative management and governor regarding the activities and findings of the cabinet.
5. The department shall provide the children's cabinet with staffing and administrative services.
6. A member of the cabinet who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees, to be paid by the department. A state employee who is a member of the cabinet is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the cabinet who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the cabinet. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the cabinet who is a member of the legislative assembly.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 429

SENATE BILL NO. 2086

(Workforce Development Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-06-44 of the North Dakota Century Code, relating to evidence-based alcohol and drug education programs and program certification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-44 of the North Dakota Century Code is amended and reenacted as follows:

50-06-44. Alcohol and drug education program - Rules - Fees.

1. The department shall adopt rules for an evidence-based alcohol and drug education program for individuals ~~under the age of twenty-one~~ who violate section 5-01-08 or 39-08-01, or equivalent ordinances, or subparagraph a of paragraph 1 of subdivision d of subsection 7 of section 19-03.1-23. The rules must allow for the program provider to charge a fee to a participant in the program.
2. The department shall adopt rules for an evidence-based alcohol and drug education program certification.

Approved March 20, 2023

Filed March 21, 2023

CHAPTER 430

HOUSE BILL NO. 1418

(Representatives Dobervich, Dakane, Ista, Meier, Murphy, Nelson, Schneider)
(Senators Dever, Hogan, Lee)

AN ACT to amend and reenact section 50-06.4-10 of the North Dakota Century Code, relating to the membership of the brain injury advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.4-10 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-10. Brain injury advisory council.

1. The governor shall appoint at least ~~five~~eight, but no more than ~~nineteen~~, voting members to serve on the brain injury advisory council. The governor may make appointments under this subsection so a majority of the total voting members appointed under subsections 1 and 2 are brain injury survivors and family members of brain injury survivors. The members appointed by the governor must consist of the following:
 - a. At least ~~one~~two brain injury ~~survivors~~survivors, nominated by the council;
 - b. At least ~~one~~two family ~~member~~members of a brain injury survivor, nominated by the council;
 - c. At least one service provider who provides services to brain injury survivors, nominated by the council, who may be a brain injury survivor or a family member of a brain injury survivor;
 - d. An individual representing the Indian affairs commission, nominated by the Indian affairs commission, who may be a brain injury survivor or a family member of a brain injury survivor; and
 - e. At least one individual representing a religious, charitable, fraternal, civic, educational, legal, veteran, welfare, or professional group or organization, who may be a brain injury survivor or a family member of a brain injury survivor.
2. The speaker of the house of representatives shall appoint one member of the house of representatives and the president pro tempore of the senate shall appoint one member of the senate to serve as members of the council. Each legislative member of the council is entitled to receive compensation from the legislative council for each day spent in meetings of the council and for reimbursement for related travel and other necessary expenses in the amounts provided by law for other state officers.
3. Each of the following entities shall appoint a representative to serve as a nonvoting member of the council who serves at the pleasure of the appointing entity:

- a. Protection and advocacy project, one representative;
 - b. Department, one individual representing injury prevention and, one representative representing emergency medical services and trauma, one individual representing behavioral health, one individual representing Medicaid, one individual representing the adult and aging population, and one individual representing vocational rehabilitation; and
 - c. Department of public instruction, one representative.
4. The governor may appoint an individual representing stroke health and an individual representing a brain injury advocacy organization to serve as a nonvoting membermembers of the council who servesserve at the pleasure of the governor.
 5. A voting advisory council member appointed by the governor may not serve more than two consecutive four-year terms on the council.
 6. A council member appointed under subdivision a or b of subsection 1 is entitled to receive from the department reimbursement for expenses as provided by law for state officers and per diem compensation as determined by the department if the member is attending meetings or performing duties directed by the council.
 7. The council shall elect a chairman and vice chairman from the voting membership of the council and shall elect a secretary from the voting or nonvoting membership of the council. The council shall meet quarterly. A majority of the voting members of the council constitutes a quorum. The council shall adopt bylaws.
 8. The council shall advise the department and shall participate in activities to improve the quality of life for an individual with brain injury and the individual's family through brain injury awareness, prevention, research, education, collaboration, support services, and advocacy.
 9. The department shall contract with a private, nonprofit agency that does not provide brain injury services, to facilitate and provide support services to the council.

Approved April 21, 2023

Filed April 24, 2023

CHAPTER 431

SENATE BILL NO. 2181

(Senators K. Roers, Cleary, Mathern)
(Representatives O'Brien, Rohr, M. Ruby)

AN ACT to amend and reenact sections 50-09-29, 50-24.1-02.6, and 50-24.1-41 of the North Dakota Century Code, relating to public assistance for pregnant women.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

50-09-29. Requirements for administration of temporary assistance for needy families.

1. Except as provided in subsections 2, 3, and 4, the state agency, in its administration of the temporary assistance for needy families program, shall:
 - a. Provide assistance to otherwise eligible pregnant women ~~in the third trimester of a pregnancy~~;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;
 - f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the state agency;
 - g. Exclude one motor vehicle of any value in determining eligibility;
 - h. Require work activities for all household members not specifically exempted by the state agency for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;
 - i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;

- j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
- k. Establish and enforce standards against program fraud and abuse;
- l. Provide employment placement programs;
- m. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- n. Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- o. When appropriate, require household members to complete high school;
- p. To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- q. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- r. Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- s. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- t. Require each household to participate in developing an individual employment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate with the terms of the individual employment plan;
- u. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
- v. ~~Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;~~
- w. Disregard earned income as an incentive allowance for no more than twelve months. Unless the individual has not received temporary assistance for needy families for twelve or more months, the incentive allowance may not be used again after the twelve months; and
- ~~x-w.~~ Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere.

2. If the secretary of the United States department of health and human services determines that funds otherwise available for the temporary assistance for needy families program in this state must be reduced or eliminated should the state agency administer the program in accordance with any provision of subsection 1, the state agency shall administer the program in a manner that avoids the reduction or loss.
3. If the state agency determines, subject to the approval of the legislative management, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the state agency may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
4. If the state agency determines, subject to the approval of the legislative management, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the human service zones under chapter 50-01, the state agency may administer the program in a manner that avoids that result.
5. The state agency may not deny assistance to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substance Act [21 U.S.C. 802(6)].

SECTION 2. AMENDMENT. Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are medically needy persons who have countable income that does not exceed an amount determined under subsection 2.
2. The department shall establish an income level for medically needy persons at an amount no less than required by federal law.
3. The department shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.
4. The department shall provide medical assistance benefits to otherwise eligible pregnant women who are lawfully present in the United States.
5. The department may require, as a condition of eligibility, individuals eligible for Medicare part A, B, or D to apply for such coverage.

SECTION 3. AMENDMENT. Section 50-24.1-41 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-41. Medical assistance benefits - Pregnant women - Postpartum.

The department shall seek the necessary approval from the centers for Medicare and Medicaid services to expand medical assistance coverage for pregnant women with income below one hundred ~~sixty-two~~~~seventy-five~~ percent of the federal poverty level. Services under this section must be for the duration of the pregnancy and the

postpartum period consisting of the twelve-month period beginning on the last day of the pregnancy.

Approved April 28, 2023

Filed April 29, 2023

CHAPTER 432

HOUSE BILL NO. 1049

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to an agency foster home for adults zoning area.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Agency foster home for adults - Zoning.

Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing a political subdivision to establish or enforce zoning regulations, an agency foster home for adults providing community support services or residential habilitation must be considered a permitted use in a single-family or equivalent least-density residential zone.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 433

HOUSE BILL NO. 1091

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 50-11-00.1, 50-11-01, 50-11-01.5, 50-11-01.6, 50-11-02, 50-11-02.1, 50-11-02.2, 50-11-03, 50-11-03.2, 50-11-03.3, 50-11-03.4, 50-11-03.5, 50-11-04, 50-11-04.2, 50-11-05, 50-11-06.7, 50-11-07, 50-11-08, and 50-11-09 of the North Dakota Century Code, relating to family foster care for children licenses, certifications, and approvals, and identified and kinship relatives; and to provide for a report to legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-00.1. Definitions.

As used in this chapter:

1. "Agency foster home for adults" means a residential home in which foster care for adults is regularly provided by professional staff trained to provide services to older adults or adults with a disability, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
2. "Approval" means the approval of tribal foster care facilities by the department, upon submission of tribal licensing standards or in the absence of tribal licensing standards compliance with state standards, of a facility located on or near, as identified by the tribe, a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the facility to receive title IV-E funding.
3. "Authorized agent" means the human service zone, unless another entity is designated by the department.
4. "Certified family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee of the residence to no more than three children, unless the department approves otherwise.
5. "Department" means the department of health and human services.
- 5-6. "Facility" means a foster home for adults, agency foster home for adults, family foster home for children, certified family foster home for children, supervised independent living program, or qualified residential treatment program for children.
- 6-7. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee of

the residence to no more than six children, unless the department approves otherwise.

- 7-8. "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the residential home of a caregiver or agency, to an individual age eighteen or older, who is unable, neglects, or refuses to provide for the individual's own care.
- 8-9. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a licensed, certified, or approved family foster home for children, supervised independent living program, or qualified residential treatment program.
- 9-10. "Foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
- 40-11. "Identified relative" or "kinship relative" means:
- The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
 - An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
 - An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
 - The child's stepparent.
- 44-12. "Qualified residential treatment program" means a licensed or approved residence providing an out-of-home treatment placement for children.
- 42-13. "Supervised independent living program" means a licensed or approved setting providing supervision and service delivery to youth transitioning into adulthood.

SECTION 2. AMENDMENT. Section 50-11-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01. Foster care for children - License, certification, or approval required.

1. A person may not furnish foster care for children for more than thirty days during a calendar year without first procuring a license, certification, or approval to do so from the department. The mandatory provisions of this

section requiring licensure, certification, or approval do not apply when the care is provided in:

- a. The home of an identified relative.
 - b. The home of a kinship relative.
 - c. A home or institution under the management and control of the state or a political subdivision.
 - e-d. A home or facility furnishing room and board primarily to accommodate the child's educational or career and technical education needs.
2. An individual providing care under subdivision a of subsection 1 shall submit to a criminal history record investigation as required under section 50-11-06.8.
 3. The family foster care for children license, certification, or approval is nontransferable and valid only for the applicants residing at a physical location noted at the time of issuance, unless otherwise approved by the department. Only one family foster home for children license, certification, or approval is permitted for each physical location.

SECTION 3. AMENDMENT. Section 50-11-01.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.5. Fire prevention training.

Before initial licensure, or certification and each renewal under this chapter, each ~~foster parent~~family foster home for children shall complete a course of instruction related to fire prevention and safety. The state fire marshal shall design the course in cooperation with the department of health and human services. The course must be available ~~on videotape or any equivalent medium~~to the public as designed by the department. The department of health and human services shall offer the course throughout the state.

SECTION 4. AMENDMENT. Section 50-11-01.6 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.6. Self-declaration form.

The department of health and human services shall prescribe self-declaration forms to be completed and signed by each ~~foster parent~~family foster home for children provider before initial licensure or certification and each renewal under this chapter. The self-declaration forms must include references to smoke detectors, fire extinguishers, fire escape plans, and inspections of appliances, electrical systems, and heating systems.

SECTION 5. AMENDMENT. Section 50-11-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02. License or certification granted - Term - Conditions.

1. The department shall grant a license or certification for the operation of a facility receiving persons for foster care, for a period of not more than two years, to reputable and responsible persons upon showing that:

- a. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all persons who may be received;
 - b. The persons in active charge of the facility are properly qualified to carry on efficiently the duties required of them;
 - c. The facility is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all persons cared for in the facility;
 - d. The facility will be maintained according to the standards prescribed for its conduct by the rules of the department;
 - e. The applicant has not had a previous facility license, certification, or approval denied within two years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing, certification, or approval history of the applicant; and
 - f. The applicant has not had a previous facility license, certification, or approval revoked within five years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing, certification, or approval history of the applicant.
2. Before licensing, certifying, or approving a facility providing foster care for children or adults, the department shall seek a criminal history record when required by this chapter. The department shall consider any criminal history record information available at the time a licensing license, certification, or approval decision is made.
 3. The department shall determine, in accordance with rules of the department, whether a license, certification, or approval may be issued to a facility that houses or employs any individual who has a criminal record.

SECTION 6. AMENDMENT. Section 50-11-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02.1. Conviction not bar to licensure - Exceptions.

Conviction of an offense does not disqualify a person from licensure, certification, or approval under this chapter unless the department determines that the offense has a direct bearing upon that person's ability to serve the public as the operator of a facility or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 7. AMENDMENT. Section 50-11-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02.2. Provisional license, certification, or approval.

At the discretion of the department, a provisional license, certification, or approval may be issued to an applicant who, or whose facility, fails to conform in all respects to this chapter and the rules of the department. The department may set conditions under which a provisional license, certification, or approval may be issued, and may issue such a license, certification, or approval for any period of time, not to exceed

two years, as the department may deem reasonable or appropriate to the circumstances of the case. The department may not be compelled to issue a provisional license, certification, or approval.

SECTION 8. AMENDMENT. Section 50-11-03 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03. Department to make rules - Records kept by facility.

A record of all children and adults cared for in any facility licensed, certified, or approved under this chapter must be maintained at the facility in the manner and form prescribed by the department. The department shall establish reasonable minimum standards, and shall make such reasonable rules for the conduct of such place as are necessary to carry out the purposes of this chapter.

SECTION 9. AMENDMENT. Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.2. Use of public funds.

1. Public funds for the purchase of foster care for children or adults may be used only in facilities licensed, certified, or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license, certification, or approval issued by the department. This section does not apply to any home or institution under the management and control of the state.
2. Nonfederal funds may be used to reimburse the costs of shelter care placements for no more than seven days if the shelter care services are certified by the department. If the entity has diligently pursued other placement, the department may grant an extension for the health and safety of the child or due to unforeseeable circumstances.
3. Nonfederal funds may be used for maintenance payments to unlicensed identified relatives or unlicensed kinship relatives for no more than six months.

SECTION 10. AMENDMENT. Section 50-11-03.3 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.3. Department to provide liability coverage to foster homes for children.

1. The department shall provide liability coverage for acts or omissions of foster children placed in the care of ~~foster families~~ licensed, certified, or approved family foster homes for children. The department may provide this liability coverage through self-insurance.
2. The liability coverage under this section:
 - a. Must provide coverage for damage to property which is caused by the act of a foster child. This coverage must be for the lesser of the reasonable cost to repair or to replace the damaged property.
 - b. Is secondary to any other coverage.

- c. Except as provided in subdivision d, may not exceed five thousand dollars per claim, with an annual maximum of ten thousand dollars per year per claimant. The coverage under this subsection must include a deductible not to exceed one hundred dollars per claim.
 - d. In cases in which the property damage per event total exceeds twenty-five thousand dollars, the department may further review the claim. The department may cover twenty-five percent of the remaining property damage after any insurance reimbursement, not to exceed ten thousand dollars.
3. The department may provide for exclusions from liability coverage provided under this section.

SECTION 11. AMENDMENT. Section 50-11-03.4 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.4. Immunity for a person providing foster care.

A person providing foster care for children in a licensed, certified, or approved facility is immune from civil liability for any act or omission resulting in damage or injury to or by a child in foster care if, at the time of the act or omission, the person providing foster care for children applied the reasonable and prudent parent standard in a manner that protects child safety, while also allowing the child in foster care to experience age or developmentally appropriate activities.

SECTION 12. AMENDMENT. Section 50-11-03.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.5. Automated clearinghouse payments.

The department shall provide payment to family foster home for children, supervised independent living program, certified family foster home for children, and qualified residential treatment program for children providers using an automated clearinghouse to provide for electronic fund transfers. To receive payment, family foster home for children, supervised independent living program, certified family foster home for children, and qualified residential treatment program for children providers and applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearinghouse. No other forms of payment are permitted, unless approved by the department.

SECTION 13. AMENDMENT. Section 50-11-04 of the North Dakota Century Code is amended and reenacted as follows:

50-11-04. Inspection by the department - Inspection and report by the department or its authorized agent.

The department and its authorized agents at any time may inspect any facility licensed, certified, or approved under the provisions of this chapter or with respect to which a license, certification, or approval application has been made, except for approved family foster homes for children. The department and its authorized agents shall have full and free access to every part of the facility. The department may require, on a case-by-case basis, prior to or after licensure, certification, or approval, that a facility undergo a fire inspection, inspection of the heating system or the electrical system, or any other type of inspection that the department deems necessary to carry out the purposes of this chapter. All records of the facility must be open for the inspection of the department or its authorized agents and they may see

and interview all children and adults cared for therein. Upon the request of the department, the department or its authorized agent shall inspect any facility for which a license, certification, or approval is applied or issued, with the exception of approved family foster homes for children, and shall report the results of the inspection to the department.

SECTION 14. AMENDMENT. Section 50-11-04.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-04.2. Correction order - Contents.

Whenever the department determines that the facility is not in compliance with this chapter, or the rules adopted thereunder, a notice of license, certification, or approval denial or revocation or a correction order must be issued to the facility, except for approved family foster home for children. A correction order must cite the statute or rule violated, state the factual basis of the violation, specify the time allowed for correction, and specify the amount of any fiscal sanction to be assessed if the correction order is not complied with in a timely fashion. A correction order may also state a suggested method of correction or require the submission of a corrective action plan by the facility. If a correction order requires the submission of a corrective action plan, it must also specify a date by which the corrective action plan must be submitted. The department shall, by rule, establish a schedule of allowable times for correction of deficiencies.

SECTION 15. AMENDMENT. Section 50-11-05 of the North Dakota Century Code is amended and reenacted as follows:

50-11-05. Contents of records not disclosed - Exception.

The records of facilities licensed, certified, or approved under this chapter and the records of the department and its authorized agents, pertaining to the children or adults receiving care, are confidential but may be disclosed:

1. In a judicial proceeding;
2. To officers of the law or other legally constituted boards or agencies; or
3. To persons who have a definite interest in the well-being of the adults or children concerned, who are in a position to serve their interests, and who need to know the contents of the records in order to assure their well-being and interests.

SECTION 16. AMENDMENT. Section 50-11-06.7 of the North Dakota Century Code is amended and reenacted as follows:

50-11-06.7. License, approval, certification approval or denial - Time requirements.

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

SECTION 17. AMENDMENT. Section 50-11-07 of the North Dakota Century Code is amended and reenacted as follows:

50-11-07. Denial or revocation of license or certification.

The department may deny or revoke the license or certification of any facility upon proper showing of any of the following:

1. Any of the conditions set forth in section 50-11-02 as prerequisites for the issuance of the license or certification do not exist.
2. The application contains false or misleading material information or the applicant intentionally withheld material information.
3. The license or certification was issued upon false, misleading, or intentionally withheld material information.
4. An operator, licensee, certification holder, caregiver, employee, or an agent of the facility has violated a provision of this chapter or any of the rules of the department.
5. An applicant, licensee, or certification holder providing family foster care for children has been involved in a court action in which a child in their household is currently removed from the home due to contrary to the welfare findings.
6. An operator, applicant, licensee, certification holder, caregiver, employee, or agent of the facility has been convicted of an offense determined by the department to have a direct bearing upon the person's ability to serve the public or residents of the facility, or the department determines, following conviction of any other offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 18. AMENDMENT. Section 50-11-08 of the North Dakota Century Code is amended and reenacted as follows:

50-11-08. Denial or revocation of license or certification - Hearing - Appeals.

Before any application for a license or certification under the provisions of this chapter is denied or before revocation of any such license or certification takes place, written charges as to the specific reasons therefor, a copy of the statutes and department rules authorizing such action, and notice of the applicant's or licensee's, or certification holder's right to a hearing on the matter before the department must be served upon the applicant or licensee, or certification holder. The applicant or licensee, or certification holder must also be notified in writing of the person's right to be represented at such hearing by counsel, to examine all files and documents in the custody of the department regarding the applicant or licensee, or certification holder, to present witnesses at the hearing on behalf of the applicant or licensee, or certification holder and to present documentary evidence, to present testimony and cross-examine adverse witnesses, and the right to an impartial hearing officer. The applicant or licensee, or certification holder has the right to a hearing before the department if the hearing is requested within twenty days after service of the written charges. The department shall hold the hearing within sixty days after the hearing request unless the applicant or licensee, or certification holder agrees to a later date. At any such hearing, the evidence submitted by the department in support of its denial or revocation of the applicant's or licensee's license, or certification holder's certificate must be limited to supporting only those reasons which were given by the department in its original notice of denial or revocation to the applicant or licensee, or certification holder. An applicant or licensee, or certification holder may appeal under

the provisions of chapter 28-32 any final decision of the department regarding the application for or issuance of a license or certification required by this chapter.

SECTION 19. AMENDMENT. Section 50-11-09 of the North Dakota Century Code is amended and reenacted as follows:

50-11-09. Appeal from decision of department denying or revoking license or certification.

The applicant for a license or certification to operate a facility or a person whose license or certification for a facility has been revoked may appeal the denial or revocation to the district court. An appeal must be taken in the manner provided in chapter 28-32.

SECTION 20. REPORT TO LEGISLATIVE MANAGEMENT - REINSTATEMENT OF PARENTAL RIGHTS. During the 2023-24 interim, the department of health and human services, with assistance from other stakeholders, including the North Dakota supreme court, human service zone directors, and the North Dakota association of counties, shall review the option of reinstating parental rights that have been terminated by a court. Before August 1, 2024, the department shall report on the progress of the study to the legislative management.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 434

SENATE BILL NO. 2182

(Senators Lee, Axtman, Larsen)
(Representatives Pyle, M. Ruby, Schreiber-Beck)

AN ACT to amend and reenact section 50-11.1-02 of the North Dakota Century Code, relating to the definition of early childhood services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁸ **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions. (Effective through June 30, 2025)

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Authorized agent" means the human service zone, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of health and human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the department.

²²⁸ Section 50-11.1-02 was also amended by section 29 of Senate Bill No. 2012, chapter 44, and section 1 of Senate Bill No. 2104, chapter 435.

- e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
 - k. A child care program certified by and in good standing with the United States department of defense family child care certification program, in accordance with department of defense instruction 6060.02, child development programs.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
 8. "Four-year old program" means an approved child care program operated by a public or private educational entity or an early childhood program designed to serve four-year olds.
 9. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.
 10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
 11. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
 12. "In-home provider" means any person who provides early childhood services to children in the children's home.
 13. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.

14. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
15. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.
16. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
17. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
18. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
19. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
20. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
21. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
22. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
23. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
24. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
25. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
26. "Staff member" means an individual:
 - a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration;
 - b. Whose activities involve the care, supervision, or guidance of children of an early childhood program; or

- c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

Definitions. (Effective after June 30, 2025)

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Authorized agent" means the human service zone, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of health and human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the department.
 - e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.

- i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
 - k. A child care program certified by and in good standing with the United States department of defense family child care certification program, in accordance with department of defense instruction 6060.02, child development programs.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
 8. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.
 9. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
 10. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
 11. "In-home provider" means any person who provides early childhood services to children in the children's home.
 12. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
 13. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
 14. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.
 15. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
 16. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
 17. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
 18. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.

19. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
20. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
21. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
22. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
23. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
25. "Staff member" means an individual:
 - a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration;
 - b. Whose activities involve the care, supervision, or guidance of children of an early childhood program; or
 - c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

Approved April 6, 2023

Filed April 6, 2023

CHAPTER 435

SENATE BILL NO. 2104

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 50-11.1-02, 50-11.1-02.1, 50-11.1-02.3, 50-11.1-03, 50-11.1-04, 50-11.1-06, 50-11.1-06.2, 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3, 50-11.1-07.4, 50-11.1-07.5, 50-11.1-07.6, 50-11.1-07.8, 50-11.1-09, 50-11.1-11.1, 50-11.1-12, 50-11.1-14, 50-11.1-14.1, 50-11.1-15, 50-11.1-16, 50-11.1-17, 50-11.1-18, 50-11.1-19, 50-11.1-22, 50-11.1-23, 50-11.1-24, and 50-11.1-26, and subsection 2 of section 50-25.1-11 of the North Dakota Century Code, relating to early childhood services, resource and referral services, workforce development, early childhood inclusion support program, best in class program, and disclosure of child abuse and neglect confirmed decisions involving early childhood services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁹ **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions. (Effective through June 30, 2025)

As used in this chapter, unless the context or subject matter otherwise requires:

1. "~~Authorized agent~~Applicant" means the ~~human service zone, unless another entity is designated by the department~~person applying for a license to operate early childhood services as an owner of an early childhood program, self-declaration, or registered in-home provider.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of health and human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.

²²⁹ Section 50-11.1-02 was also amended by section 29 of Senate Bill No. 2012, chapter 44, and section 1 of Senate Bill No. 2182, chapter 434.

- b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the department.
 - e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
 8. "Four-year old program" means an approved child care program operated by a public or private educational entity ~~or an early childhood program designed to serve four-year olds~~ children in the year before kindergarten.
 9. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.
 10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
 11. ~~"Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.~~
 12. "In-home provider" means any person who provides early childhood services to children in the children's home.

- ~~13-12.~~ "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
13. "Licensee" means the person to which a license has been issued under this chapter.
14. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
15. "Operator" means the person that has operational responsibility for the early childhood program and premises at which the early childhood service operates.
- ~~15-16.~~ "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.
- ~~16-17.~~ "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
- ~~17-18.~~ "Premises" means the indoor and outdoor areas approved for providing early childhood services.
- ~~18-19.~~ "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
20. "Provider" means an early childhood program, self-declaration, or registered in-home provider.
- ~~19-21.~~ "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
- ~~20-22.~~ "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
- ~~21-23.~~ "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
- ~~22-24.~~ "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
- ~~23-25.~~ "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for ~~nineteen or more~~ children aged at least five years through eleven years.
- ~~24-26.~~ "School-age children" means children ~~served under this chapter who are~~ aged at least five years but less than twelve years of age.

~~25-27.~~ "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

~~26-28.~~ "Staff member" means an individual:

- ~~a. Who is an employee or operator of an early childhood program or of an early childhood services provider under a self-declaration;~~
- ~~b. Whose activities involve the care, supervision, or guidance of children of an early childhood program provider; or~~
- ~~c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.~~

Definitions. (Effective after June 30, 2025)

As used in this chapter, unless the context or subject matter otherwise requires:

- ~~1. "Authorized agent~~Applicant" means the ~~human service zone, unless another entity is designated by the department~~person applying for a license to operate early childhood services as an owner of an early childhood program, self-declaration, or registered in-home provider.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "Department" means the department of health and human services.
4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.
 - c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the department.

- e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.
8. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.
9. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
- ~~10. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.~~
- ~~11. "In-home provider" means any person who provides early childhood services to children in the children's home.~~
- ~~12-11. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.~~
12. "Licensee" means the person to which a license has been issued under this chapter.
13. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
14. "Operator" means the person that has operational responsibility for the early childhood program and premises at which the early childhood service operates.

15. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.
- 15-16. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
- 16-17. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
- 17-18. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
19. "Provider" means an early childhood program, self-declaration, or registered in-home provider.
- 18-20. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
- 19-21. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
- 20-22. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
- 21-23. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
- 22-24. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for ~~nineteen or more~~ children aged at least five years through eleven years.
- 23-25. "School-age children" means ~~children served under this chapter who are aged~~ at least five years but less than twelve years of age.
- 24-26. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.
- 25-27. "Staff member" means an individual:
- Who is an employee or operator of an early childhood program ~~or of an early childhood services provider under a self-declaration;~~
 - Whose activities involve the care, supervision, or guidance of children of an early childhood program provider; or

- c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

SECTION 2. AMENDMENT. Section 50-11.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02.1. Number of children in program - How determined.

For

1. Except as provided under subsection 2, for the purpose of determining the number of children receiving early childhood services, all children present on the premises and under the age of twelve years must be counted for an in-home, self-declaration, family child care, group child care, child care center, and preschool.
2. An in-home, self-declaration, family child care, and group child care provider's own child, foster child, or grandchild over the age of eleven are exempt for the purpose of determining the number of children receiving early childhood services under this section.
3. For the purpose of determining the number of children receiving early childhood services, all children present on the premises aged at least five years through age eleven must be counted for school-age child care.
4. All children present are protected by this chapter regardless of whether money is received or goods or other services are received for their care.

SECTION 3. AMENDMENT. Section 50-11.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02.3. Early childhood services providers~~staff~~ - Training on infant safe sleep practices.

The department shall adopt rules to require a staff member of an early childhood service provider and the provider's staff members who are responsible for the care or teaching of children under the age of one to annually complete a department approved sudden infant death syndrome prevention safe sleep training course.

²³⁰ **SECTION 4. AMENDMENT.** Section 50-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-03. Operation of early childhood services program - License required - Fees.

1. A license for family child care is required if early childhood services are provided for four or more children ages twenty-four months and under, or six or seven children through age eleven at any one time which includes no more than three children under twenty-four months of age.
2. A license for group child care is required if early childhood services are provided for at least eight and no more than thirty children at any one time.

²³⁰ Section 50-11.1-03 was also amended by section 3 of House Bill No. 1144, chapter 184.

3. A license for a child care center is required if early childhood services are provided for more than thirty children at any one time.
4. Except as provided under subsection 5, a person may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center unless licensed to do so by the department.
5. A governmental organization may not establish or operate a family child care, group child care, preschool, school-age child care, or child care center without first receiving public approval by certifying, to the department ~~or the department's authorized agent~~, that it has complied with all rules applicable to family child care, group child care, preschool, or school-age child care, or to child care centers.
6. A license is not required for onsite child care services located in the actual building in which the child's parent is employed, not to exceed ten children per location.
7. An applicant for a license shall submit the following nonrefundable fees with the application:
 - a. The ~~operator~~owner of a family child care applying for a license shall pay an annual license fee of twenty dollars or if the license is issued for a two-year period, a fee of thirty-five dollars.
 - b. The ~~operator~~owner of a group child care applying for a license shall pay an annual license fee of twenty-five dollars or if the license is issued for a two-year period, a fee of forty-five dollars.
 - c. The ~~operator~~owner of a preschool applying for a license shall pay an annual license fee of thirty dollars or if the license is issued for a two-year period, a fee of fifty-five dollars.
 - d. The ~~operator~~owner of a child care center applying for a license shall pay an annual license fee of forty dollars or if the license is issued for a two-year period, a fee of seventy-five dollars.
 - e. The ~~operator~~owner of a multiple licensed program applying for a license shall pay an annual license fee of fifty dollars or if the license is issued for a two-year period, a fee of ninety-five dollars.
8. An applicant for a license who currently holds a license or self-declaration shall submit the nonrefundable fees set forth in subsection 7 with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before the expiration date of the applicant's current license or self-declaration, the applicant shall submit with the application two times the nonrefundable fees set forth in subsection 7.
9. In addition to any criminal sanctions or other civil penalties that may be imposed pursuant to law, the ~~operator~~owner of an early childhood program who, after being given written notice by the department ~~or the department's authorized agent~~, continues to provide early childhood services without a license as required by this section is subject to a civil penalty of fifty dollars

per day for each day of operation without the required license. The civil penalty may be imposed by the courts or by the department through an administrative hearing pursuant to chapter 28-32.

10. All fees collected under subsections 7 and 8 must be paid to the department ~~or the department's authorized agent~~ and must be used to defray the cost, to the department ~~or the department's authorized agent~~, of investigating, inspecting, and evaluating the applications or to provide training to providers of ~~early childhood services~~.

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

50-11.1-04. Application for license - Prerequisites for issuance - License granted - Term.

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department ~~or the department's authorized agent~~ shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a ~~finding of services required~~ confirmed decision for child abuse or neglect ~~filed against them~~. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program within thirty days of receipt of a completed application and all supporting documents by the department and upon a showing:
 - a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and are maintained according to rules adopted by the department;
 - b. Staff members are qualified to fulfill the duties required of the staff members according to the provisions of this chapter and standards prescribed for staff member qualifications by the rules of the department;
 - c. The application and supporting documents do not include any fraudulent or untrue representations;
 - d. ~~The owner, operator, or~~ Neither the applicant has not nor anyone who is listed on the application has had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the owner, operator, or applicant;
 - e. ~~The owner, operator, or~~ Neither the applicant has not nor anyone who is listed on the application has had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within the three years immediately preceding the application date;

- ~~f. The program applicant paid its license fees and any penalties and sanctions previously assessed against the program applicant or any program the applicant is associated with as required by sections 50-11.1-03 and 50-11.1-07.4; and~~
- ~~g. The family child care owner or operator and staff Staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and are currently certified in first aid by a program approved by the department; and~~
- ~~h. The group child care, preschool, school-age child care, or child care center, at all times during which early childhood services are provided, staff members have received training and are currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department, and currently certified in first aid by a program approved by the department.~~
2. The license issued to the owner or operator of an early childhood program may not be effective for longer than two years.
3. The department may consider the applicant's past licensing, self-declaration, and registration history in determining whether to issue a license.
4. The department may issue a provisional or restricted license in accordance with the rules of the department. The department shall consider issuing a provisional or restricted license before revoking a license. The department may require the owner or operator of an early childhood program applicant or licensee to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted license. The department shall approve the provisional license if the department approves the compliance plan. The department may revoke a license if the owner and operator fail licensee fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.
5. The department shall notify the owner or licensee and operator that the owner or licensee and operator is are required to post a notice of late application at the early childhood program premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of the early childhood program's license.

SECTION 6. AMENDMENT. Section 50-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-06. In-home provider - Registration voluntary - Prerequisites for approval - Issuance of registration document - Term.

An in-home provider may apply for a registration document from the department. The department ~~or the department's authorized agent~~ shall determine whether the applicant meets the standards and shall issue or deny a registration document based upon that determination. A registration document for an in-home provider may not be effective for longer than one year. The application and supporting documents may not include any fraudulent or untrue representations. The department may consider the early childhood services history of the applicant in determining issuance of a registration document. The department may investigate an applicant according to rules adopted by the department to determine whether the applicant has a criminal record or has been the subject of a ~~finding of services required~~ confirmed decision for child abuse and neglect. The department may issue a provisional in-home provider registration document in accordance with the rules of the department.

SECTION 7. AMENDMENT. Section 50-11.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-06.2. Background investigations - Fees.

1. Upon a determination by the department a criminal history record check is appropriate, the following individuals are to obtain two sets of the individual's fingerprints from a law enforcement agency or other local agency authorized to take fingerprints:
 - a. A provider holding or an applicant for early childhood services licensure, self-declaration, or in-home provider registration;
 - b. Emergency designees and staff members of providers holding and applicants for early childhood services licensure, self-declaration, or in-home provider registration; and
 - c. Household members of a residence out of which early childhood services are provided.
2. The individual 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 the department's authorized agent~~.
3. If the ~~division~~ department has no record of a ~~determination of services required~~ confirmed decision for child abuse or neglect, the ~~division~~ department shall submit the fingerprints to the bureau of criminal investigation to determine if there is any criminal history record information regarding the applicant, household members, or staff members in accordance with section 12-60-24.
4. The results of the investigations must be forwarded to the ~~division of children and family services of the department or to the department's authorized agent~~.
5. The ~~division~~ department may charge a fee not to exceed thirty dollars for the purpose of processing the criminal history record information application.
6. The ~~division~~ department 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.
7. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the costs of the fingerprinting.

8. The department may use background investigation findings to determine approval, denial, or revocation of an early childhood services license, self-declaration, or in-home registration.
9. Any individual who is providing early childhood services solely for the provider's own children, grandchildren, nieces, nephews, and cousins as an in-home provider may not be required to submit to a criminal history record check authorized under section 50-06-01.9.
10. Unless an individual was separated from ~~childcare~~ employment by a provider of early childhood services for more than one hundred eighty days, a criminal history record check conducted under this section and subsection 3 of section 50-06-01.9 is valid for five years, after which the department shall require another criminal history record check.

SECTION 8. AMENDMENT. Section 50-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07. Investigation of applicant, licensee, holder of self-declaration or registration document, and staff members - Inspection of programs and premises - Maintenance of records - Confidentiality of records.

1. The department ~~or its authorized agent~~ at any time may investigate and inspect an early childhood program, or a holder of a self-declaration or registration document and the conditions of their premises, the qualifications ~~of a provider of early childhood services~~, of current and prospective staff members, of any in-home provider or applicant seeking or holding a license, self-declaration, or registration document under this chapter.
2. Upon request of the department ~~or its authorized agent~~, the state fire marshal, or the fire marshal's designee, shall inspect the premises for which a license, four-year old program approval, or self-declaration is applied or issued and shall report the findings to the department ~~or the department's authorized agent~~.
3. A licensee, holder of a self-declaration, or registrant shall:
 - a. Maintain records as the department prescribes regarding each child in the licensee's, holder's, or registrant's care and control, and shall report to the department ~~or the department's authorized agent~~, when requested, upon the forms furnished provided in the manner prescribed by the department, facts the department may require with reference to each child;
 - b. Admit for inspection the department ~~or the department's authorized agent~~ and open for examination all records, books, and reports; and
 - c. Notify the parent of each child receiving early childhood services and all staff members of the process for reporting a complaint or a suspected licensing violation.
4. Except as provided in subsection 5, all records and information maintained with respect to any child 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 concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary;
 - d. To a provider or applicant that provides or provided care for the child; or
 - e. As outlined in a department-approved data sharing agreement.
5. A provider ~~of early childhood services~~, upon the request of the parent of a child for whom the provider provides such services, shall make available to the parent a list of the names, telephone numbers, and addresses of the parents of children for whom early childhood services are provided. The list may include only the names, telephone numbers, electronic mail addresses, and addresses of parents who grant the provider permission to disclose that information.
6. The following information for ~~early childhood services~~ licensees, self-declarations, in-home providers, staff members, and adults residing in a home out of which early childhood services are provided is not confidential:
- a. Name;
 - b. Address;
 - c. Telephone number; and
 - d. Electronic mail address.

SECTION 9. AMENDMENT. Section 50-11.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.1. Notice.

After each inspection or reinspection, the department ~~or the department's authorized agent~~, by certified mail or electronic mail, shall send copies of any correction order or notice of noncompliance, to the owner and operator of the early childhood program or holder of a self-declaration.

SECTION 10. AMENDMENT. Section 50-11.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.2. Correction orders.

1. If the department ~~or the department's authorized agent~~ finds, upon inspection, the program, self-declaration, or premises is not in compliance with this chapter or the rules adopted under this chapter, the department ~~or the department's authorized agent~~ may issue a correction order to the program licensee or holder of a self-declaration, provided the department does not revoke the license or self-declaration as a result of the noncompliance. The correction order must cite the specific statute or rule violated, state the factual basis of the violation, state the suggested method of correction, and specify the time allowed for correction. The correction order must also specify the amount of any fiscal sanction to be assessed if the program licensee or holder of a self-declaration fails to comply with the correction order in a timely

fashion. This section does not apply to an applicant's failure to comply with subsection 8 of section 50-11.1-03 or subdivision c of subsection 1 of section 50-11.1-16.

2. ~~Within thirteen business days of the receipt upon mailing or three days upon electronic transmission of the correction order, the licensee of the early childhood program or the holder of a self-declaration shall notify the parent of each child receiving early childhood services that a correction order has been issued. In addition to providing notice to the parent of each child, the licensee or holder of a self-declaration shall post the correction order in a conspicuous location upon the early childhood premises until the violation has been corrected or for five days, whichever is longer.~~

SECTION 11. AMENDMENT. Section 50-11.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.3. Reinspections.

~~The department or the department's authorized agent shall reinspect or review an early childhood program or holder of a self-declaration that was issued a correction order under section 50-11.1-07.2, at the end of the period allowed for correction. If, upon reinspection or review, the department determines the program or holder of a self-declaration has not corrected a violation identified in the correction order, the department shall mail or send by electronic mail to the program or the holder of a self-declaration, by certified mail, a notice of noncompliance with the correction order. The notice must specify the violations not corrected and the penalties assessed in accordance with section 50-11.1-07.5.~~

SECTION 12. AMENDMENT. Section 50-11.1-07.4 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.4. Fiscal sanctions.

~~If the department or the department's authorized agent issues a notice of noncompliance with a correction order to an early childhood program or holder of a self-declaration, the department shall assess fiscal sanctions in accordance with a schedule of fiscal sanctions established by rules adopted by the department under subsection 2 of section 50-11.1-08. The department shall assess a fiscal sanction for each day the early childhood program or holder of a self-declaration remains in noncompliance after the allowable time period for the correction of violations ends and the sanction must continue as set forth in section 50-11.1-07.6 until the department receives notice indicating the violations are corrected. The fiscal sanction for a specific violation may not exceed one hundred dollars per day of noncompliance.~~

SECTION 13. AMENDMENT. Section 50-11.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.5. Accumulation of fiscal sanctions.

~~An early childhood program~~A licensee or holder of a self-declaration promptly shall notify the department ~~or the department's authorized agent~~ in writing if a violation noted in a notice of noncompliance is corrected. Upon receipt of written notice by the department ~~or the department's authorized agent~~, the daily fiscal sanction assessed for the violation must stop accruing. ~~The department or the department's authorized agent shall reinspect or review the early childhood program or premises out of which the holder of the self-declaration is operating within three~~

working days after receipt of the notification. If, upon reinspection or review, the department determines a violation has not been corrected, the department shall resume the daily assessment of fiscal sanction and shall add the amount of fiscal sanction which otherwise would have accrued during the period before resumption to the total assessment due from the ~~programlicensee~~ or holder of the self-declaration. The department ~~or the department's authorized agent~~ shall notify the ~~facilitylicensee~~ or holder of a self-declaration of the resumption by certified mail or electronic mail. Recovery of the resumed fiscal sanction must be stayed if the ~~operator of the facilitylicensee or holder of a self-declaration~~ makes a written request for an administrative hearing in the manner provided in chapter 28-32, if written request for the hearing is made to the department within ~~ten~~fifteen days upon mailing or ten days upon electronic transmission of the notice of resumption.

SECTION 14. AMENDMENT. Section 50-11.1-07.6 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.6. Recovery of fiscal sanctions - Hearing.

Fiscal sanctions assessed pursuant to this chapter are payable ~~fifteen~~twenty days ~~after receipt upon mailing or fifteen days upon electronic transmission~~ of the notice of noncompliance and at fifteen-day intervals thereafter, as the fiscal sanctions accrue. Recovery of an assessed fiscal sanction must be stayed if the ~~programlicensee~~ or holder of a self-declaration makes written request to the department for an administrative hearing within ~~ten~~fifteen days after upon mailing or ten days upon electronic transmission of the notice to the early childhood programlicensee or the holder of the self-declaration ~~receives the notice~~. If the appeal is unsuccessful or withdrawn, the daily assessment of fiscal sanctions must resume and the department shall add the amount of fiscal sanctions which otherwise would have accrued during the period prior to resumption to the total assessment due from the ~~early childhood programlicensee~~ or the holder of a self-declaration. The department ~~or the department's authorized agent~~ shall notify the ~~early childhood programlicensee~~ or the holder of a self-declaration of the resumption by certified mail or electronic mail.

SECTION 15. AMENDMENT. Section 50-11.1-07.8 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-07.8. Suspension of license, self-declaration, or registration document - Assessment upon a report of child abuse or neglect - Notification.

1. The department may:
 - a. Suspend a license, self-declaration, or registration document at any time after the onset of a child abuse and neglect assessment alleging the owner or ~~operator~~staff, the holder of a self-declaration, or the in-home provider:
 - (1) Committed child abuse, including child sexual abuse, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children; or
 - (2) Neglected a child, law enforcement has been involved, and continued operation is likely to jeopardize the health and safety of the children.
 - b. Suspend a license, self-declaration, or registration document upon a child abuse or neglect ~~services required determination~~confirmed decision indicating a child has been abused or neglected by the owner or

- ~~operator~~~~staff~~, the holder of a self-declaration, or the in-home provider, if continued operation is likely to jeopardize the health and safety of the children present.
- c. Prohibit the presence of an accused owner, ~~operator~~, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the early childhood program, self-declaration, or in-home provider from the early childhood premises when children are in child care, upon a report of child abuse or neglect at the premises of the early childhood program, holder of the self-declaration, or registration, or involving a staff member or adult or minor household member if continued operation or the presence of the accused individual is likely to jeopardize the health and safety of the children present.
2. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department:
 - a. Shall notify the parent of any child receiving early childhood services if that program's license, self-declaration, or registration document is suspended.
 - b. Shall notify the owner; and operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services if an owner; ~~operator~~, holder of a self-declaration, in-home provider, staff member, or adult or minor household member of the program providing care of the child is the subject of a child abuse and neglect assessment and the department determines:
 - (1) The reported child abuse or neglect places children in the early childhood program, self-declaration, or in-home provider at risk of abuse or neglect; and
 - (2) If the reported child abuse or neglect occurred outside the care, supervision, or guidance of children in an early childhood program, self-declaration, or in-home provider, there was an impact or is a potential impact on care, supervision, or guidance of the children in the early childhood program, self-declaration, or in-home provider.
 - c. Shall notify the owner; and operator, holder of a self-declaration, or in-home provider and shall notify the parent of any child receiving early childhood services that an owner; ~~operator~~, holder of a self-declaration, in-home provider, staff member, or adult or minor household member is prohibited from the premises of the early childhood program, self-declaration, or in-home provider under subsection 1.
 3. Upon the conclusion and disposition of a child abuse and neglect assessment for which a ~~determination services are required~~confirmed decision is found or for which the department issued a notice under subsection 2, the department shall provide notification of the disposition to the parent of each child who at the time of the determination is receiving early childhood services.
 4. Notwithstanding any provision to the contrary, any action taken under this section may preclude an individual's ability to operate pending an appeal.
 5. Notwithstanding subsections 2 and 3:
 - a. The department may reconsider a suspension or prohibition.

- b. If law enforcement requests a delay in notification, the department may delay notifying the owner, and operator, holder of a self-declaration, or in-home provider and delay notifying the parent of any child receiving early childhood services. To be valid, a law enforcement request for a notification delay must be provided to the department in writing within forty-eight hours of law enforcement receiving notification of an alleged criminal matter. A notification delay may last up to sixty days and, upon request of law enforcement, may be renewed.

SECTION 16. AMENDMENT. Section 50-11.1-09 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-09. Revocation of license, self-declaration, or registration document.

1. The department may revoke the license, self-declaration, or registration document of any ~~early childhood services~~ provider upon proper showing of any of the following:
 - a. Any of the applicable conditions set forth in sections 50-11.1-04, 50-11.1-06, and section 50-11.1-17 as prerequisites for the issuance of the license, self-declaration, or registration document no longer exist.
 - b. The licensee, holder of a self-declaration, or registrant is no longer in compliance with the minimum standards prescribed by the department.
 - c. The license, self-declaration, or registration document was issued upon fraudulent or untrue representation.
 - d. The licensee, holder of a self-declaration, or registrant has violated any rules of the department.
 - e. The licensee, holder of a self-declaration, registrant, or a household member of a home out of which early childhood services are provided has been found guilty of, or pled guilty to, an offense the department determines has a direct bearing upon an individual's ability to serve the public as a licensee, a holder of a self-declaration, or a registrant.
 - f. The licensee, holder of a self-declaration, or registrant has been convicted of any offense and the department, acting pursuant to section 12.1-33-02.1, has determined that the individual has not been sufficiently rehabilitated.
 - g. The department may consider the early childhood services history of the licensee, holder of a self-declaration, or registrant in determining revocation of a license, self-declaration, or in-home registration document.
2. The department shall notify, in writing, the parent of each child receiving early childhood services from the ~~early childhood services~~ provider that is the subject of the revocation notice.

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

50-11.1-11.1. Resource and referral services - Authority of department to make grants - Federal funds - 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 nonprofit entities may apply to the department for funding. Applicants shall apply for 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 public or private nonprofit entity or the department providing early childhood resource and referral services shall identify all existing related early childhood services through information provided by all relevant public and private nonprofit entities in the areas of service and must develop a resource file of these services which must be maintained and updated at least quarterly. The services must include early childhood services as identified in section 50-11.1-02.
4. Each public or private nonprofit entity or the department providing early childhood resource and referral services shall establish a referral process that responds to parental needs for information, fully ensures the confidentiality of records and information as required under subsection 4 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 and access via the internet. Each public or private nonprofit entity or the department shall publicize its services through popular media sources, agencies, employers, and other appropriate methods.
5. All early childhood services resource and referral public and private nonprofit entities or the department shall maintain documentation of the number of calls and contacts received and ~~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 child care is needed~~ required or requested by the department.
6. Each early childhood services resource and referral public or private nonprofit entity or the department shall 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 child care resource and referral public or private nonprofit entity or the department shall 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; and~~
 - 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 18. AMENDMENT. Section 50-11.1-12 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-12. Violation of chapter or rules - Injunction.

The department ~~or the department's authorized agent~~ may seek injunctive action against an individual who provides early childhood services for which licensure is required, ~~an early childhood program~~ licensee, holder of a self-declaration, or in-home provider in the district court through proceedings instituted by the attorney general on behalf of the department ~~or by a state's attorney on behalf of the authorized agent~~, if:

1. There is a violation of this chapter or a rule adopted under this chapter; or
2. ~~An early childhood program~~ A licensee, holder of a self-declaration, or in-home provider, after notice and opportunity for hearing on the notice of noncompliance, on the resumption of the fiscal sanction, or after administrative hearing confirming and upholding the fiscal sanction does not pay a properly assessed fiscal sanction in accordance with section 50-11.1-07.6.

SECTION 19. AMENDMENT. Section 50-11.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-14. Workforce development.

1. The department may establish a statewide system to build systematic early childhood workforce voluntary training which may include ~~distance~~ various learning formats, a professional registry, certificates, and specializations.

2. The department may charge reasonable fees for all training and development courses to offset costs. All fees collected under this section must be paid to the department or the department's authorized agent and must be used to defray the cost of providing training and development courses to providers and staff members of early childhood services.

SECTION 20. AMENDMENT. Section 50-11.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-14.1. Workforce development - Quality improvement - Technical assistance - Capacity building.

1. The department shall provide voluntary, progressive training opportunities leading to credentials and shall provide supports for the early childhood care and education workforce. The department shall implement a registry to track workforce participation.
2. The department shall implement a voluntary quality improvement process for ~~licensed early childhood facilities~~programs. The department may provide a quality incentive payment and a higher reimbursement rate for child care assistance program payments to a participating early childhood ~~facility~~program. The department may provide technical assistance and support to an early childhood ~~facility~~program that applies for quality improvement and may provide financial incentives to an early childhood ~~facility~~program that sustains and increases program quality. The department may contract with a public or private, nonprofit agency~~entity~~ to provide technical assistance under this subsection.
3. The department may provide supports and incentives to build child care capacity or quality, including:
 - a. Technical assistance and support to individuals who want to establish a new program or expand existing capacity to include information on needs assessments, regulatory processes, facility design and furnishings, startup and operating budgets, staffing patterns, curriculum evaluation, and development of business plans.
 - b. Grants~~Direct payments~~ to programs with a viable business plan and sustainable operations, to support early childhood ~~facility~~program development, operation, and expansion in areas with a demonstrated need.
 - c. Direct payments to staff to incentivize training and professional development in the manner prescribed by the department.
4. The department shall coordinate with other state agencies as necessary to implement the provisions of this section.
5. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

SECTION 21. AMENDMENT. Section 50-11.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-15. Early childhood services advisory board - Membership - Duties.

1. The early childhood services advisory board is composed of seven members appointed by the ~~director~~commissioner of the department. The members of the board must include a broad-based geographically distributed membership. The term of office is four years expiring on July thirty-first with no more than two terms expiring in any one year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as the original appointment, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. A member also is entitled to be reimbursed up to ~~one~~two hundred dollars per day for the expenses incurred by the member which relate to the hiring of a substitute ~~early childhood services provider or staff~~ in order that the member may attend meetings and perform the member's official duties.
2. The early childhood services advisory board shall:
 - a. Advise the department each time the department reviews early childhood services rules;
 - b. Upon the completion of the department's review, with the assistance of the department, conduct an analysis of and make recommendations to the department regarding the department's review of the early childhood services rules, however, final approval of any administrative rule changes must be completed through the administrative rulemaking process set forth in chapter 28-32; and
 - c. On an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The recommendations, the goal of which is to streamline and improve the quality of the early childhood services process, must seek to balance the need for rules that ensure safe quality child care with the need to revise or eliminate rules that create unnecessary barriers for ~~early childhood service providers~~.

SECTION 22. AMENDMENT. Section 50-11.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-16. Self-declaration - Approved application required - Fees.

1. a. An application for self-declaration is voluntary. If an individual applies for self-declaration from the department, the department ~~or the department's authorized agent~~ shall determine whether the standards for self-declaration have been met and shall approve or deny a self-declaration based upon that determination.
- b. An applicant for self-declaration shall pay a nonrefundable fee of fifteen dollars at the time the application is filed.
- c. An applicant for self-declaration, who currently holds a license or self-declaration, shall submit the nonrefundable fees with the application at least sixty days and no more than ninety days before the expiration date of the applicant's current license or self-declaration. If the nonrefundable fees and application are submitted less than sixty days before expiration of the applicant's current license or self-declaration, the applicant shall submit with the application two times the regular nonrefundable fees.

2. All fees collected under this section must be paid to the department ~~or the department's authorized agent~~ and must be used to defray the cost of investigating, inspecting, and evaluating applications for self-declarations or to provide training to providers of ~~early childhood services~~.

SECTION 23. AMENDMENT. Section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval - Term.

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department ~~or the department's authorized agent~~ shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department ~~or the department's authorized agent~~ shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a ~~finding of services required~~ confirmed decision for child abuse or neglect ~~filed against them~~. Except as otherwise provided, the department shall approve a self-declaration within thirty days of receipt of a completed application and all supporting documents by the department and upon the applicant's declaration:
 - a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and are maintained according to the standards prescribed by the rules of the department;
 - b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in the rules of the department;
 - c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;
 - d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial may not have occurred within five years of the application date;
 - e. The applicant has paid the required application fees;
 - f. The applicant has paid any penalties and sanctions assessed against the program holder of a self-declaration required by sections 50-11.1-03 and 50-11.1-07.4;
 - g. The applicant is currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and automated external defibrillator training program approved by the department;
 - h. The emergency designee used by the applicant, if any, is currently certified in infant and pediatric cardiopulmonary resuscitation, including the use of an automated external defibrillator by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation and

- automated external defibrillator training program approved by the department;
- i. The applicant is currently certified in first aid through a training program approved by the department; and
 - j. The application and supporting documents do not include any fraudulent or untrue representations.
2. The department may consider the early childhood services history of the applicant in determining issuance of a self-declaration document.
 3. The department may issue a provisional self-declaration document in accordance with the rules of the department. The department shall consider issuing a provisional or restricted self-declaration document before revoking a self-declaration document. The department may require the holder of a self-declaration to provide a compliance plan to address compliance issues with this chapter and rules of the department. The department shall review the compliance plan before issuing a provisional or restricted self-declaration document. The department shall approve the provisional self-declaration document if the department approves the compliance plan. The department may revoke a self-declaration document if the holder of a self-declaration fails to comply with the department approved compliance plan or for any additional violations of this chapter or rules of the department.
 4. The department shall notify the holder of a self-declaration that the holder of a self-declaration is required to post a notice of late application at the self-declaration premises if the department has not received a completed application and all supporting documents for licensure or self-declaration renewal at least thirty days before the expiration date of a self-declaration.

SECTION 24. AMENDMENT. Section 50-11.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-18. Early childhood services inclusion support services and grant program.

1. The department may establish in ~~collaboration with the department of commerce~~ an early childhood services inclusion ~~grants~~support services program for early childhood services providers that provide, ~~or applicants for licensure who indicate they will provide,~~ care for children with disabilities, special needs, or developmental delays. ~~The grant program must be designed~~early childhood inclusion support services program may offer direct payments and technical assistance to:
 - a. Support the staffing needs to expand the ability to care for children with disabilities, special needs, or developmental delays; and
 - b. Assist in modifying or adapting the early childhood services setting as needed to address the health, safety, and developmental needs of children with disabilities, special needs, or developmental delays.
2. The department may fund early childhood services specialists to make available technical assistance to ~~early childhood services providers that care for children with~~ disabilities, special needs, or developmental delays. The technical assistance program must be designed to:

- a. Assist ~~early childhood services~~ providers that request support and information regarding caring for children with disabilities, special needs, or developmental delays;
 - b. Assist ~~early childhood services~~ providers in adapting the program environment and care practices to meet the individual child's needs and to build the ~~early childhood services~~ providers' capacity to serve children with disabilities, special needs, or developmental delays;
 - c. In partnership with the child's parents and health care provider, assist the ~~early childhood services~~ provider in the development or coordination of care plans for children with disabilities, special needs, or special health care needsdevelopmental delays relevant to the care setting;
 - d. In partnership with the child's parents, foster communication with the team of specialists serving the child to ensure consistency in therapy practices and appropriate approaches;
 - e. Provide classroom training to ~~early childhood services~~ providers to assist the providers in the integration of children with disabilities, special needs, or developmental delays; and
 - f. As requested by the ~~early childhood services~~ providers, conduct one-on-one training at the provider's business premises to assist the provider in the integration of children with disabilities, special needs, or developmental delays.
3. ~~The department may establish a grant review committee to assist in the development of grant guidelines, the review of applications, and the determination of awards or denials. The membership of the grant review committee must include representation from each of the following:~~
 - a. ~~The department of health and human services;~~
 - b. ~~The department of public instruction;~~
 - c. ~~The North Dakota training and information center;~~
 - d. ~~Child care aware of North Dakota;~~
 - e. ~~Parents of children with disabilities or at risk for developmental delays; and~~
 - f. ~~Other appropriate partners.~~
 4. To be eligible for the grant early childhood inclusion support services program, the ~~early childhood services~~ provider must:
 - a. ~~Be state licensed, a licensed early childhood program or self-declared, or in the process of applying for licensure;~~
 - b. Collaborate with service providers that provide formal supports to the child or children with disabilities, special needs, or developmental delays; and
 - c. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.

5. ~~The department shall give priority consideration to licensed early childhood services providers that care for children with disabilities.~~
- 6-4. For purposes of this section, a child with ~~disabilities or who is at risk for developmental delays~~special needs includes any child in this state between the ages of birth ~~and~~through twelve years who receives support through either public or private ~~services~~disability-related services and support and includes a child who is in the process of being evaluated for public or private ~~formal support~~disability-related services and support. A child with special needs ~~includes a child~~ who is at risk for developmental delays ~~includes~~including any child between the ages of birth ~~and~~through twelve years who received foster care services; who has a previous substantiated history as a victim of child abuse, neglect, or domestic violence; who is homeless; who has documented special health care needs; or who has a parent with a significant disability.
- 7-5. The department may accept gifts, grants, and donations from any source to assist the department in the establishment and implementation of the early childhood services inclusion support services ~~and grant program~~. Any gifts, grants, and donations received are appropriated to the department on a continuing basis for the purpose of funding the early childhood services inclusion support services ~~and grant program~~ under this section.
6. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

SECTION 25. AMENDMENT. Section 50-11.1-19 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-19. Play area regulation.

If ~~a facility licensed an early childhood program~~ under this chapter has sufficient indoor recreation space, the department may not require outdoor play space.

²³¹ **SECTION 26. AMENDMENT.** Section 50-11.1-22 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-22. ~~Early childhood grant for best~~Best in class four-year old experiences program. (Expired effective July 1, 2025)

1. A ~~four-year old~~ program deemed eligible under section 50-11.1-23 may submit an application for the best in class ~~four-year old experiences grant program~~. An approved program is eligible for an annual award ~~of one hundred twenty thousand dollars per~~based on program characteristics as established by the department, including approved group size. The ~~grant~~ award must be matched with ~~no less than twenty thousand dollars in other funds in an amount and manner established by the department~~. The department shall assign a program support coach to each approved program. An approved program:
 - a. Shall utilize the assigned support coach and utilize the sliding fee scale for parent fees, as established by the department.

²³¹ Section 50-11.1-22 was also amended by section 30 of Senate Bill No. 2012, chapter 44.

- b. May use grantawarded funds to support the provision of quality early childhood experiences, including expenditures related to staffing, training, equipment, and supplies.
 - c. May not use grantawarded funds for construction or rehabilitation. An approved program must enter a grantan agreement with the department.
2. The department may not collect equipment or supplies purchased with grantawarded funds from the approved program after successful completion of the term of the grantagreement.
 3. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

²³² **SECTION 27. AMENDMENT.** Section 50-11.1-23 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-23. Eligibility for best in class four-year-old experiences grantprogram. (Expired effective July 1, 2025)

1. ~~A~~An approved four-year old program, federally funded head start program, or early childhood program may submit, in the form and manner prescribed by the department, an application to the department ~~for a grant~~ under section 50-11.1-22, if the provider certifies to the department the provider:
 - a. Operates ~~an approved~~ four-year old program, federally funded head start program, or early childhood program in this state;
 - b. Operates a ~~four-year-old~~ program for children who have reached four years of age before August first in the year of enrollment;
 - c. Operates a ~~four-year-old~~ program that has a duration of at least four hundred hours over a period of at least thirty-two consecutive weeks;
 - d. Incorporates within the ~~four-year-old~~ program at least ten hours of research-based family engagement;
 - e. Has been determined to meet the standards and expectations of no less than step three in the North Dakota early childhood quality improvement system; has met the standards and expectations of a nationally recognized early childhood accrediting entity; has met the federal performance standards for head start; or has obtained approval or certification from the department of public instruction;
 - f. ~~Is willing to admit~~Admits children of all learning abilities ~~into the four-year-old program;~~
 - g. ~~Is willing to admit~~Admits children who receive assistance from the child care assistance program ~~into the four-year-old program;~~ and
 - h. ~~Is willing to operate~~Operates in compliance with the grantprogram requirements, including:

²³² Section 50-11.1-23 was also amended by section 31 of Senate Bill No. 2012, chapter 44.

- (1) ~~Maintaining the recommended group size for number of children served in the four-year-old program;~~
 - (2) Complying with requirements related to qualifications, training, and professional development of staff delivering services in the four-year-old best in class program; and
 - ~~(3)~~(2) Adhering to expectations established by the department related to four-year-old best in class program monitoring, operation, and oversight.
2. The department may distribute grants funds under this section to approved four-year-old programs, including four-year-old programs operated as early childhood programs by educational facilities or federally funded head start programs or in connection with a church, business, or organization that operates a four-year-old program applicants.
 3. The department may recapture grant funds distributed to an approved four-year-old from an awarded program that is found by the department to be out of compliance with requirements established for the best in class four-year-old experiences grant program.
 4. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

²³³ **SECTION 28. AMENDMENT.** Section 50-11.1-24 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-24. ~~Grant program~~Program data collection - Requirements. (Expired effective July 1, 2025)

~~The state agency with approval authority over four-year-old programs, with the advice and consent of the department, shall implement a uniform system for the accounting, budgeting, and reporting of data by any four-year-old approved best in class program provider to whom or to which grants direct payments are distributed under section 50-11.1-23. Grants Awarded funds may be withheld or forfeited, in whole or in part, if information required in accordance with this section is not submitted at the time or in the manner requested by the state agency with approval authority over four-year-old programs. A grant recipient department. An awarded program shall consent to provide information needed to comply with data collection and program evaluation requirements. ~~The state agency with approval authority over four-year-old programs shall disclose the requested information to the department.~~~~

SECTION 29. AMENDMENT. Section 50-11.1-26 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-26. North Dakota early childhood council - Duties - Reports.

The North Dakota early childhood council shall:

1. Review the availability and provision of early childhood services in this state;

²³³ Section 50-11.1-24 was also amended by section 32 of Senate Bill No. 2012, chapter 44.

2. Identify opportunities for public and private sector collaboration in the provision of early childhood services in this state;
3. Identify ways to assist with the recruitment and retention of individuals interested in working as providers of early childhood services, including training and continuing education or professional development opportunities;
4. Seek the advice and guidance of individuals uniquely familiar with the nature, scope, and associated challenges of providing early childhood services in geographically and socioeconomically diverse settings, and develop recommendations pertaining to the short-term and longer-term improvement and expansion of early childhood services in this state; and
5. Provide a biennial report regarding the council's findings and recommendations to the governor and the legislative assembly.

SECTION 30. AMENDMENT. Subsection 2 of section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. In accordance with subsection 3 of section 50-11.1-07.8, upon the conclusion and disposition of a child abuse and neglect assessment for which a determination of confirmed decision is found, the department or authorized agent shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent or legally appointed guardian of a child, who at the time of notification is receiving early childhood services under chapter 50-11.1, of the name of the subject and provide a summary of the facts and the results of a child protection assessment conducted under this chapter if the report made under this chapter involves the owner, operator, holder of a self-declaration, or in-home provider; or involves ~~an adult or minor~~ staff member or adult or minor household member of the early childhood program, self-declaration, or in-home provider, who is providing care to the child.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 436

HOUSE BILL NO. 1530

(Representatives Schobinger, Mitskog, Nelson, O'Brien, Stemen)
(Senators Dever, Hogan, Lee)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to covered services for medical assistance.

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 benefits - Family adaptive behavior treatment and guidance - Dental screening and assessments - Dental case management - Teledentistry - Applied behavioral analysis.

Medical assistance coverage must include payment for the following services:

1. Family adaptive behavioral treatment and guidance to educate parents and caregivers to continue to carry out plans and recommendations of applied behavioral analysis.
2. Dental screening and assessment of patients to identify individuals in need of additional assessment, diagnostic, and treatment services.
3. Dental case management for maintenance of oral health for special populations, including elderly, special needs, medically fragile, and children.
4. Asynchronous teledentistry to reduce barriers to dental care through outreach programs and to integrate oral health into general health care settings to identify and refer treatment needs.
5. The services identified in subsections 2, 3, and 4 do not apply to Medicaid expansion.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 437

SENATE BILL NO. 2265

(Senators Hogan, Lee)
(Representatives Dobervich, Strinden)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to a dual special needs plan for Medicaid; and to provide an appropriation.

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:

Dual special needs plan.

By January 1, 2025, the department shall implement at least one dual special needs plan for Medicare and Medicaid dual-eligible Medicaid recipients. The department shall establish standards for care coordination services the dual special needs plan must provide to recipients.

SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - DUAL SPECIAL NEEDS PLAN. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$237,516, or so much of the sum as may be necessary, to the department of health and human services for the purpose of funding a full-time equivalent position to implement the Medicaid dual special needs plan, for the biennium beginning July 1, 2023, and ending June 30, 2025.

Approved April 28, 2023

Filed April 29, 2023

CHAPTER 438

HOUSE BILL NO. 1047

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-24.1-29 of the North Dakota Century Code, relating to the requirement that health insurers provide certain information to the department of health and human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-29 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-29. Insurers to provide certain information to the department.

1. For purposes of this section:
 - a. "Department" means the department of health and human services or its agent.
 - b. "Health insurer" includes self-insured plans, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)], service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that legally are responsible by statute, contract, or agreement for payment of a claim for a health care item or service.
2. a. As a condition of doing business in this state, health insurers shall provide to the department upon its request and in a manner prescribed by the department information about individuals who are eligible for medical assistance so the department may determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage provided by the health insurer, including the name, address, ~~and~~ identifying number of the plan, and duration of the health insurance coverage. Notwithstanding any other provision of law, every health insurer, not more frequently than twelve times in a year, shall provide to the department upon its request information, including automated data matches conducted under the direction of the department, as necessary, to:
 - a. (1) Identify individuals covered under the insurer's health benefit plans who are also recipients of medical assistance;
 - b. (2) Determine the period during which the individual or the individual's spouse or the individual's dependents may be or may have been covered by the health benefit plan; and
 - e. (3) Determine the nature of the coverage.

held liable for the release of insurance information to the department or a department agent if the release is authorized under this section.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 439

HOUSE BILL NO. 1044

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-24.1-32 of the North Dakota Century Code, relating to the medical assistance primary care provider program; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-32. Medical assistance - Services provided by physician assistants and advanced practice registered nurses - Primary care provider case management program.

1. The medical assistance program must recognize physician assistants and advanced practice registered nurses with the roles of nurse practitioner or certified nurse midwife as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant or advanced practice registered nurse with the roles of nurse practitioner or certified nurse midwife as a primary care provider under the medical assistance program must be within the scope of the physician assistant's or advanced practice registered nurse's respective license.
2. The department shall eliminate the primary care provider case management program.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2024.

Approved April 12, 2023

Filed April 13, 2023

CHAPTER 440

HOUSE BILL NO. 1322

(Representatives Kreidt, Bellew, Hauck, Rohr)
(Senator Lee)

AN ACT to amend and reenact section 50-24.4-17 of the North Dakota Century Code, relating to nursing home rate adjustments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-17 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-17. Adjustments and reconsideration procedures.

1. Rate adjustments may be made to correct errors subsequently determined and must also be retroactive to the beginning of the facility's rate year except with respect to rates paid by private-paying residents. ~~Any adjustments that result in a cumulative change of more than one dollar per day from the desk rate will be included in the next subsequent cost report to the extent not corrected by a rate adjustment made pursuant to this subsection.~~
2. Any requests for reconsideration of the rate must be filed with the department's medical services division for administrative consideration within thirty days of the date of the rate notification.

Approved March 15, 2023

Filed March 16, 2023

CHAPTER 441

SENATE BILL NO. 2156

(Senators Lee, Hogan, K. Roers)
(Representatives Dobervich, M. Ruby, Weisz)

AN ACT to amend and reenact sections 50-24.6-02 and 50-24.6-04 of the North Dakota Century Code, relating to the drug use review board and medical assistance prior authorization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁴ **SECTION 1. AMENDMENT.** Section 50-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-02. Drug use review board.

1. The board is established within the department for the implementation of a drug use review program.
2. The board consists of seventeen members. The pharmacy administrator of the department and the medical consultant to the department are *ex officio* nonvoting board members who shall provide administrative services to the board. A majority of the appointed members must be physicians and pharmacists participating in the medical assistance program. Four or more of the appointed members must have experience with a drug use review process or have participated in programs in which prior authorization is used. The appointed members of the board must be:
 - a. Four physicians licensed in this state and actively engaged in the practice of medicine, one of whom is a psychiatrist, appointed by the North Dakota medical association;
 - b. Two physicians licensed in this state and actively engaged in the practice of medicine, appointed by the executive director of the department;
 - c. Four pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the North Dakota pharmaceutical association;
 - d. Two pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the executive director of the department;
 - e. One individual who represents consumer interests, appointed by the governor;
 - f. One pharmacist or physician representing the brand pharmaceutical industry appointed by the pharmaceutical research and manufacturers of America; and

²³⁴ Section 50-24.6-02 was also amended by section 125 of House Bill No. 1165, chapter 229.

- g. One pharmacist or physician representing the generic pharmaceutical industry appointed by the ~~generic pharmaceutical association~~ for accessible medicines.
3. Appointed board members shall serve staggered three-year terms. An appointed member may be reappointed for a period not to exceed three 3-year terms. A vacancy on the board must be filled for the balance of the unexpired term from the appropriate board category as provided under subsection 2. The executive director of the department may replace an appointed member of the board who fails to attend three consecutive meetings of the board without advance excuse or who fails to perform the duties expected of a board member. The pharmaceutical industry representatives are nonvoting board members.
4. Voting board members shall select a ~~chairman~~ presiding officer and a vice ~~chairman~~ presiding officer on an annual basis from the board's voting membership. One-half or more of nonvacant voting board member positions constitutes a quorum.
5. The board shall meet ~~in person~~ at least once every three months and may meet at other times ~~by teleconference or electronically~~ at the discretion of the ~~chairman~~ presiding officer. A board member is entitled to receive from the department or the department's vendor per diem compensation and reimbursement of expenses as determined by the department or the department's vendor, except that no compensation under this section may be paid to any board member who receives compensation or salary as a state employee or official.
6. A board member appointed under subdivisions a through d of subsection 2 is not subject to the bona fide resident of the state requirement under section 44-03-04 if the board member is providing services to residents of the state receiving medical assistance through telemedicine or telepharmacy. The affected association shall continue to recruit in-state board members for that board member position and will replace the nonresident board member once the affected association has enough appointees for all of their board member positions.
7. A board member appointed under subdivision f or subdivision g of subsection 2 is not subject to the bona fide resident of the state requirement under section 44-03-04.

SECTION 2. AMENDMENT. Section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-04. Prior authorization program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
- a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;

- b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
 - c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization. The department shall work with the medical assistance recipient's health care provider to assure treatment can be found for diagnoses with no compendia supported medications.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.
 3. a. For individuals ~~twenty-one~~eighteen years of age and older, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize substantially all drugs in the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, ~~for the treatment of cancer;~~ and
 - (6) ~~Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder, except an individual who prescribes this medication at a rate two times higher than the rate of the top ten prescribers excluding the top prescriber may be subject to prior authorization.~~Immunosuppressants, for prophylaxis of organ transplant rejection.
 - b. For individuals under ~~twenty-one~~eighteen years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize substantially all drugs in the following medication classes:
 - (1) Antipsychotics;
 - (2) Antidepressants;

- (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents, ~~for the treatment of cancer;~~ and
 - (6) ~~Stimulant medication used for the treatment of attention deficit-hyperactivity disorder;~~ Immunosuppressants, for prophylaxis of organ transplant rejection.
- c. The restrictions of subdivision b do not apply for individuals under ~~twenty-one~~eighteen years of age, who have five or more concurrent prescriptions for psychotropic medications.
 - d. Prior authorization for individuals under ~~twenty-one~~eighteen years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board certified ~~pediatric~~child and adolescent psychiatrist approved by the department.
 - e. The restrictions of this subsection do not apply if prior authorization is required by the centers for Medicare and Medicaid services.
 - f. As used in this subsection, "line extension drug" means a new formulation of a drug. The term does not include an abuse-deterrent formulation of a drug.
 - g. As used in this subsection, "substantially all" means that all drugs and unique dosage forms in the medication classes outlined in paragraphs 1 through 6 of subdivisions a and b are expected to be covered without prior authorization, with the following exceptions:
 - (1) Multisource brands of the identical molecular structure;
 - (2) Extended release products when the immediate-release product is included;
 - (3) Products that have the same active ingredient or moiety; and
 - (4) Dosage forms that do not provide a unique route of administration.
4. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
 5. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
 - a. Establish policies and procedures necessary to implement the prior authorization program.

- b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
 - c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.
6. The department may negotiate additional rebates from drug manufacturers to supplement the rebates required by federal law governing the medical assistance program. Additionally, the department may join a multistate supplemental drug rebate pool, and if the department negotiates additional rebates outside this pool, any other manufacturer must be allowed to match those rebates.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 442

SENATE BILL NO. 2030

(Legislative Management)
(Health Care Committee)

AN ACT to amend and reenact section 50-24.6-09 of the North Dakota Century Code, relating to value-based purchasing for medical assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.6-09 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-09. Maximum allowable costs and use of edits.

1. To promote efficiency and savings in the department's service to eligible medical assistance program recipients, the department shall create and implement the broadest possible list of drugs that can be paid at the maximum allowable costs. To further promote efficiency and savings, the department shall maximize use of edit programs that pertain to payment of medical assistance program pharmaceutical claims. Upon request of a member of the legislative assembly, the department shall provide to that member a summary of edit programs available to the medical assistance program and a description of the department's progress in implementing the edit programs.
2. The department shall participate in current and future innovative rebate and other program options, including value-based purchasing programs, as feasible, reasonable, and cost-effective for the state.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 443

HOUSE BILL NO. 1435

(Representatives Beltz, Nelson, Schneider, Vigesaa, Weisz)
(Senators Hogan, Lee, K. Roers, Sickler)

AN ACT to create and enact section 50-24.8-11.1 of the North Dakota Century Code, relating to Medicaid fraud retention of records requirements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-24.8-11.1 of the North Dakota Century Code is created and enacted as follows:

50-24.8-11.1. Failure to create, retain, and provide records - Penalty.

1. A person that submits a claim for or receives a payment for a good or service under the state's Medicaid program, at the time the good or service is provided, shall create and retain records as required by rule of the department and chapter 50-24.8.
2. A person that submits a claim for or receives payment for a good or service under the state's Medicaid program which willfully fails to create records at the time the service or good is provided, fails to maintain or retain the records for the length of time stated in the most current provider agreement applicable to that provider, fails to provide records when requested to do so by the department or attorney general, or destroys the records in a manner inconsistent with the most current provider agreement applicable to that provider, is guilty of a class A misdemeanor if the value of the payments, benefits, kickbacks, bribes, rebates, remuneration, services, or claims related to the failure to create, retain, or provide records or related to the destruction of records does not exceed ten thousand dollars and a class C felony if the value is greater than ten thousand dollars.
3. It is an affirmative defense to a prosecution under this section that the records in question were lost or destroyed in a natural disaster or by an act that did not result from the conduct of the defendant.
4. The consequences and punishments under subsections 6 and 7 of section 50-24.8-11 apply to this section.

Approved March 22, 2023

Filed March 23, 2023

CHAPTER 444

HOUSE BILL NO. 1434

(Representatives Beltz, Bosch, Dobervich, Stemen, Vigesaa, Weisz)
(Senators Dever, Lee, Sickler)

AN ACT to amend and reenact section 50-24.8-12 of the North Dakota Century Code, relating to investigative demands and administrative subpoenas of the Medicaid fraud control unit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.8-12 of the North Dakota Century Code is amended and reenacted as follows:

50-24.8-12. ~~Civil~~ Investigative demands and administrative subpoenas - Failure to comply - Confidentiality.

1. If the attorney general, or a designee, has reason to believe a person may be in possession, custody, or control of documentary material or information relevant to an investigation under this chapter, the attorney general, or a designee, may, before commencing a ~~civil~~ proceeding under section 50-24.8-04 issue in writing and cause to be served upon the person, a ~~civil~~ investigative demand or administrative subpoena requiring the person to, under oath:
 - a. Produce the documentary material for inspection and copying, including exempt and confidential records;
 - b. Answer in writing written interrogatories with respect to the documentary material or information;
 - c. Give oral testimony concerning the subject matter of the investigation, including any documentary material or information; or
 - d. Furnish any combination of the material, answers, or testimony.
2. ~~If a civil investigative demand or subpoena is an express demand for product of discovery, the attorney general or a designee shall cause to be served, a copy of such demand upon the person from which the discovery was obtained and shall notify the person to which such demand is issued of the date on which the copy was served.~~
3. If a person objects to or otherwise fails to comply with a ~~civil~~ investigative demand or administrative subpoena served upon that person under subsection 1, the attorney general may file in the district court a petition for an order to enforce the demand or subpoena. If the court finds the demand or subpoena is proper, the court shall order the person to comply with the demand or subpoena and may grant such injunctive or other relief as may be required until the person complies with the demand or subpoena. Notice of hearing on the petition and a copy of the petition must be served upon the person that may appear in opposition to the petition. If the attorney general

prevails in an action brought under this subsection, the court shall award to the attorney general reasonable attorney's fees, costs, and expenses incurred in bringing the action.

- 4.3. Any testimony taken or material produced under this section must be kept confidential by the attorney general before bringing an action against a person under this chapter for the violation under investigation, unless ~~confidentiality;~~
- a. Confidentiality is waived by the person being investigated and the person that testified, answered interrogatories, or produced material, ~~or disclosure;~~
 - b. Disclosure is authorized by the court;
 - c. Disclosure is made to other law enforcement agencies; or
 - d. Disclosure is made to non-law enforcement investigative partners with which the attorney general deems necessary to collaborate to complete the investigation.
5. ~~Information obtained by the attorney general or designee may be shared with a person that initiated the action if the attorney general or designee determine it is necessary as part of any investigation under this chapter and the person agrees to comply with the confidentiality provisions provided in subsection 4, and unless otherwise provided by state or federal law.~~
- 6.4. Disclosure pursuant to this section is not a violation of section 12.1-13-01.
5. An active investigation record of the Medicaid fraud control unit is an exempt record unless the investigation is closed and not referred for further investigation or adjudication.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 445

SENATE BILL NO. 2103

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 50-25.1-02, subsection 5 of section 50-25.1-05, and sections 50-25.1-05.2, 50-25.1-05.5, 50-25.1-16, 50-25.1-17, 50-25.1-18, 50-25.1-20, and 50-25.1-21 of the North Dakota Century Code, relating to child abuse and neglect, the child abuse information index, disclosure of records for child protection purposes, prenatal exposure to controlled substances and alcohol, and alternative response assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

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

1. "A person responsible for the child's welfare" means an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a child care setting. For the purpose of institutional child abuse or neglect, "A person responsible for the child's welfare" means an institution that has responsibility for the care or supervision of a child.
2. ~~"Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol use disorder as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.~~
3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare, and includes a sexually abused child who is suffering from or was subjected to any act in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2, ~~by any individual, including a juvenile.~~
3. "Alcohol misuse" means a pattern of drinking that results in harm to one's health, interpersonal relationships, or ability to work.
4. "Alternative response assessment" means a child protection response involving substance exposed ~~newborns~~infants which is designed to:

- a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn infant; and
 - b. Develop a plan of safe care for the substance exposed newborn infant.
5. "Authorized agent" means the human service zone, unless another entity is designated by the department.
6. "Child abuse information index" means a categorized registry of subjects of reports confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2.
7. "Child fatality review panel" means a multidisciplinary team consisting of a representative of the department and, if possible, a forensic pathologist, a physician, a representative of the department of health and human services injury prevention, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, a peace officer licensed in the state, a mental health professional, a representative of emergency medical services, a medical services representative from a federally recognized Indian tribe in this state, one or more representatives of the lay community, and a designated tribal representative, as an ad hoc member, acting for each federally recognized Indian tribe in this state. A team member, at the time of selection and while serving on the panel, must be a staff member of the public or private agency the member represents or shall serve without remuneration. The child fatality review panel may not be composed of fewer than three individuals.
- 7-8. "Child in need of services" means a child who in any of the following instances is in need of treatment or rehabilitation:
- a. Is habitually and without justification truant from school or absent from school without an authorized excuse for more than five days during a school year;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian including runaway and is ungovernable or who is willfully in a situation that is dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Except for an offense committed by a minor who is fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution, has committed an offense applicable only to a child; or
 - d. Is under fourteen years of age and has purchased, possessed, smoked, or used tobacco, a tobacco-related product, an electronic smoking device, or an alternative nicotine product in violation of subsection 2 of section 12.1-31-03. As used in this subdivision, "electronic smoking device" and "alternative nicotine product" have the same meaning as in section 12.1-31-03.
- 8-9. "Child protection assessment" means a factfinding process designed to provide information that enables a determination of whether a child meets the

definition of an abused or neglected child, including instances that may not identify a specific person responsible for the child's welfare which is responsible for the abuse or neglect.

- 9-10. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.
- 40-11. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
- 44-12. "Confirmed" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, and the department confirms the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.
- 42-13. "Confirmed with unknown subject" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, but the evidence does not confirm the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.
- 43-14. "Department" means the department of health and human services.
- 44-15. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department.
- 45-16. "Impending danger" means a foreseeable state of danger in which a behavior, attitude, motive, emotion, or situation can be reasonably anticipated to have severe effects on a child according to criteria developed by the department.
- 46-17. "Indicated" means that upon completion of an assessment of a report of institutional child abuse or neglect, the department determines based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child.
- 47-18. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a public or private school, a residential facility or setting either licensed, certified, or approved by the department, or a residential facility or setting that receives funding from the department. For purposes of this subsection, residential facilities and settings excludes correctional, medical, home- and community-based residential rehabilitation, and educational boarding care settings.

- 18-19. "Near death" means an act that, as certified by a physician, places a child in serious or critical condition.
- 19-20. "Neglected child" means a child who, due to the action or inaction of a person responsible for the child's welfare:
- a. Is without proper 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, and is not due primarily to the lack of financial means of a person responsible for the child's welfare;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned;
 - d. Is without proper care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of a person responsible for the child's welfare, and that such lack of care is not due to a willful act of commission or act of omission, and care is requested by a person responsible for the child's welfare;
 - e. Is in need of treatment and a person responsible for the child's welfare has refused to participate in treatment as ordered by the juvenile court;
 - f. Was subject to prenatal exposure to ~~chronic or severe use of alcohol~~ misuse or any controlled substance as defined in section 19-03.1-01 in a manner not lawfully prescribed by a practitioner;
 - g. Is present in an environment subjecting the child to exposure of a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2, except as used in this subsection, controlled substance includes any amount of marijuana; or
 - h. Is a victim of human trafficking as defined in title 12.1.
- 20-21. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.
- 24-22. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- 22-23. "State child protection team" means a multidisciplinary team consisting of a representative of the department, a representative of the attorney general, a representative of law enforcement, a representative of the superintendent of public instruction, a parent with lived experience, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief

executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three individuals. A quorum of the state child protection team consists of a minimum of one member from the department and two other state child protection team members.

~~23-24.~~ "Substance exposed newborn infant" means an infant younger than ~~twenty-eight days~~ twelve months of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance ~~abuse~~ use or withdrawal symptoms or by a fetal alcohol spectrum disorder.

~~24-25.~~ "Substance use disorder" means a substance-related or addictive disorder identified in the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, fifth edition, text revision (2013), or a future edition adapted by the department.

26. "Unable to determine" means insufficient evidence is available to enable a determination whether a child meets the definition of an abused or neglected child.

~~25-27.~~ "Unconfirmed" means that upon completion of a child protection assessment, the department has determined, based upon a preponderance of the evidence, that a child does not meet the definition of an abused or neglected child.

SECTION 2. AMENDMENT. Subsection 5 of section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Except as prohibited under title 42, Code of Federal Regulations, part 2, or title 34, Code of Federal Regulations, part 99, a medical, dental, or mental health professional, hospital, medical or mental health facility, ~~or~~ health care clinic, or a public or private school shall disclose to the department or the authorized agent, upon request, the records of a patient ~~or, client which are relevant to a child protection assessment of reported child abuse or neglect or to a confirmed decision, or student.~~ The department, or the authorized agent, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made or to support a determination of whether child abuse or neglect is confirmed, confirmed with unknown subject, or unable to determine to provide for the protection and treatment of an abused or neglected child.

SECTION 3. 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. Upon confirmation that a child meets the definition of an abused or neglected child, the department promptly shall make a written report of the decision to the juvenile court having jurisdiction in the matter.

2. The department promptly shall file a report of a decision that a child meets the definition of an abused or neglected child under this section in the child abuse information index after the time to appeal the confirmed or confirmed with unknown subject decision has expired.
3. The department may not file a report of a decision that a child meets the definition of neglected child in the child abuse information index for a decision exclusively based on educational neglect.

SECTION 4. AMENDMENT. Section 50-25.1-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.5. 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 confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2. Reports must remain on the child abuse information index for a period no greater than twenty-five years following the determination. The department shall adopt rules for child abuse information index retention schedules and expungement procedures from those confirmed subjects of child abuse, neglect, or death resulting from abuse or neglect.

SECTION 5. AMENDMENT. Section 50-25.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-16. Prenatal exposure to controlled substances - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.
2. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.
3. If a report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the department or authorized agent immediately shall initiate an appropriate assessment ~~and offer services indicated under the circumstances. Services offered may that~~ must include a referral for an addiction assessment, a referral for of the presence of a substance use disorder with expectation to follow any treatment if recommended recommendations, or and a referral for prenatal care. The department or authorized agent may also take any appropriate action under chapter 25-03.1.
4. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment, continues to use controlled substances for a nonmedical purpose, or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03

who has knowledge of the failure to complete voluntary treatment, continued use of controlled substance for nonmedical purpose, or failure to follow treatment recommendations shall make a report as required by this section.

5. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

SECTION 6. AMENDMENT. Section 50-25.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-17. Toxicology testing - Requirements.

1. If the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose or alcohol misuse, upon the consent of the pregnant woman, or without consent if a specimen is otherwise available, a physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance or alcohol. If the test results are positive, the physician shall report the results under section 50-25.1-03.1. A negative test result or the pregnant woman's refusal to consent to a test does not eliminate the obligation to report under section 50-25.1-03 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose or has engaged in alcohol misuse.
2. If a physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose or engaged in alcohol misuse during the pregnancy, the physician shall administer, without the consent of the child's parents or guardian, to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance or alcohol. If the test results are positive, the physician shall report the results as neglect under section 50-25.1-03. A negative test result does not eliminate the obligation to report under section 50-25.1-03 if other medical evidence of prenatal exposure to a controlled substance or alcohol misuse is present.
3. A physician or any other medical personnel administering a toxicology test to determine the presence of a controlled substance or alcohol in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice. A physician or any other medical personnel who determines in good faith not to administer a toxicology test under this section is immune from liability for not administering the test.

SECTION 7. AMENDMENT. Section 50-25.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-18. Prenatal exposure to alcohol ~~abuse~~ misuse - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has ~~abused~~engaged in alcohol misuse after the woman knows of the pregnancy ~~may~~shall:
 - a. Arrange for an ~~addiction~~ assessment for the presence of a substance use disorder conducted by a licensed treatment program and confirm that the recommendations indicated by the assessment are followed; or
 - b. Immediately report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.
2. An individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has ~~abused~~engaged in alcohol misuse during the pregnancy.
3. If the woman is referred for an ~~addiction~~substance use disorder assessment under subdivision a of subsection 1 and fails to obtain an assessment, continues to engage in alcohol misuse or refuses to comply with the recommendations of the assessment, an individual required to report under section 50-25.1-03 who has knowledge of the failure to obtain the assessment, continued alcohol misuse, or refusal to comply with recommendations of the assessment shall make a report to the department or authorized agent.
4. If a report alleges a pregnant woman has ~~abused~~engaged in alcohol misuse, the department or authorized agent shall immediately initiate an appropriate assessment and ~~offer services indicated under the circumstances. Services offered may~~ that must include a referral for an addiction assessment, ~~a referral for~~ the presence of a substance use disorder with expectation to follow any treatment, if recommended recommendations, ~~or~~ and a referral for prenatal care. The department or authorized agent may also take any appropriate action under chapter 25-03.1.
5. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment, continues to engage in alcohol misuse, or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment, continued alcohol misuse, or failure to follow treatment recommendations shall make a report as required by this section.
6. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the ~~nature and extent of the abuse~~current use of alcohol, any ~~health risks~~suspected symptoms and problems associated with the ~~abuse of alcohol~~ a substance use disorder, and the name and address of the individual making the report.

SECTION 8. AMENDMENT. Section 50-25.1-20 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-20. Alternative response assessment - Compliance.

If an alternative response assessment is initiated as a result of a report of child abuse or neglect, a decision that a child is confirmed abused or neglected may not be

made if the person responsible for the child's welfare complies with the resulting referred services and plan of safe care for the substance exposed ~~newborn~~infant. The department or authorized agent shall determine whether a person responsible for the child's welfare has complied with the referred services and plan of safe care for the substance exposed ~~newborn~~infant. If the department or authorized agent determines a person responsible for the child's welfare has not complied with the referred services and plan of safe care for the substance exposed ~~newborn~~infant, an assessment of the initial report of child abuse or neglect may be completed.

SECTION 9. AMENDMENT. Section 50-25.1-21 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-21. Alternative response assessment - Services.

1. In response to an alternative response assessment, the department:
 - a. Shall provide referral services to, and monitor support services for, the person responsible for the child's welfare, the substance exposed ~~newborn~~infant, and other children under the same care as may be necessary for their well-being and safety;
 - b. Shall develop a plan of safe care for the substance exposed ~~newborn~~infant; and
 - c. May take any appropriate action under chapter 25-03.1.
2. The department may discharge the powers and duties provided under this section through an authorized agent.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 446

HOUSE BILL NO. 1540

(Representatives O'Brien, Lefor, Mitskog, Nelson, Stemen, Vigesaa, Weisz)

(Senators Hogan, Kreun, Lee)

(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact sections 50-33-02 and 50-33-07 of the North Dakota Century Code, relating to early childhood services and child care assistance; to provide for a legislative management report; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

50-33-02. Child care assistance - Application for benefits - Applicant's duty to establish eligibility - Decisions - Rules.

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a human service zone on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the human service zone. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the human service zone, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.
2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.
3. An eligibility decision must be made within thirty days on child care assistance applications whenever possible. The human service zone shall notify the applicant following a determination of eligibility or ineligibility.
4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance benefits to be adjusted annually based on information from a market study and a cost study, and to establish and enforce standards against program fraud and abuse.

²³⁵ **SECTION 2. AMENDMENT.** Section 50-33-07 of the North Dakota Century Code is amended and reenacted as follows:

50-33-07. Sliding fee schedule.

1. The sliding fee schedule established by the department for inclusion within the child care and development fund state plan to determine eligibility, benefit levels, and the portion of the allowable child care cost that may be paid as a benefit under this chapter, must not:
 - a. Exceed available federal and non-federal funding; and
 - b. Provide benefits to a family whose income exceeds eighty-five percent of the state median income for a family of the same size.
2. The sliding fee schedule established by the department may not charge a fee to a family whose income does not exceed thirty percent of the state median income for a family of the same size.
3. Child care costs that exceed maximums established under this section are the responsibility of the family and may not be considered in determining the child care assistance program payment amount.

²³⁶ **SECTION 3. AMENDMENT.** Section 50-33-07 of the North Dakota Century Code is amended and reenacted as follows:

50-33-07. Sliding fee schedule.

1. The sliding fee schedule established by the department for inclusion within the child care and development fund state plan to determine eligibility, benefit levels, and the portion of the allowable child care cost that may be paid as a benefit under this chapter, must not:
 - a. Exceed available federal and non-federal funding; and
 - b. Provide benefits to a family whose income exceeds ~~eighty-five~~seventy-five percent of the state median income for a family of the same size.
2. The sliding fee schedule established by the department may not charge a fee to a family whose income does not exceed thirty percent of the state median income for a family of the same size.
3. Child care costs that exceed maximums established under this section are the responsibility of the family and may not be considered in determining the child care assistance program payment amount.

SECTION 4. LEGISLATIVE MANAGEMENT REPORT - EARLY CHILDHOOD PROGRAMS. During the 2023-24 interim, the department of health and human services shall provide reports to the legislative management regarding the status of early childhood programs managed by the department.

²³⁵ Section 50-33-07 was also amended by section 3 of House Bill No. 1540, chapter 446.

²³⁶ Section 50-33-07 was also amended by section 2 of House Bill No. 1540, chapter 446.

SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - CHILD CARE FOR THE WORKPLACE - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$62,600,000, or so much of the sum as may be necessary, to the department of health and human services for the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

1. The sum of \$22,000,000 for the purpose of investing in the child care assistance program to serve more working families;
2. The sum of \$15,000,000 for the purpose of enhanced child care assistance program payments for infant and toddler care;
3. The sum of \$3,000,000, which is considered a one-time funding item, for the purpose of quality tiers in the child care assistance program;
4. The sum of \$2,300,000 for the purpose of waiving a fee to a family whose income does not exceed thirty percent of the state median income for a family of the same size;
5. The sum of \$500,000 for the purpose of providing child care assistance program application assistance and outreach;
6. The sum of \$5,000,000, which is considered a one-time funding item, for the purpose of employer-led child care cost-share program;
7. The sum of \$7,000,000, which is considered a one-time funding item, for the purpose of grants and shared services;
8. The sum of \$1,800,000 for the purpose of partnerships care during nontraditional hours;
9. The sum of \$2,000,000 for the purpose of stipends for worker training;
10. The sum of \$3,000,000, which is considered a one-time funding item, for the purpose of quality infrastructure for providers; and
11. The sum of \$1,000,000, which is considered a one-time funding item, for the purpose of streamlining background checks project.

SECTION 6. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - STATE EMPLOYEE CHILD CARE BENEFITS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of state employee child care benefits, for the biennium beginning July 1, 2023, and ending June 30, 2025.

SECTION 7. EFFECTIVE DATE. Section 3 of this Act becomes effective July 1, 2025.

Approved April 28, 2023

Filed April 29, 2023