

PUBLIC WELFARE

CHAPTER 456

SENATE BILL NO. 2037

(Legislative Council)

(Interim Budget Committee on Human Services)

(Senators Thane, Mathern, DeMers)

(Representatives Poolman, Gerntholz)

COUNTY POOR RELIEF STATUTORY CHANGES

AN ACT to create and enact four new sections to chapter 50-01 and a new chapter to title 50 of the North Dakota Century Code, relating to residency for county general assistance purposes and county social service boards; to amend and reenact sections 14-08.1-04, 14-09-10, 23-06-03, 30-16-04, 50-01-01, 50-01-01.1, 50-01-02, 50-01-03, 50-01-04, 50-01-13, 50-01-17, 50-01-17.1, 50-01-17.5, 50-01-19, 50-01-21, 50-01.1-04, 50-06-06.1, subsection 2 of section 50-06.2-02, sections 50-24.5-03, 50-24.5-06, 50-24.5-07, and subsection 15 of section 65-01-02 of the North Dakota Century Code, relating to poor relief and basic care assistance payments; and to repeal sections 50-01-05, 50-01-06, 50-01-07, 50-01-07.1, 50-01-08, 50-01-08.1, 50-01-09, 50-01-09.1, 50-01-10, 50-01-12, 50-01-14, 50-01-15, 50-01-16, 50-01-20, 50-01-22, and chapter 50-02 of the North Dakota Century Code, relating to poor relief.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

14-08.1-04. Duty of state's attorney. Upon request of the county social service board director or the executive director of the department of human services, the state's attorney of any county furnishing public assistance or poor relief county general assistance shall commence any appropriate action or proceeding under sections 14-08.1-02 and 14-08.1-03, in which case fees for filing and service of process may not be charged or collected.

SECTION 2. AMENDMENT. Section 14-09-10 of the North Dakota Century Code is amended and reenacted as follows:

14-09-10. Reciprocal duty of support - Support of poor. It is the duty of the father, the mother, and ~~the children~~ every child of any poor person who is unable to maintain himself by work support oneself, to maintain such that person to the extent of the ability of such father, mother, or children each. Such ~~This~~ liability may be enforced by any person furnishing necessities to such poor the person. The promise of an adult son or daughter child to pay for necessities previously furnished to such the child's parent is binding.

²¹⁵ SECTION 3. AMENDMENT. Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

23-06-03. Duty of burial. The duty of burying the body of a deceased person devolves upon the following persons:

1. If the deceased was married, upon the surviving husband or wife.
2. If the deceased was not married but left kindred, upon the person or persons in the same degree, of adult age, nearest of kin to the deceased living within the state and possessed of sufficient means to defray the necessary expenses.
3. ~~In case~~ If the person ~~upon whom~~ who has the duty of burial ~~is cast by the foregoing provisions omits to make such burial~~ does not bury the body within the time required by this chapter, ~~upon~~ the person next specified shall bury the body. ~~If all omit to act, upon the tenant, or if there is no tenant, upon the owner of the premises in which the death occurs or the body is found.~~
4. If the deceased is not survived by ~~no~~ a person described by subsection 1 or 2 and did not leave sufficient means to defray funeral expenses, including the cost of a casket, the county social service board of the county in which the deceased had residence for ~~poor relief~~ county general assistance purposes or if residence cannot be established, then the county social service board of the county in which the death occurs, shall employ some person to arrange for and supervise the burial. The county social service board shall pay the cost of the burial must be paid by the county social service board, subject to the following:
 - a. The sum of eight hundred dollars must be allowed for personal property and burial services furnished by a funeral director or funeral home.
 - b. The reasonable costs of transporting the body to the place of burial, but not exceeding one hundred dollars.
 - c. The cost of the grave box or vault, not to exceed the sum of two hundred thirty-five dollars, provided that a grave box or vault is required by the cemetery before a burial may be made.
 - d. The cost of a grave space, not to exceed the sum of one hundred seventy-five dollars.
 - e. Any grave opening and closing expenses, not to exceed the sum of one hundred seventy-five dollars.

Payment for services rendered or personal property furnished under subdivisions a, b, and c must be made to the funeral home or funeral director furnishing the ~~same~~ services or property, while payment for a

²¹⁵ Section 23-06-03 was also amended by section 1 of House Bill No. 1300, chapter 252.

grave space, services rendered, or personal property furnished under subdivisions d and e must be made to the cemetery furnishing the same services or property.

SECTION 4. AMENDMENT. Section 30-16-04 of the North Dakota Century Code is amended and reenacted as follows:

30-16-04. Descent and distribution of real property subject to homestead estate. The real property subjected to the homestead estate ~~shall descend~~ descends, subject to the full satisfaction of ~~such that~~ estate, exempt from decedent's debts except claims in favor of the county for poor relief county general assistance and also for claims of the state of North Dakota for repayment of old-age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-18-04, and ~~shall must~~ be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will; ~~but in no case shall the.~~ The real property constituting the homestead of a decedent, or any part thereof, may not descend or be distributed to any person other than the surviving ~~husband or wife~~ spouse and decedent's heirs in the direct descending line as prescribed in title 30.1 until all the decedent's debts are fully paid.

SECTION 5. AMENDMENT. Section 50-01-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

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

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

SECTION 6. AMENDMENT. Section 50-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01-01.1. Determination of eligibility - Notice - Appeal. The director of the county social service board, or an individual designated by the county social service board, is responsible for determining, within a reasonable period of time, an applicant's eligibility for relief county general assistance under this chapter. ~~Applicants~~ The applicant must be provided written notice of the determination; ~~such.~~ The notice to must include the reasons for ~~such the~~ determination, as well as an explanation of the applicant's right to a timely appeal of the determination to the county social service board if aggrieved by the decision. Decisions of the county social service board regarding appeals taken pursuant to this section are subject to judicial review in the manner prescribed by chapter 28-32.

SECTION 7. AMENDMENT. Section 50-01-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01-02. Poor relief County general assistance jurisdiction. The county social service board of each county ~~shall have~~ has exclusive jurisdiction and control of the administration of poor relief county general assistance within the county, except as otherwise provided in this title.

SECTION 8. AMENDMENT. Section 50-01-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01-03. Powers of county County social service board may accept property or security. In cases where it seems desirable, the county social service board may accept property or security from a person receiving or in need of relief county general assistance.

SECTION 9. AMENDMENT. Section 50-01-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01-04. Record of relief given Records to be kept. Every person who administers ~~relief from the public funds to the poor, sick, and needy, who are not inmates of a public institution, shall keep a record in which must be entered the following:~~

1. ~~The full name, age, sex, color, whether married or single, and nationality of every person to whom relief is given.~~
2. ~~The date the relief is given.~~

- 3- The amount of relief given; if it is in the form of money.
- 4- The value and kind of relief given; if it is in the form of articles of use or value.
- 5- If the relief is given to a person for the use of others:
 - a- If the relief is restricted to a single family; the number of recipients of relief and the age and sex of each.
 - b- The name, age, sex, color, and nationality of each person partaking of the relief who is not a member of the family of the person into whose hands the relief is given.
- 6- The reason the relief is given county general assistance shall maintain reasonable records.

²¹⁶ SECTION 10. AMENDMENT. Section 50-01-13 of the North Dakota Century Code is amended and reenacted as follows:

50-01-13. Medical attention and hospitalization furnished poor. In case of necessity, the county social service board promptly shall provide medical ~~and surgical~~ attention for any poor person in the county who is not provided for in a public institution. ~~In a county where a county physician has been appointed on an annual salary; such physician must be called to attend such poor person.~~ The county social service board shall cause to be furnished to ~~such poor the person~~ the medicines prescribed by ~~the a~~ physician. In all cases where, in the opinion of the county social service board, hospitalization is necessary, it must be furnished by the county upon approval or subsequent ratification ~~by the county physician and the board; or by the board in a county having no county physician.~~ Where such ~~If the~~ poor person is a nonresident of the state, the county furnishing ~~such the medical or surgical attention from and after January 2, 1951;~~ must be reimbursed within the limits of funds appropriated for ~~such that~~ purpose by the legislative assembly for eighty percent of the expenses incurred in carrying out ~~the provisions of this section.~~ ~~Such~~ The reimbursement must be made upon vouchers having the approval of the department of human services.

SECTION 11. AMENDMENT. Section 50-01-17 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17. ~~Poor persons~~ Person required to work. If a ~~poor~~ person applying for ~~poor relief~~ county general assistance is ~~in good health~~ able to work, or if any ~~members~~ member of his ~~that person's family are in good health is able to work,~~ the county social service board of the county in which ~~such poor the person~~ is a resident ~~shall may~~ insist that those able to ~~labor shall work~~ seek employment and ~~such the~~ board ~~shall may~~ refuse to furnish any ~~aid~~ assistance until it is satisfied that the person claiming ~~help~~ assistance is endeavoring to find work for himself. The board ~~shall make all possible effort may attempt~~ to secure, for ~~an able-bodied a~~ person claiming ~~poor relief~~ county general assistance, who is able to work, employment in

²¹⁶ Section 50-01-13 was also amended by section 13 of Senate Bill No. 2012, chapter 34.

the county where ~~he~~ the person resides and may call upon residents of the county to aid it the board in finding work for ~~such~~ that person.

SECTION 12. AMENDMENT. Section 50-01-17.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.1. Work requirement conditions. If a person applying for ~~poor relief county general assistance~~ is in good health able to work, the county social service board, at its option, may, ~~at its option~~, require the applicant to comply with any or all of the following provisions as a condition to receiving public assistance:

1. To register with job service North Dakota.
2. To participate in work incentive programs in accordance with the guidelines established for ~~aid to families with dependent children~~ public assistance programs.
3. To accept work which is available through community work experience programs.

SECTION 13. AMENDMENT. Section 50-01-17.5 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.5. Refusal to comply with work requirements - Denial of relief. Refusal of any applicant or recipient, without good cause, to comply with any work requirements established pursuant to this chapter may be grounds for denial or termination of ~~poor relief county general assistance~~.

SECTION 14. AMENDMENT. Section 50-01-19 of the North Dakota Century Code is amended and reenacted as follows:

50-01-19. Duty of relative to aid - Right of recovery by county. The father, the mother, and ~~the children~~ every child of any ~~poor~~ person who is eligible for county general assistance and who is unable to maintain himself by work to support oneself shall maintain ~~such~~ that person to the extent of their the ability of each. The county may recover for necessities furnished to an indigent person from ~~his~~ that person's father, mother, or adult children.

SECTION 15. AMENDMENT. Section 50-01-21 of the North Dakota Century Code is amended and reenacted as follows:

50-01-21. County has preferred claim against estate of recipient of poor relief county general assistance. ~~County funds~~ Funds used for subsistence, medical, hospital, or burial expenses of a recipient of county ~~indigents~~ general assistance may not be considered as gifts, and the county ~~shall have~~ has a preferred claim against the estate of any person who has received county general assistance for funds expended for ~~such~~ that person and ~~his~~ that person's legal dependents. The statute of limitations does not run on ~~any such~~ this type of claim.

SECTION 16. Four new sections to chapter 50-01 of the North Dakota Century Code are created and enacted as follows:

County of residence for county general assistance purposes. A person who has residence in this state, for county general assistance purposes, is a resident of the county in which the person is living on other than a temporary basis. If a person is

living in a county on a temporary basis, the person is a resident of the county in which the person most recently lived other than on a temporary basis.

State of residence for county general assistance purposes. A person who is a resident of this state for purposes of chapter 50-24.5 is a resident of this state for county general assistance purposes. If a person moves from this state for other than a temporary purpose, the person's residency in this state for county general assistance purposes is lost. Residency in this state is presumed lost if:

1. The person plans to be absent or has been absent from this state for one year or longer; or
2. The person receives any form of public assistance, while in another state, which is available only to residents of that state.

Change of residence to another county. When a person who is receiving county general assistance in one county becomes a resident of another county in this state, the county from which the person moves shall forward appropriate records and files to the new county of residence.

Persons with uncertain residence. If the residence of a person is uncertain for county general assistance purposes, the county in which the person lives shall provide county general assistance until that person's residence is determined.

SECTION 17. AMENDMENT. Section 50-01.1-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. A plan for the creation of a multicounty social service district must describe the method of operation of the district 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 that all services provided by county officials to county agencies under this code ~~must~~ be provided by those county officials residing within the same county ~~wherein~~ in which the district office of the multicounty social service district is located. The plan must also 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 multicounty district or between the governing board and one or more boards of county commissioners. The plan, once approved, may be continued for a definite term or until rescinded or terminated in accordance with its terms. The plan also may ~~also~~ provide that the regional director of a regional human service center ~~shall serve~~ serves as the director of the multicounty social service district.
2. The governing board of the multicounty social service district annually shall prepare a proposed budget for the district at the time and in the manner in which a county budget is adopted and shall submit the proposed budget to the board of county commissioners of each county in the district for approval. The amount budgeted and approved must be sufficient to defray the anticipated expenses of administration and the delivery of social and economic assistance services, exclusive of grants,

and must be prorated among the counties based on an agreed-to cost distribution formula that takes into consideration such factors as caseload, population, taxable valuation, and geographical area of the respective counties comprising the district. Within ten days following approval of the proposed budget by the boards of county commissioners, the governing board of the district shall certify the budget to the respective county auditors of the counties in the district, and this amount must be included in the levies of the counties. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated costs of ~~poor relief~~ county general assistance and that county's share of grants as provided under this title. The amounts budgeted and approved by the several boards of county commissioners must be periodically deposited with the treasurer of the county in which the district office is located, as ~~may be~~ requested by the treasurer, and must be placed in a special multicounty social service district fund. The governing board, or its president and secretary when authorized by the governing board, shall audit all claims against the fund. The governing board at its regularly scheduled meeting shall approve or ratify all claims against the fund. The county treasurer shall pay approved or ratified claims from the fund. Unexpended funds remaining at the end of a fiscal year may be carried over to the next fiscal year.

3. The governing board of a multicounty social service district consists of not more than fifteen members, as determined by the plan. The plan must ~~provide that there must be appointed as members to the board from each respective county, the number of members in establish a method of determining the number of members that will be appointed by each county within the multicounty social service district. The method may consider~~ the ratio that each county's population bears to the total population of the multicounty social service district, ~~the ratio of current social service caseload, or other equitable factors;~~ provided, that each county ~~to be~~ included in the district must be represented by at least one board member. The board of county commissioners of each county within the multicounty social service district shall make the appointments to the governing board. Members must be appointed for a term of three years, or until a successor has been appointed and qualifies. ~~However, the~~ The members appointed to the initial governing board of a multicounty district, ~~however,~~ must be appointed to staggered terms determined ~~in accordance with~~ according to the plan approved pursuant to section 50-01.1-03. Each member of the governing board shall qualify by taking the oath prescribed for civil officers and by filing the oath with the county auditor of the county of residence. ~~No person may serve as a board member for more than three consecutive three-year terms.~~ Each sex must be fairly represented on the board, and each county must be represented on the board by at least one county commissioner of that county. Members shall elect from the governing board a president, a secretary, and other officers as the board ~~deems~~ determines necessary.
4. Each member of the governing board is entitled to receive forty-five dollars per day, not to exceed forty-five days in any calendar year, for each day necessarily spent in the performance of official duties. In addition, each member is entitled to be paid for mileage and actual expenses incurred in attending meetings and in the performance of official duties in the amounts provided by law for state officials.

SECTION 18. A new chapter to title 50 of the North Dakota Century Code is created and enacted as follows:

County social service board - Members - Qualifications. Each board of county commissioners shall establish a county social service board consisting of five, seven, or nine members of which one or more must be members of the board of county commissioners. The board of county commissioners shall appoint the members of the county social service board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. The board must include members of each sex.

Members of county social service board - Term of office - Oath - Compensation. The members of the county social service board serve a term of three years or until their successors have duly qualified. Terms of office must be arranged so the term of office of one member expires in one year, the term of one-half the remaining members the next year, and the term of the remaining members the third year. Each member of the board qualifies by taking the oath provided for civil officers. The oath must be filed with the county auditor. The members of the county social service board are entitled to receive, in addition to any salaries they receive from any other source, from the state or county or any municipality, a sum not to exceed forty-five dollars per day for time actually spent in transacting the business of the board. The county shall reimburse members for expenses actually incurred in the performance of their official duties and for mileage at the legal rate for necessary travel.

Duties of county social service board. The county social service board of each county in this state shall:

1. Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.
2. Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the county by private as well as public organizations.
4. Subject to subsection 17 of section 50-06-05.1, administer the food stamp program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the food stamp program with the department of human services.
5. Subject to subsection 19 of section 50-06-05.1, administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the energy assistance program with the department of human services.
6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.

Removal of members of the board. The board of county commissioners may adopt a resolution to remove a member of the county social service board without cause.

Actions and proceedings - Duty of state's attorney. Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance must be brought by or against the county in its corporate name. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01.

SECTION 19. AMENDMENT. Section 50-06-06.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.1. Indians - General assistance contract authorized. The department is authorized to may execute contracts or agreements with the government of the United States or the appropriate federal agency thereof for the purpose of making available to make the services of the state and counties of the state available in providing general welfare assistance or poor relief in accordance with the provisions of chapters county general assistance under chapter 50-01 and 50-02, to Indian citizens in all counties of the state in which no Indian reservation or portion thereof part of an Indian reservation is located. Such The contracts must provide that any Indian citizen of this state having who has a residence on a reservation located in North Dakota this state or in any county of the state containing an Indian reservation or portion thereof part of an Indian reservation, and who has not acquired a residence for welfare purposes as required by the public welfare laws of this state in another county not containing an Indian reservation or portion thereof part of an Indian reservation, shall be is entitled to receive general assistance or poor relief county general assistance from the county social service board of a nonreservation county in which he the citizen is located upon the same basis and according to the same standards as general assistance or poor relief county general assistance is provided for residents of the county. Such The contract or agreement also must further provide that all cost of poor relief or general assistance or county general assistance payments for Indian citizens located in nonreservation counties who have not acquired residence for welfare purposes, plus such amounts as may be agreed upon as reasonable costs of administration, must be paid as reimbursement to the nonreservation county providing the poor relief county general assistance payments to the Indian citizens by the United States until such the Indian citizens shall acquire a residence in the county for welfare county general assistance purposes. Such The contract may further provide that in the event if an Indian citizen shall have has lived and have has been domiciled in such the nonreservation county for a period of twenty-four months, but has not acquired residence for welfare county general assistance purposes in such the nonreservation county, the responsibility of the United States to reimburse such that county for general assistance or poor relief county general assistance payments and costs of administration shall cease ceases, and the department shall thereupon reimburse such the nonreservation county for such those costs until such time as such the Indian citizen shall acquire acquires residence for welfare county general assistance purposes in the nonreservation county. The agreement or contract must contain such other provisions as may in the discretion of determined by the department to be necessary to properly administer such a this program of general assistance or poor relief county general assistance, and must contain a provision for the termination of the contract or agreement upon reasonable notice by the state.

SECTION 20. AMENDMENT. Subsection 2 of section 50-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

2. "County agency" means the county social service board in each of the ~~counties~~ county of the state ~~established under section 50-01-07.~~

SECTION 21. AMENDMENT. Section 50-24.5-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.5-03. Powers and duties of county ~~ageneies~~ agency. Each county agency shall:

1. Administer aid to aged, blind, and disabled persons at the county level under the direction and supervision of the department, pursuant to state requirements.
2. Provide the services described in this chapter. The county agency may contract with a qualified service provider in ~~its~~ the provision of ~~its~~ those services.
3. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter.
4. Review the circumstances of congregate housing for residents receiving services under this chapter which may exist or may be established in the county and certify to the department that each congregate housing facility conforms to standards contained in rules adopted by the department.
5. Provide case management services to eligible beneficiaries.
6. Provide assessments to eligible beneficiaries and to applicants, where necessary.
7. Conduct initial and ongoing functional assessments of applicants in cooperation with basic care facilities.
8. Submit an annual budget to the board of county commissioners containing an estimate and supporting data, setting forth the county funds needed to carry out this chapter.
9. Cooperate with any other county agency to assure the conduct of initial and ongoing functional assessments and determinations of eligibility with respect to any applicant or eligible beneficiary who is physically present in a county other than the county in which the applicant or eligible beneficiary is a resident for purposes of chapter ~~50-02~~ 50-01.

SECTION 22. AMENDMENT. Section 50-24.5-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.5-06. Appropriation of county funds - Reimbursement by department - Reimbursement by county agency. The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay the county's share of the cost of supplements provided and expenses of administration of this chapter. Upon certification of the costs of administration by each county, the department shall reimburse each county for one-half of the county's costs of administration. Upon claim being made by the department, ~~the~~ each county agency shall reimburse the department for ~~fifty percent~~

the first year of the 1993-95 biennium and the county's share of thirty percent thereafter of the cost of supplementing the income of any every eligible beneficiary who is a resident of the county for purposes of chapter 50-02. The department with the cooperation of county agencies shall develop a formula to be used to determine the appropriate share of basic care assistance costs to be paid by each county.

SECTION 23. AMENDMENT. Section 50-24.5-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.5-07. Residency. For purposes of this chapter:

1. A person is a resident of this state if:
 - a. The person is not living in an institution and is living in this state:
 - (1) With intent to remain in this state permanently or for an indefinite period; or
 - (2) Without intent if the person is incapable of stating intent.
 - b. The person is living in an institution outside this state and was receiving a benefit under chapter 50-01 on January 1, 1995.
 - c. The person was placed in an out-of-state institution by a county agency or the department while the person was incapable of indicating intent.
 - d. The person is living in an in-state institution, has lived in that institution for at least thirty days, and was not placed in that institution by another state. A person placed in an institution by another state is a resident of the state making the placement. Any action beyond providing information to the person and the person's family constitutes arranging or making a state placement. However, the following actions do not constitute state placement:
 - (1) Providing basic information about this chapter and information about the availability of this chapter; or
 - (2) Assisting a person in locating an institution in this state, if the person is capable of indicating intent and independently decides to move.
2. A person who is a resident of this state is a resident of the county in which the person is a resident for purposes of chapter ~~50-02~~ 50-01.

²¹⁷ **SECTION 24. AMENDMENT.** Subsection 15 of section 65-01-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

²¹⁷ Section 65-01-02 was also amended by section 1 of Senate Bill No. 2280, chapter 609; section 1 of House Bill No. 1225, chapter 607; section 1 of House Bill No. 1366, chapter 606; section 1 of House Bill No. 1252, chapter 608; and section 1 of Senate Bill No. 2085, chapter 610.

15. "Employee" means every person engaged in a hazardous employment under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, and:

a. The term includes:

- (1) All elective and appointed officials of this state and its political subdivisions, including municipal corporations and including the members of the legislative assembly, all elective officials of the several counties of this state, and all elective peace officers of any city.
- (2) Aliens.
- (3) ~~Poor relief~~ County general assistance workers except ~~such as~~ those who are engaged in repaying to counties ~~relief~~ moneys ~~which that~~ the counties have been compelled by statute to expend for ~~poor relief~~ county general assistance.
- (4) Minors, whether lawfully or unlawfully employed; a minor is deemed sui juris for the purposes of this title, and no other person ~~may have~~ has any claim for relief or right to compensation for any injury to ~~such a~~ minor worker, but in the event of the award of a lump sum of compensation to ~~such a~~ minor employee, ~~such the lump~~ sum ~~shall~~ may be paid only to the legally appointed guardian of ~~such the~~ minor.

b. The term does not include:

- (1) Any person whose employment is both casual and not in the course of the trade, business, profession, or occupation of that person's employer.
- (2) Any person who is engaged in an illegal enterprise or occupation.
- (3) The spouse or child of the employer dwelling in the household of the employer.
- (4) Any real estate broker or real estate salesperson, provided the person meets the following three requirements:
 - (a) The salesperson or broker must be a licensed real estate agent under section 43-23-05.
 - (b) Substantially all of the salesperson's or broker's remuneration for the services performed as a real estate agent must be directly related to sales or other efforts rather than to the number of hours worked.
 - (c) A written agreement must exist between the salesperson or broker and the person or firm for whom the salesperson or broker works, which agreement must provide that the salesperson or broker will not be treated as an employee but rather as an independent contractor.

- (5) The members of the board of directors of a business corporation who are not employed in any capacity by the corporation other than as members of the board of directors.
- (6) Any individual delivering newspapers or shopping news, if substantially all of the individual's remuneration is directly related to sales or other efforts rather than to the number of hours worked and a written agreement exists between the individual and the publisher of the newspaper or shopping news which states that the individual is an independent contractor.
- c. Persons employed by a subcontractor, or by an independent contractor operating under an agreement with the general contractor, for the purpose of this chapter are deemed to be employees of the general contractor who is liable and responsible for the payments of premium for the coverage of these employees until the subcontractor or independent contractor has secured the necessary coverage and paid the premium ~~therefor~~ for the coverage. This subdivision does not impose any liability upon a general contractor other than liability to the bureau for the payment of premiums which are not paid by a subcontractor or independent contractor.

SECTION 25. REPEAL. Sections 50-01-05, 50-01-06, 50-01-07, 50-01-07.1, 50-01-08, 50-01-08.1, 50-01-09.1, 50-01-12, 50-01-14, 50-01-15, 50-01-16, 50-01-20, 50-01-22, and chapter 50-02 of the North Dakota Century Code and sections 50-01-09 and 50-01-10 of the 1993 Supplement to the North Dakota Century Code are repealed.

Approved April 5, 1995
Filed April 6, 1995

CHAPTER 457

HOUSE BILL NO. 1074
(Representatives Austin, Kliniske)

HUMAN SERVICES ADVISORY BOARD ELIMINATED

AN ACT to amend and reenact sections 50-06-01, 50-06-01.3, 50-06-05.1, 50-06-16, and 50-06-17 of the North Dakota Century Code, relating to the human services advisory board; and to repeal section 50-06-01.6 of the North Dakota Century Code, relating to the creation of and membership of the human services advisory board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01. ~~Definitions~~ Definition. As used in this chapter, unless the context otherwise requires:

1. ~~"Board"~~ means the human services advisory board.
2. ~~"Department"~~ "department" means the department of human services.

SECTION 2. AMENDMENT. Section 50-06-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.3. Appointment of executive director - Compensation. The governor shall appoint the executive director of the department who shall serve at the pleasure of the governor. ~~The board may advise the governor concerning the appointment or reappointment of an executive director.~~ The executive director shall take the oath of office required of civil officers by section 44-01-05. The executive director is entitled to receive compensation in the amount established by the governor within the limits of legislative appropriations.

²¹⁸ **SECTION 3. AMENDMENT.** Section 50-06-05.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. The department has the following powers and duties to be administered; ~~with the advice of the board;~~ by the department through its state office or through regional human service centers or otherwise as directed by it:

²¹⁸ Section 50-06-05.1 was also amended by section 1 of Senate Bill No. 2216, chapter 460; sections 10 and 14 of Senate Bill No. 2012, chapter 34; section 25 of House Bill No. 1027, chapter 120; and section 6 of Senate Bill No. 2439, chapter 461.

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 deprived, unruly, 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 social legislation to the legislative assembly.
8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. To inform the public as to social conditions and ways of meeting social needs.
10. 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 ~~board~~ or 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.
11. 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 child-care facilities, 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.
12. To permit the making of any surveys of human service needs and activities if determined to be necessary.
13. 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.
14. 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, county social service board, 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 developmental center at Grafton, state hospital, or North Dakota industrial school.
 15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.
 16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.
 17. To act as the official agency of the state in the administration of the food stamp program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act.
 18. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
 19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. Provided, however, that the department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.

20. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
21. To exercise and carry out any other powers and duties granted the department under state law.
22. To coordinate services for pregnant women.
23. To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:
 - a. "Transitional living facility" means a specific site, identified by a licensed child-placing agency and approved by the department, for the provision of transitional living services.
 - b. "Transitional living program" means a program that provides transitional living services, and may include an identified program operations location approved by the department.
 - c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care services and who have reached age seventeen, but who have not reached age twenty-one, to achieve independence and self-sufficiency.
24. With the approval of the governor, to lease or transfer use of any part of the developmental 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 developmental 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.

SECTION 4. AMENDMENT. Section 50-06-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06-16. Rulemaking authority. The department may adopt rules necessary to carry out the responsibilities of the department in conformity with any statute administered or enforced by the department. ~~The board shall review the adoption, amendment, or repeal of any rules by the department.~~ All rules adopted must be published in the North Dakota Administrative Code. Rules adopted by agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter remain in effect until such time as they are specifically amended or repealed.

SECTION 5. AMENDMENT. Section 50-06-17 of the North Dakota Century Code is amended and reenacted as follows:

50-06-17. Biennial report - Budget estimates. ~~The board~~ department shall ~~review and make recommendations concerning the biennial report and budget estimate prior submit to the department's submission~~ governor and the office of the report and management and budget the biennial report and budget estimate in accordance with sections 54-06-04 and 54-44.1-04.

SECTION 6. REPEAL. Section 50-06-01.6 of the North Dakota Century Code is repealed.

Approved March 24, 1995

Filed March 27, 1995

CHAPTER 458

SENATE BILL NO. 2181

(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

COMMITTEES ON AGING, DISABLED, AND WOMEN

AN ACT to create and enact section 50-06-05.6, a new section to chapter 50-06.1, a new section to chapter 54-34.3, and a new subsection to section 54-44.3-20 of the North Dakota Century Code, relating to the commission on aging, the committee on employment of people with disabilities, the commission on the status of women, and positions exempt from the central personnel system; to amend and reenact subsection 5 of section 39-01-15, sections 50-06-01.4, 50-27-01, and 50-27-03, and subsection 1 of section 54-07-01.2 of the North Dakota Century Code, relating to parking certificates for the mobility impaired and to the children's trust fund administration; and to repeal chapter 50-26 of the North Dakota Century Code, relating to the governor's council on human resources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁹ SECTION 1. AMENDMENT. Subsection 5 of section 39-01-15 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five-dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the committee on employment of people with disabilities of the ~~governor's council on human resources~~ department of human services for development of job opportunities for disabled individuals in this state. If a certificate is lost, mutilated, or destroyed, the person to whom the certificate was issued is entitled to a replacement. The person shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

²²⁰ SECTION 2. AMENDMENT. Section 50-06-01.4 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

²¹⁹ Section 39-01-15 was also amended by section 1 of Senate Bill No. 2508, chapter 363.

²²⁰ Section 50-06-01.4 was also amended by section 2 of House Bill No. 1058, chapter 243.

50-06-01.4. Structure of the department. The department includes the state hospital; ~~the committees on aging, children and youth, employment of people with disabilities, and related committees established by the governor, of the governor's council on human resources, the commission on the status of women;~~ the regional human service centers; a vocational rehabilitation unit; and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

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

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

The executive director shall consult with and maintain a close working relationship with the state department of health and consolidated laboratories; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the school for the blind to develop programs for developmentally disabled persons; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

SECTION 3. Section 50-06-05.6 of the North Dakota Century Code is created and enacted as follows:

50-06-05.6. Committee on aging - Appointment - Expenses. There is hereby established a committee on aging. The governor shall appoint each committee member for a term of three years, staggered so that the terms of one-third of the members of the committee expire July first of each year, except that initial appointments to the committee must be made on the basis of a one-year term for one-third of the members of the committee; a two-year term for one-third of the members of the committee; and a full three-year term for the remaining members of the committee. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members must be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers.

SECTION 4. A new section to chapter 50-06.1 of the North Dakota Century Code is created and enacted as follows:

Committee on employment of people with disabilities - Appointment - Expenses - Director - Duties. There is established a committee on employment of people with disabilities. The committee consists of three members. The governor shall appoint each member for a term of three years, staggered so that the term of one member expires July first of each year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. The committee, with the approval of the governor, shall appoint a full-time director to serve at the pleasure of the governor. For administrative purposes, the director is an unclassified employee of the department and is not included in the central personnel system. The committee shall coordinate activities and serve as a clearinghouse for information relating to the employment of people with disabilities. The committee shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the employment of people with disabilities.

SECTION 5. AMENDMENT. Section 50-27-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-27-01. Creation and administration of children's trust fund. There is hereby created in the state treasury a special fund known as the children's trust fund. ~~The committee on children and youth of the governor's council on human resources children and family services division of the department of human services shall administer the fund. The chairperson of the committee, or such other person as the committee may designate, and the state treasurer shall deposit in the children's trust fund at such times as they may become available, all~~ All moneys designated for the fund from whatever source derived must be deposited with the state treasurer in the children's trust fund. The state treasurer shall invest such funds in interest-bearing accounts as is designated by the ~~committee children and family services division~~, and the interest earned must be deposited in the children's trust fund. ~~The department of human services shall provide administrative and clerical support for the children's trust fund. The children and family services division shall designate the administrator of child protective services as executive secretary of the children's trust fund.~~

SECTION 6. AMENDMENT. Section 50-27-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Apply for and receive public funds from any source, devises, legacies, bequests, gifts, and donations from private individuals, organizations, or funds from any other source not contrary to law.~~
2. Create such advisory committees as may be deemed necessary to assure public involvement in the planning, development, and administration of the children's trust fund.
3. ~~Hire or arrange for appropriate staff, as deemed necessary, to administer and maintain properly the children's trust fund.~~
4. ~~3.~~ Develop, implement, and periodically review a written plan to be used in administering the funds expended from and retained in the children's trust fund. The written plan must include the types of activities to be funded, the nature of organizations preferred for funding, the criteria for eligible fund applicants, and the mechanisms for the monitoring and evaluating of funded activities.
5. ~~4.~~ Award grants from the children's trust fund in accordance with this chapter and any rules that have been adopted.
6. ~~Adopt, after public notice and an opportunity for comment has been given, any rules it determines to be necessary to carry out this chapter.~~
7. ~~Contract with persons or organizations, including political subdivisions and school districts.~~
8. ~~Prepare and submit to the executive director of the department of human services a report at the end of each biennium.~~

The director of the department of human services shall designate a person with a demonstrated expertise in the prevention of child abuse and neglect as executive secretary to the children and youth committee to assist in the administration of the children's trust fund.

SECTION 7. AMENDMENT. Subsection 1 of section 54-07-01.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09-02.1, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, ~~50-26-01~~ 50-06-05.6, 54-54-02, section 4 of this Act, section 8 of this Act, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk stabilization board.
 - c. The dairy promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors to the Bank of North Dakota.
 - g. The board of pardons.
 - h. The state parole board.
 - i. The state board of public school education.
 - j. The teachers' professional practices commission.
 - k. The board of trustees for the teachers' fund for retirement.
 - l. The educational telecommunications council.
 - m. The state game and fish advisory board.
 - n. The health council.
 - o. The air pollution control advisory council.
 - p. The board of animal health.
 - q. The administrative committee on veterans' affairs.
 - r. The ~~governor's council~~ council committee on human resources aging.
 - s. The committee on employment of people with disabilities.

- t. The commission on the status of women.
- u. The North Dakota council on the arts.
- ~~t~~ v. The state historical board.
- ~~tt~~ w. The Yellowstone-Missouri-Fort Union commission.
- ~~vt~~ x. The state water commission.
- ~~wt~~ y. The state water pollution control board.

SECTION 8. A new section to chapter 54-34.3 of the North Dakota Century Code is created and enacted as follows:

Commission on the status of women - Appointment - Expenses - Duties. There is established a commission on the status of women. The commission consists of five members. The governor shall appoint each member for a term of four years, staggered so that the term of at least one member expires July first of each year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. The commission shall coordinate activities and serve as a clearinghouse and an advisory group to the department for information relating to economic development programs that focus on career development for women. The commission shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the economic and career development of women.

²²¹ **SECTION 9.** A new subsection to section 54-44.3-20 of the North Dakota Century Code is created and enacted as follows:

The director of the committee on employment of people with disabilities of the department of human services.

SECTION 10. REPEAL. Chapter 50-26 of the North Dakota Century Code is repealed.

Approved April 13, 1995
Filed April 18, 1995

²²¹ Section 54-44.3-20 was also amended by section 4 of House Bill No. 1501, chapter 524; section 5 of Senate Bill No. 2211, chapter 199; and section 1 of House Bill No. 1250, chapter 525.

CHAPTER 459**SENATE BILL NO. 2035**

(Legislative Council)

(Interim Budget Committee on Human Services)

(Senators Thane, Mathern, Yockim)

(Representatives Payne, Svedjan, Rydell)

WELFARE REFORM DEMONSTRATION PROJECT

AN ACT to require the department of human services to seek authorization for a demonstration project to combine benefits under the aid to families with dependent children, fuel assistance, and food stamp programs; to require the department of human services to report to the legislative council and budget section regarding the implementation status of the demonstration project; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Department to seek waiver to establish welfare reform demonstration project - Interim rulemaking. The department of human services shall seek, from appropriate federal officials, authorization to establish a demonstration project to combine the benefits provided under the state's aid to families with dependent children, fuel assistance, and food stamp programs, pursuant to title IV-A of the Social Security Act [42 U.S.C. 601 et seq.], the low-income home energy assistance program [42 U.S.C. 8621-8629], and the Food Stamp Act [7 U.S.C. 2011-2027]. The demonstration project established under this section must provide for uniform and consistent treatment of income and assets in determining eligibility; provide for the creation of a uniform method of budgeting and computing benefits, a consistent certification period for the receipt of benefits, and uniform reporting requirements; provide for necessary child care to allow a participant to meet educational and employment goals; and provide for universal employment and training to assist individuals in becoming self-sufficient. The project may be administered notwithstanding the requirements of subsections 4 and 5 of section 50-01-09, section 50-03-07, subsections 17 and 19 of section 50-06-05.1, chapter 50-09, and section 50-11.1-11.1, relating to the administration of the aid to families with dependent children, fuel assistance, and food stamp programs, except that a county shall reimburse the state for expenditures for the aid to families with dependent children program in that county as required by section 50-09-21. The demonstration project may require any participant to cooperate with child support enforcement efforts. The department of economic development and finance, job service North Dakota, county social service boards, and any other state agency determined appropriate, shall cooperate with the department to ensure the success of the project. Local government agencies within the demonstration project counties are encouraged to cooperate with the department. Rules adopted to implement the demonstration project may be adopted as interim final rules without a finding that emergency rulemaking is necessary, and the interim final rules may take effect on a date no earlier than the date of filing with the legislative council of the notice of proposed adoption of a rule required by subsection 4 of section 28-32-02.

SECTION 2. REPORT TO THE LEGISLATIVE COUNCIL. The department of human services shall report to the budget section and another interim committee designated by the legislative council on the implementation status of the demonstration project during the 1995-96 interim. If a waiver request made to

appropriate federal officials by January 17, 1995, to establish and implement the demonstration project is denied, the department of human services shall promptly inform the budget section and any other interim committee designated by the legislative council of the denial and of any recommendations by the department for changes to the demonstration project to accommodate the denial.

SECTION 3. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

Approved April 12, 1995

Filed April 13, 1995

CHAPTER 460

SENATE BILL NO. 2216

(Senators Mutch, Lips)
(Representative Svedjan)

ENERGY ASSISTANCE PROGRAM ADMINISTRATION

AN ACT to amend and reenact subsection 19 of section 50-06-05.1 of the North Dakota Century Code, relating to administration of the energy assistance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²² SECTION 1. AMENDMENT. Subsection 19 of section 50-06-05.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. ~~Provided, however, that the~~ For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative council 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.

Approved March 24, 1995
Filed March 27, 1995

²²² Section 50-06-05.1 was also amended by section 3 of House Bill No. 1074, chapter 457; sections 10 and 14 of Senate Bill No. 2012, chapter 34; section 25 of House Bill No. 1027, chapter 120; and section 6 of Senate Bill No. 2439, chapter 461.

CHAPTER 461

SENATE BILL NO. 2439

(Senator Thane)
(Representative Svedjan)

MEDICAID REQUIREMENTS IMPLEMENTATION

AN ACT to create and enact a new section to chapter 14-09, a new chapter to title 26.1, a new subsection to section 50-06-05.1, and a new section to chapter 50-24.5 of the North Dakota Century Code, relating to implementation of the medicaid requirements of the Omnibus Budget Reconciliation Act of 1993; and to amend and reenact section 14-09-08.11, subsection 5 of section 14-09-09.10, sections 26.1-36-12, 50-24.1-02.3, and 50-24.1-07 of the North Dakota Century Code, relating to pre-need funeral plans and implementation of the medicaid requirements of the Omnibus Budget Reconciliation Act of 1993.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

14-09-08.11. Eligible child - Coverage to continue Employer to permit enrollment. A minor child that When an obligor is required to cover a minor child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor until the child's eighteenth birthday or until further order of the court. Insurance companies and nonprofit health service corporations licensed in this state shall continue coverage of a minor child insured under an accident and health insurance policy or health service contract while the legal custody of the minor child has been given by the court to the obligee to the same extent as the general public is covered as long as the minor child meets all the other usual qualifications for insurability and payment continues on the policy or contract premiums. Insurance companies and nonprofit health service corporations licensed in this state shall provide coverage for minor children of an obligor who has been ordered to obtain dependent health insurance under the terms and conditions applicable to coverage for newly born children, as though the date of the order issued under section 14-09-08.10 was the day of the child's birth, and further provided that coverage must be provided to the same extent the general public is covered as long as the minor child meets all the other usual qualifications for insurability and policy or contract premiums are paid. A determination that legal custody will be with a parent other than a parent who pays policy or contract premiums, or on whose behalf payment of policy or contract premiums is made, may not be a basis for cancellation of the minor child's accident and health insurance policy or health service contract. If health insurance coverage required under section 14-09-08.10 is available through an income payer, the income payer must:

1. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions.

2. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee.
3. Not disenroll or eliminate coverage for any child unless the income payer is provided satisfactory written evidence that:
 - a. The order issued under section 14-09-08.10 is no longer in effect;
 - b. The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment; or
 - c. The income payer has eliminated family health coverage for all of its employees; and
4. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the health insurance provider.
5. If the amount required to be withheld under subsection 4, either alone or when added to the total of any withholding required by an order issued under section 14-09-09.15, exceeds fifty percent of the obligor's disposable income, withhold fifty percent of the obligor's disposable income. Withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the health insurance provider. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the income payer must promptly inform the clerk of court that issued the order under section 14-09-09.15 of the insufficiency.

SECTION 2. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Health insurance reimbursements received by but not owed to obligor to be paid over - Finding of contempt - Treatment as delinquent child support.

1. A payment for services rendered by a medical provider to an obligor's dependent which is directed to the obligor in the form of reimbursements from health insurance must be paid to the medical provider, custodial parent, or public authority when the reimbursement is not owed to the obligor.
2. Any child support order that requires an obligor to provide health insurance is deemed to include the requirements of this section. An obligor retaining insurance reimbursement not owed to the obligor may be found in contempt of a child support order that requires the obligor to provide health insurance.
3. Any insurance reimbursement received by the obligor, but not owed to the obligor, may be treated as delinquent child support thirty days after receipt by the obligor if not sooner paid to the medical provider, custodial parent, or public authority, as their interests may appear, and

is subject to all remedies available under this code for the collection of delinquent child support.

SECTION 3. AMENDMENT. Subsection 5 of section 14-09-09.10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. "Health insurance" includes fees for service, health maintenance organization, preferred provider organization, comprehensive health association plan, accident and health insurance policies, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical coverage may be provided in a policy, plan, or contract which may legally be sold or provided in this state.

SECTION 4. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

Definitions. For purposes of this chapter, unless the context otherwise requires:

1. "Insurer" means any health insurer, including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], a health maintenance organization as defined in section 26.1-18-01, a health service corporation as defined in section 26.1-17-01, and a provider of an accident and health insurance policy as defined in section 26.1-36-03.

Prohibited practices.

1. No insurer may deny enrollment of a child under the health coverage of the child's parent on the grounds that:
 - a. The child was born out of wedlock;
 - b. The child is not claimed as a dependent on the parent's federal income tax return; or
 - c. The child does not reside with the parent or in the insurer's service area.
2. Any provision in an individual or group accident and health insurance policy, nonprofit health service contract, or group health plan issued by any insurer that conflicts with subsection 1 is void.

Enrollment of children. If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall:

1. Permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions and subject to the prohibited practices provisions of this chapter;

2. If a parent fails to provide health coverage for any child, enroll the child under family coverage upon application by the child's other parent or by the department of human services; and
3. Not disenroll or eliminate coverage for any child unless the insurer is provided satisfactory written evidence that:
 - a. The court or administrative order is no longer in effect; or
 - b. The child is or will be enrolled with comparable coverage that will take effect no later than the effective date of disenrollment.

Providing information and paying claims. If a child has health coverage through the insurer of a noncustodial parent, the insurer shall:

1. Provide information to the custodial parent as may be necessary for the child to obtain benefits through the health coverage;
2. Permit the custodial parent, the provider of health care, with the custodial parent's approval, or the department of human services, as the custodial parent's assignee, to submit claims for covered services without the approval of the noncustodial parent; and
3. Make payment on claims submitted in accordance with subsection 2 directly to the custodial parent, provider, or department, as their interests may appear.

Authority and jurisdiction. This chapter is adopted pursuant to the requirements of sections 4301 and 13623 of Public Law 103-66 [107 Stat. 312; 29 U.S.C. 1161 et seq. and 42 U.S.C. 1396g-1]. The commissioner may take any action reasonably necessary to enforce this chapter and section 26.1-36-12. Any insurer subject to the provisions of this chapter or section 26.1-36-12 must submit to the jurisdiction of the commissioner and to the courts of this state to the greatest extent permitted under state or federal law.

SECTION 5. AMENDMENT. Section 26.1-36-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-12. Provisions prohibited in individual and group accident and health insurance policies, group health plans, and nonprofit health service contracts.

1. Any provision in any individual or group accident and health insurance policy, employee welfare benefit plan, or nonprofit health service contract issued by any insurance company, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], or nonprofit health service corporation denying or prohibiting the insured, participant, beneficiary, or subscriber from assigning to the department of human services any rights to medical benefits coverage to which the insured, participant, beneficiary, or subscriber is entitled under the policy, plan, or contract is void. An individual or group insurance company or nonprofit health service corporation shall recognize the assignment of medical benefits coverage completed by the insured, participant, beneficiary, or subscriber, notwithstanding any provision contained in the policy or contract to the contrary.

2. Any individual or group provision in any accident and health insurance policy, employee welfare benefit plan, or nonprofit health service corporation contract issued by any insurance company, group health plan, or nonprofit health service corporation which limits or excludes payments of medical benefits coverage to or on behalf of the insured, participant, beneficiary, or subscriber if the insured, participant, beneficiary, or subscriber is eligible for medical assistance benefits under chapter 50-24.1 is void.

²²³ SECTION 6. A new subsection to section 50-06-05.1 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

To act as a decedent's successor for purposes of collecting amounts due to 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.

SECTION 7. AMENDMENT. Section 50-24.1-02.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 8. AMENDMENT. Section 50-24.1-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-24.1-07. Recovery from estate of medical assistance recipient.

1. On the death of any recipient of medical assistance who was ~~sixty-five~~ fifty-five years of age or older when the recipient received the assistance, and on the death of the spouse of such a deceased recipient, the total amount of medical assistance paid on behalf of the ~~decedent~~ recipient following the ~~decedent's sixty-fifth~~ recipient's fifty-fifth birthday must be allowed as a preferred claim against the decedent's estate after ~~funeral~~ payment, in the following order, of:

²²³ Section 50-06-05.1 was also amended by section 3 of House Bill No. 1074, chapter 457; section 1 of Senate Bill No. 2216, chapter 460; sections 10 and 14 of Senate Bill No. 2012, chapter 34; and section 25 of House Bill No. 1027, chapter 120.

- a. Funeral expenses not in excess of fourteen hundred dollars; ~~expenses;~~
 - b. Expenses of last illness; ~~and expenses;~~
 - c. Expenses of administering the estate, including attorney's fees approved by the court; ~~and claims;~~
 - d. Claims made under chapter 50-01;
 - e. Claims made under chapter 50-24.5; and
 - f. Claims made under chapter 50-06.3 and on behalf of the state hospital ~~have been paid.~~
2. No claim must be paid during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled, but no timely filed claim may be disallowed because of the provisions of this section.
3. Every personal representative, upon the granting of letters of administration or testamentary shall; ~~at the time that publication of notice to creditors is required;~~ forward to the department of human services a copy of the petition or application commencing probate, heirship proceedings, or joint tenancy tax clearance proceedings in the respective district court, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of ~~such~~ the estate. ~~If no notice is required by the proceedings, the personal representative shall forward to the department of human services a copy of the petition or application commencing the proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law of the estate.~~ Unless a properly filed claim of the department of human services is paid in full, the personal representative shall provide to the department a statement of assets and disbursements in the estate.

SECTION 9. A new section to chapter 50-24.5 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

Department has preferred claim against estate. Funds used to provide services to an eligible beneficiary may not be considered as gifts. The department has a preferred claim against the estate of any person for recovery of funds expended under this chapter for that person or that person's spouse or minor children. No statute of limitations or similar statute nor the doctrine of laches bars a claim under this chapter.

Approved April 12, 1995
Filed April 13, 1995

CHAPTER 462**HOUSE BILL NO. 1162**

(Representative Svedjan)

CHILD CARE PROVIDER PAYMENTS

AN ACT to amend and reenact section 50-06-06.11 of the North Dakota Century Code, relating to child care provider payments; and to repeal section 50-06-06.12 of the North Dakota Century Code, relating to withholding from child care provider reimbursement payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-06.11 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-06-06.11. Child care provider reimbursement payments. Within the limits of federal regulations, the department of human services, at the election of the early childhood facility, shall directly ~~reimburse~~ pay early childhood facilities monthly under child care assistance programs administered by the department.

SECTION 2. REPEAL. Section 50-06-06.12 of the 1993 Supplement to the North Dakota Century Code is repealed.

Approved March 10, 1995
Filed March 10, 1995

CHAPTER 463**HOUSE BILL NO. 1030**

(Legislative Council)

(Interim Budget Committee on Home and Community Care)

(Representatives Coats, Grumbo, Huether)

(Senators Krauter, Lindaas, Andrist)

**BASIC CARE FACILITY RATESETTING
METHODOLOGY**

AN ACT to amend and reenact section 50-06-14.3 of the North Dakota Century Code, relating to basic care facility rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁴ SECTION 1. AMENDMENT. Section 50-06-14.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-06-14.3. Department of human services to develop basic care facility ratesetting methodology. The department of human services shall develop a ratesetting methodology that provides for rates for all residents of basic care facilities that receive payments from the state or any political subdivision. The methodology may not provide for different rates for similarly situated residents because of the source of payment for any resident's care. The department shall consult with representatives of the basic care industry in this state in developing the ratesetting methodology. Beginning July 1, 1995, the department shall establish rates for all residents of basic care facilities that receive payments from the state or any political subdivision in accordance with the ratesetting methodology developed by the department. After June 30, 1995, no agency of the state or any political subdivision may make payments to a basic care facility that does not set rates at the levels established by the department.

Approved March 24, 1995

Filed March 27, 1995

²²⁴ Section 50-06-14.3 was also amended by section 16 of Senate Bill No. 2012, chapter 34.

CHAPTER 464

HOUSE BILL NO. 1160
(Representatives Payne, Svedjan)

AFDC EMPLOYMENT INCENTIVES

AN ACT to repeal section 50-09-02.3 of the North Dakota Century Code, relating to a waiver from the federal government to allow employment incentives for recipients of aid to families with dependent children benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 50-09-02.3 of the 1993 Supplement to the North Dakota Century Code is repealed.

Approved March 24, 1995
Filed March 27, 1995

CHAPTER 465**SENATE BILL NO. 2266**

(Senators Nalewaja, Grindberg, Scherber)
(Representatives Kelsch, Price)

**EARLY CHILDHOOD FACILITY LICENSE
SUSPENSION**

AN ACT to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to the suspension of an early childhood facility license during a child abuse or neglect investigation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Suspension of license - Notification to parent, guardian, or custodian. The department may suspend the license of any early childhood facility during an investigation of a report of child abuse or neglect at the facility conducted pursuant to section 50-25.1-05. Notwithstanding sections 50-11.1-07 and 50-25.1-11, the department may notify the parent, guardian, or custodian of any child receiving care at the facility when the license of the facility is suspended. Upon the conclusion and disposition of the investigation of the facility, the department may notify the parent, guardian, or custodian of the child of the disposition.

Approved March 6, 1995
Filed March 6, 1995

CHAPTER 466**SENATE BILL NO. 2092**

(Senators Nalewaja, Solberg, Grindberg, Robinson)
(Representatives Kelsch, Carlisle)

CHILD CARE REGISTRATION DENIAL

AN ACT to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to providing early childhood services; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Penalty for provision of services in violation of sections 50-11.1-04 and 50-11.1-06. A person who has been convicted of a crime against a child or is a sexual offender, as defined in section 12.1-32-15, or who has had an application for licensure or registration to provide early childhood services denied because of a finding of probable cause against that person for child abuse or neglect under chapter 50-25.1 or who has had a license or certificate of registration to provide early childhood services revoked upon a finding of probable cause against that person for child abuse or neglect under chapter 50-25.1, and who continues to provide early childhood services to any child not a member of that person's household, is guilty of a class B misdemeanor.

Approved March 6, 1995

Filed March 6, 1995

CHAPTER 467

HOUSE BILL NO. 1386

(Representatives Thoreson, Koppelman, Clark)

CHARITABLE ORGANIZATION SOLICITATION AND LICENSES

AN ACT to amend and reenact subsections 1 and 2 of section 50-22-01, sections 50-22-02, 50-22-02.1, 50-22-04, and 50-22-05 of the North Dakota Century Code, relating to the definition of charitable organizations and contributions, licenses to solicit, fees, registration of fundraisers and solicitors, annual information reports, and penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 50-22-01 of the 1993 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. "Charitable organization" means any benevolent, philanthropic, patriotic, social, or eleemosynary organization, or one purporting to be ~~such~~ except organizations soliciting funds for institutions of higher learning, and organizations soliciting funds for churches operating and having a place of worship within the state. This definition may not be deemed to include duly this type of organization. The term does not include:
 - a. An organization soliciting funds for an institution of higher learning.
 - b. An organization using only volunteer fundraisers and soliciting funds for a political subdivision or other government entity.
 - c. A private or public elementary or secondary school.
 - d. A charitable organization or person soliciting contributions for any person specified by name at the time of the solicitation if all the contributions received are transferred within a reasonable time after receipt to the person named or that person's parent, guardian, or conservator with no restriction on their expenditure and with no deduction.
 - e. A duly constituted religious ~~organizations~~ organization or any group affiliated with and forming an integral part of ~~said~~ that organization no part of the net income of which inures to the direct benefit of any individual and which ~~have~~ has received a declaration of current tax exempt status from the government of the United States; provided, that no such affiliated group may be required to obtain ~~such~~ the declaration if the parent or principal organization has obtained ~~same~~ the declaration.
2. "Contribution" means the promise or grant of any money or property of any kind or value. The term includes a promise or grant of money or property for which consideration in the form of a service or good is

provided if the promise or grant may have been given as a result of a connection to a charitable organization.

SECTION 2. AMENDMENT. Section 50-22-02 of the North Dakota Century Code is amended and reenacted as follows:

50-22-02. License to solicit - Term - Revocation. No charitable organization may solicit contributions from persons in this state by any means whatsoever without first having obtained a license from the secretary of state. The secretary of state shall investigate the financial responsibility, experience, character, and general fitness of the applicant; ~~and if such.~~ If the investigation warrants the belief that the solicitations are for a worthy charitable purpose and that the applicant will conduct solicitations in accordance with the law, the secretary of state shall issue a license must be issued to such the applicant, giving him the applicant the right to solicit within the state for a period of one year until the first day of September of that year except that an initial license issued to a charitable organization in July or August following the close of the annual reporting period described in section 50-22-04 must be valid until September first of the subsequent year. If the secretary of state finds the applicant is not qualified to be issued a license, ~~he~~ the secretary of state shall deny the application, forthwith notify the applicant of the denial, but retain the license fee ~~must be retained.~~ If the applicant does not fulfill the requirements for an application within ninety days of the initial date of application, the application is deemed denied and the secretary of state shall file the documentation and retain any fee received. An applicant whose application is denied for failure to complete within the ninety-day time period shall submit a new application and license fee. All fees collected under the provisions of this chapter must be credited to the general fund of the state. The fee for such an initial license must be ten is twenty-five dollars and may be renewed from year to . A license obtained under this section is valid for no more than fourteen months the first year a license is obtained and one year thereafter, but and is subject to revocation by the secretary of state at any time for just cause. The fee for a subsequent license is ten dollars.

SECTION 3. AMENDMENT. Section 50-22-02.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-22-02.1. Registration of professional fundraiser, professional solicitor, and charitable organizations who engaged them. The secretary of state or ~~his~~ the secretary's designee shall examine each initial application of charitable organizations for the right to solicit funds and each renewal application of charitable organizations for the right to solicit funds. If the solicitation is to be made in whole or in part by a professional fundraiser or professional solicitor, the secretary of state shall approve registration if the arrangement for payment conforms to the requirements of this chapter and all relevant rules. The registration of a professional fundraiser grants the right to solicit funds within the state for charitable organizations until the first day of September of that year. Any applicant who is denied registration may, within fifteen days from the date of notification of ~~such~~ denial, request in writing a hearing before the secretary of state. The hearing must be held within fifteen days from the date of the request.

No person may act as a professional fundraiser or professional solicitor for a charitable organization subject to ~~the provisions~~ of this chapter unless ~~he has~~ that person first has registered with the secretary of state. ~~Applications~~ An application for registration must be in writing, under oath or affirmation in the form prescribed by the secretary of state, and must contain ~~such any~~ information ~~as~~ the secretary of state may require. The application for registration by a professional fundraiser or professional solicitor must be accompanied by an annual fee in the sum of one

hundred dollars. A partnership, corporation, or limited liability company ~~which that~~ is a professional fundraiser or professional solicitor may register for and pay a single fee on behalf of all its members, officers, agents, and employees. However, the names and addresses of all officers, agents, and employees employed to work under the direction of a professional solicitor or fundraiser must be listed in the application.

~~Every charitable organization engaging a professional solicitor or fundraiser and which submits a proper registration to the secretary of state shall pay an annual registration fee of twenty-five dollars if the charitable organization solicits and receives gross contributions from the public of twenty-five thousand dollars or less during the immediate preceding fiscal year. Every charitable organization engaging a professional solicitor or fundraiser which submits a proper registration to the secretary of state shall pay an annual registration fee of one hundred dollars if the charitable organization solicits and receives gross contributions in excess of twenty-five thousand dollars during the immediate preceding fiscal year. A parent organization filing on behalf of one or more chapters, branches, or affiliates and a federated fundraising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and ~~such~~ the chapters, branches, affiliates, or member agencies included in the registration statement. If any charitable organization, professional fundraiser, or professional solicitor fails to file any registration application or other information required to be filed by the secretary of state under this chapter or otherwise violates ~~the provisions of~~ this chapter, the secretary of state, upon notice by ~~registered or~~ certified mail to its ~~or his~~ last known address, may deny or suspend the application for registration if the information is not filed or if the existing violation is not discontinued within two weeks after the formal notification or receipt of such notice. All civil proceedings under this chapter must be conducted in accordance with chapter 28-32 unless otherwise specifically herein provided. Any notice required under this chapter or chapter 28-32 may be made by certified mail.~~

SECTION 4. AMENDMENT. Section 50-22-04 of the North Dakota Century Code is amended and reenacted as follows:

50-22-04. Information required to be filed annually. Within sixty days after the close of the calendar year or the fiscal year, as the case may be, every Every charitable organization, professional fundraiser, or professional solicitor subject to the provisions of this chapter which has received or solicited contributions from within this state during the previous calendar or fiscal year reporting period of July first through June thirtieth shall file the following information in the manner hereinbefore provided and on forms to be provided by the secretary of state on or before the first day of September of every year, whether or not the charitable organization is reapplying for a license to solicit contributions:

1. The gross amount of the contributions pledged or collected in this state.
2. The amount thereof given or to be given to the charitable purpose represented.
3. The aggregate amount paid or received and to be paid or received for the expenses of ~~such~~ solicitation.
4. The aggregate amount paid to or received and to be paid or received to or by professional fundraisers and solicitors.

In addition, the secretary of state may make a detailed examination of the accounts of any charitable organization conducting a solicitation for funds within this state. Upon request the attorney general shall assist the secretary of state in carrying out ~~the provisions of this chapter~~ and, for this purpose, ~~shall have~~ has all powers ~~herein granted by this chapter~~ to the secretary of state. Every charitable organization subject to ~~the provisions of this chapter~~ shall keep a full and true record in ~~such the~~ form ~~as that~~ will enable ~~such the~~ charitable organization to accurately provide the information required by this chapter.

SECTION 5. AMENDMENT. Section 50-22-05 of the North Dakota Century Code is amended and reenacted as follows:

50-22-05. Enforcement - Penalties. Any person conducting a solicitation in violation of ~~the provisions of this chapter, or failing to properly complete and file any report required under this chapter,~~ is guilty of a class A misdemeanor. A fundraiser who commences or continues fundraising after the fundraiser's application is denied or the license is revoked or canceled is guilty of a class C felony. In addition to any criminal penalties, the secretary of state may deny the fundraiser the right to engage in future fundraising activities.

Whenever the attorney general or any state's attorney has reason to believe or is advised by the secretary of state that the ~~said~~ fundraiser, charitable organization, or professional solicitor is operating in violation of ~~the provisions of this chapter,~~ the attorney general or state's attorney may bring an action in the name of the state of ~~North Dakota~~ against ~~such the~~ charitable organization and its officers, ~~such the~~ professional fundraiser or professional solicitor, or any other person who has violated this chapter or who has participated or is about to participate in any solicitation or collection by employing any device, scheme, artifice, false representation or promise, to defraud or obtain money or other property, to enjoin ~~such the~~ charitable organization or professional fundraiser or professional solicitor or other person from continuing ~~such the~~ violation, solicitation, or collection, or engaging therein, or doing any acts in furtherance thereof and for ~~such any other relief as the court deems~~ determines appropriate.

Approved April 12, 1995
Filed April 13, 1995

CHAPTER 468**SENATE BILL NO. 2461**

(Senators Kringstad, Lips)
(Representatives Delmore, K. Henegar)

NURSING FACILITY COMPLIANCE WITH MEDICAL ASSISTANCE PROGRAM

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to remedies to ensure prompt compliance by nursing facilities with requirements of the medical assistance program.

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:

Department to comply with federal requirements - Interagency cooperation - Civil money penalty fund.

1. The department of human services shall take any action necessary to comply with the requirements of section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], including establishing a process to enforce compliance by nursing facilities with requirements for participation in the medical assistance program that conforms to any federal regulations implementing that section.
2. The department of health and consolidated laboratories and the department of human services shall cooperate to achieve prompt and effective implementation of subsection 1.
3. The state treasurer shall establish a fund for the receipt of any civil money penalties imposed under subsection 1. Any civil money penalty paid to the department of human services under subsection 1 must be deposited in that fund, and is hereby appropriated to the department of human services, subject to the approval of the budget section of the legislative council, for the sole purpose of the protection of the health or property of residents of nursing facilities that the state or federal government finds deficient.
4. This Act may not be construed to create any right or authorize any activity not provided for in section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)] or its implementing federal regulations.
5. Before the establishment and assessment of civil money penalties permitted by section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], the department of human services is encouraged to submit a plan of alternative remedies in accordance with section 1919(h)(2)(B)(ii) of that act.

Approved March 24, 1995
Filed March 27, 1995

CHAPTER 469

SENATE BILL NO. 2538

(Senators Mathern, G. Nelson)

(Representative Dorso)

(Approved by the Delayed Bills Committee)

MEDICAL ASSISTANCE

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to 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:

Effect of purchase of insurance on disqualifying transfer. An individual who secures and maintains insurance that covers the cost of substantially all necessary medical care, including necessary care in a nursing home and necessary care for an individual who qualifies for admission to a nursing home but receives care elsewhere, for at least thirty-six months after the date an asset is disposed of, may demonstrate that the asset was disposed of exclusively for a purpose other than to qualify for medical assistance by providing proof of that insurance.

Approved March 29, 1995

Filed March 29, 1995

CHAPTER 470

SENATE BILL NO. 2034

(Legislative Council)

(Interim Budget Committee on Home and Community Care)

(Senators Krauter, Bowman, Sand)

(Representatives Coats, Grumbo, Gorder)

NURSING HOME PROVIDER COST PAYMENT SYSTEM

AN ACT to amend and reenact section 50-24.4-15 of the North Dakota Century Code, relating to a department of human services property cost payment system for nursing home providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-15 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-15. Property-related costs after January 1, 1990. For all rate years beginning on or after January 1, 1990:

1. The department shall reimburse nursing home providers that are vendors in the medical assistance program for the use of real estate and depreciable equipment.
2. In developing the method for determining that part of the payment rate for the use of real estate and depreciable equipment, the department shall consider factors designed to:
 - a. Simplify the administrative procedures for determining payment rates for property-related costs;
 - b. Minimize discretionary or appealable decisions;
 - c. Eliminate any incentives to sell nursing homes;
 - d. Recognize legitimate costs of preserving and replacing property;
 - e. Recognize the existing costs of outstanding indebtedness allowable under the statutes and rules in effect on July 1, 1985; and
 - f. Reward efficient management of capital assets include in the ratesetting system for nursing homes a payment mechanism for the use of real and personal property which provides for depreciation and related interest costs. The property cost payment mechanism must:
 1. Recognize to the extent allowed by federal rules the valuation basis of assets acquired in a bona fide transaction as an ongoing operation after July 1, 1985, limited to the lowest of:
 - a. Purchase price paid by the purchaser;

- b. Fair market value at the time of sale;
 - c. Seller's cost basis, increased by one-half of the increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation, plus recaptured depreciation; or
 - d. Seller's cost basis, increased by one-half of the increase in the Dodge construction index from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation, plus recaptured depreciation.
2. Recognize depreciation on land improvements, buildings, and fixed equipment acquired, as an ongoing operation over the estimated useful remaining life of the asset as determined by a qualified appraiser.
 3. Recognize depreciation on movable equipment acquired as an ongoing operation after the effective date of this Act, over a composite remaining useful life.
 4. Provide, upon the sale of a facility after the effective date of this Act, for the recapture of depreciation paid after June 1, 1984, on behalf of medical assistance recipients to the extent the sale price of the facility exceeds the facility's undepreciated value except:
 - a. If the facility has been owned twenty years or longer there may be no recapture of depreciation; or
 - b. If the facility has been owned more than ten years but fewer than twenty years the depreciation recapture amount must be reduced by ten percent times the number of years the facility is owned after the tenth year.
 5. Provide for an interest expense limitation determined by the department and established by rule.
 6. Establish a per bed property cost limitation considering single and double occupancy construction. Property costs incurred or related to projects having received state health council certificate of need approval prior to July 1, 1994, are not subject to this limitation.
 7. Recognize increased lease costs of a nursing home operator to the extent the lessor has incurred increased costs related to the ownership of the facility, the increased costs are charged to the lessee, and the increased costs would be allowable had they been incurred directly by the lessee.

Approved March 15, 1995
Filed March 15, 1995

CHAPTER 471**SENATE BILL NO. 2155**

(Human Services Committee)

(At the request of the Department of Human Services)

NURSING FACILITY COST REPORT EXTENSIONS

AN ACT to amend and reenact section 50-24.4-25 of the North Dakota Century Code, relating to nursing facility cost report extensions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-25 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-25. Extensions. The department may grant a fifteen-day an extension of the reporting deadline, not to exceed thirty days, to a nursing home for good cause. ~~To receive such an extension, a nursing home shall submit a written request by September first. The department will notify the nursing home of the decision by September fifteenth.~~

Approved April 4, 1995

Filed April 4, 1995

CHAPTER 472

SENATE BILL NO. 2068

(Legislative Council)
 (Interim Judiciary Committee)
 (Senators W. Stenehjem, Traynor)
 (Representatives Coats, Kretschmar)

CHILD PROTECTION TEAM DUTIES AND TERMINOLOGY

AN ACT to amend and reenact sections 50-25.1-02, 50-25.1-04.1, 50-25.1-05, 50-25.1-05.05, 50-25.1-05.1, 50-25.1-05.2, 50-25.1-05.4, 50-25.1-05.5, 50-25.1-06.1, and 50-25.1-09 of the North Dakota Century Code, relating to child abuse and neglect terminology and the duties of the state child protection team; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁵ SECTION 1. AMENDMENT. Section 50-25.1-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

1. "A person responsible for ~~a~~ the child's welfare" means the child's ~~parents~~ parent, guardian, or foster parent; an employee of a public or private school or nonresidential child care facility; an employee of a public or private residential home, institution, or agency; or ~~other~~ a person responsible for the child's ~~health and~~ welfare in a residential setting.
2. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's ~~health or~~ welfare, or who is suffering from or was subjected to any act involving that individual in violation of sections 12.1-20-01 through 12.1-20-08.
3. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
4. "Department" means the department of human services or its designee.
- 4- 5. "Harm" means negative changes in a child's health which occur when a person responsible for the child's ~~health and~~ welfare:

²²⁵ Section 50-25.1-02 was also amended by section 2 of House Bill No. 1058, chapter 243.

- a. Inflicts, or allows to be inflicted, upon the child, physical or mental injury, including injuries sustained as a result of excessive corporal punishment; or
- b. Commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20.

~~5-~~ 5. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is an employee of a residential child care facility, a treatment or care center for mentally retarded, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.

~~5-7-~~ 7. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies which they represent or shall serve without remuneration. ~~In no event may an~~ 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 members. The department shall coordinate the organization of local child protection teams on a county or multicounty basis.

~~6-~~ 8. "Neglected child" means a deprived child as defined in chapter 27-20.

~~7-~~ 9. "Protective services" includes services performed after an ~~investigation~~ 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.

~~8-~~ 10. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible of a physician, a representative of a child-placing agency, a representative of the state department of health and consolidated laboratories, a representative of the ~~office of the~~ attorney general, a representative of the ~~department~~ superintendent of public instruction, a representative of the department of corrections and rehabilitation, 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 ~~which~~ they represent, or shall serve without remuneration. ~~In no event may an~~ 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 persons.

²²⁶ SECTION 2. AMENDMENT. Section 50-25.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.1. State child protection team - How created - Duties.

1. The department shall name the members of the state child protection team. The members must be appointed for three-year staggered terms. The member who represents the department shall serve as chairperson presiding officer and is responsible for the transmittal of all team reports made pursuant to this chapter. The chairperson presiding officer shall set meetings for the purposes of fulfilling the duties set forth in sections 50-25.1-02; and 50-25.1-04; and 50-25.1-05.1.
2. Under procedures adopted by the team, it may meet at any time, confer with any individuals, groups, and agencies, and may issue reports or recommendations on any aspect of child abuse or neglect it deems appropriate. All reports or recommendations issued are subject to the provisions of section 50-25.1-11, except that the team shall make available information reflecting the disposition of reports of institutional child abuse or neglect, where the identity of persons reporting, and of the children and parents of children involved, is protected.
3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination that child abuse or neglect is or is not indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When the subject of the report is a state-operated institution, the state child protection team promptly shall notify the governor of the determination.

SECTION 3. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05. Investigation Assessment. The department, in accordance with rules adopted by the department, ~~shall~~ shall initiate an investigation assessment, or cause an investigation assessment, of any report of child abuse or neglect including, when appropriate, the investigation assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department; ~~or the department's designee~~, and an appropriate law enforcement agency shall coordinate the planning and execution of their investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. The department; ~~department's designee~~, or appropriate law enforcement agency may interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator. The department; ~~department's designee~~, or law enforcement agency may conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.

²²⁶ Section 50-25.1-04.1 was also amended by section 8 of Senate Bill No. 2231, chapter 116.

SECTION 4. AMENDMENT. Section 50-25.1-05.05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.05. Interviews on school property. The department; ~~department's designee~~, or appropriate law enforcement agency shall notify the school principal or other appropriate school administrator of its intent to conduct an interview on school property pursuant to section 50-25.1-05. The school administrator may not disclose the nature of the notification or any other related information concerning the interview to any person, including a person responsible for the child's welfare. The school administrator and department; ~~department's designee~~, or law enforcement agency shall make every effort to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school property.

SECTION 5. AMENDMENT. Section 50-25.1-05.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.1. Determination of probable cause Services required - How determined. Upon completion of the ~~investigation~~ assessment of the initial report of child abuse or neglect, a determination decision must be made ~~that there does or does not exist probable cause to believe that child abuse or neglect is indicated whether services are required to provide for the protection and treatment of an abused or neglected child.~~

1. This determination is the responsibility of:
 - a. ~~The state child protection team in all cases of alleged institutional child abuse or neglect; and~~
 - b. ~~In all other cases of alleged abuse or neglect, by the department or the department's designee.~~
2. Probable cause to believe that child abuse or neglect is indicated ~~A decision that services are required~~ may not be ~~determined~~ made where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child where the child's life or safety requires it or the child is subject to harm or threatened harm.

SECTION 6. AMENDMENT. Section 50-25.1-05.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~The state child protection team, upon a determination that institutional child abuse or neglect is indicated, shall promptly make a written report of a determination of probable cause for child abuse or neglect to the juvenile court having jurisdiction in the matter. When the subject of the report is a state-operated institution, the state child protection team shall promptly notify the governor that such a report has been made to the juvenile court.~~
2. ~~In all other cases, upon~~ Upon a determination decision that probable cause exists to believe that child abuse or neglect is indicated services are

~~required, the department or the department's designee shall promptly shall make a written report of a determination of probable cause for child abuse or neglect the decision to the juvenile court having jurisdiction in the matter.~~

- ~~3. 2. The state child protection team or the department or the department's designee, as applicable, shall promptly shall file a report of a determination of probable cause for child abuse or neglect made decision that services are required under this section in the child abuse information index.~~

²²⁷ SECTION 7. AMENDMENT. Section 50-25.1-05.4 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

~~50-25.1-05.4. Department of human services to adopt rules for review of investigations of probable cause assessment findings. The department of human services shall adopt rules to resolve complaints and conduct appeal hearings requested by the subject of a report of suspected child abuse or neglect who is aggrieved by the conduct or result of the investigation of a probable cause finding of the suspected child abuse or neglect an assessment.~~

²²⁸ SECTION 8. AMENDMENT. Section 50-25.1-05.5 of the 1993 Supplement to 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 of determinations of probable cause for child abuse or neglect decisions that services are required which are filed pursuant to section 50-25.1-05.2.~~

SECTION 9. AMENDMENT. Section 50-25.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

~~50-25.1-06.1. Caseload standards - Reimbursement. The department of human services shall adopt caseload standards establishing minimum staff to client ratios for the investigation assessment of reports of child abuse or neglect and the provision of protective services. Within the limits of legislative appropriation therefor, the department of human services shall reimburse each county, upon claim being made by the county, for seventy-five percent of additional staff costs caused by the imposition of such caseload standards. Upon a determination that legislative appropriations are insufficient to reimburse each claiming county in the amount of seventy-five percent of such additional staff costs, the department of human services shall reimburse each claiming county for that percentage of additional staff costs which the appropriation is sufficient to defray.~~

²²⁷ Section 50-25.1-05.4 was also amended by section 10 of Senate Bill No. 2231, chapter 116.

²²⁸ Section 50-25.1-05.5 was also amended by section 11 of Senate Bill No. 2231, chapter 116.

²²⁹ SECTION 10. AMENDMENT. Section 50-25.1-09 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-09. Immunity from liability. Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation or assessment, furnishing information ~~to an investigator~~, or in providing protective services under this chapter; is immune from any liability, civil or criminal, that otherwise might result from reporting the alleged case of abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse or neglect must be presumed.

SECTION 11. EFFECTIVE DATE. This Act becomes effective on January 1, 1996.

Approved March 28, 1995

Filed March 28, 1995

²²⁹ Section 50-25.1-09 was also amended by section 12 of Senate Bill No. 2231, chapter 116.