

2011 HOUSE JUDICIARY

HB 1039

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1039
January 5, 2011
12576

Conference Committee

Committee Clerk Signature 

Minutes:

Chairman DeKrey: We will open the hearing on HB 1039.

Vonette Richter, Legislative Council: (Neutral) Explained the bill (see attached).

Chairman DeKrey: Are there any questions. Thank you. Testimony in support of HB 1039. Testimony in opposition to HB 1039. We will close the hearing.

Rep. Delmore: I move a Do Pass.

Rep. Koppelman: Second the motion.

Chairman DeKrey: Roll call vote.

DO PASS

13-0-1

CARRIER: Rep. Hogan

Date: 1/5/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1039

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle			Rep. Hogan	✓	
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Hogan

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1039: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1039 was placed on the
Eleventh order on the calendar.

2011 SENATE JUDICIARY

HB 1039

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1039
2/9/11
Job #14270

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to obsolete provisions

Minutes:

There are attachments

Senator Nething – Chairman

John Walstad – Legislative Counsel – Explains the bill and what the changes do. He provides an amendment. See written attachment for changes.

Senator Nething – Asks Walstad to give an overview of his job as a code reviser.

Walstad – Explains a code reviser.

Senator Nelson - Asks Walstad to define substantive and technical.

Walstad – Replies if a change might have any effect on anyone's rights or obligations that is substantive. Technical is for example a wrong section number or a reference to an organization that doesn't exist. He said he tries to make the code readable by people other than lawyers.

Opposition – 0

Neutral – 0

Close the hearing on 1039

Senator Nelson moves the amendment

Senator Lyson seconds

Verbal vote – all yes

Senator Nelson moves a do pass as amended

Senator Sitte seconds

Motion passes – 6 yes, 0 no

Senator Nelson will carry

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1039

Page 1, line 3, remove "and"

Page 1, line 3, after the third comma insert "57-38-30, and 57-43.2-02.3,"

Page 11, after line 3, insert:

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

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

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

1. a. For the first twenty-five thousand dollars of taxable income, at the rate of two and one-tenth percent.
- b.2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of five and twenty-five hundredths percent.
- e.3. On all taxable income exceeding fifty thousand dollars, at the rate of six and four-tenths percent.
2. ~~A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.~~

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

57-43.2-02.3. Exemptions.

1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for use as heating fuel is exempt from the special fuel tax imposed by ~~section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03.~~ Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.
2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section

57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.

3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a component part of tangible personal property intended to be sold ultimately at retail is exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax imposed by section 57-43.2-03."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1039: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1039 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and"

Page 1, line 3, after the third comma insert "57-38-30, and 57-43.2-02.3,"

Page 11, after line 3, insert:

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

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

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

1. a- For the first twenty-five thousand dollars of taxable income, at the rate of two and one-tenth percent.
- b-2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of five and twenty-five hundredths percent.
- e-3. On all taxable income exceeding fifty thousand dollars, at the rate of six and four-tenths percent.
- 2- ~~A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.~~

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

57-43.2-02.3. Exemptions.

1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for use as heating fuel is exempt from the special fuel tax imposed by ~~section 57-43.2-02 and~~ subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and after that date is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.
2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax imposed by ~~section 57-43.2-02 and~~ subject to a tax at a rate of one percent under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is

~~exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by section 57-43.2-02 and subject to a tax at a rate of two cents per gallon under section 57-43.2-03 from January 1, 2008, through June 30, 2009, and thereafter is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.~~

3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a component part of tangible personal property intended to be sold ultimately at retail is exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax imposed by section 57-43.2-03."

Renumber accordingly

2011 TESTIMONY

HB 1039

EXCERPT FROM 2009-10 JUDICIARY COMMITTEE REPORT REGARDING HOUSE BILL NO. 1039

PRESENTED BY: VONETTE RICHTER, LEGISLATIVE COUNCIL

JANUARY 5, 2011

TECHNICAL CORRECTIONS - RECOMMENDATION

The committee continued the practice of reviewing the Century Code to determine if there are inaccurate or obsolete name and statutory references or superfluous language. The committee recommended House Bill No. 1039 to make technical corrections throughout the Century Code. The following table lists the sections affected and describes the reasons for the change:

4-32-09	The repeal of this section is due to the occurrence of a triggering event that was based on the date on which North Dakota ratified the Interstate Pest Control Compact. North Dakota joined the compact in 1973.
14-15-17	The change relates to the visa requirement for foreign adoptions. The change adds the IH-3 visa--the document that is applicable to a child adopted in one of the countries that is part of the Hague Adoption Convention.
15-12-25	This change removes a reference to Technology Transfer, Incorporated, which was repealed in 1997.
15-52-03	The change is necessary due to a name change from the North Dakota Healthcare Association to the North Dakota Hospital Association.
23-34-02	The change is necessary due to a name change from the

	North Dakota Healthcare Association to the North Dakota Hospital Association.
23-34-02.1	The change is necessary due to a name change from the North Dakota Healthcare Association to the North Dakota Hospital Association.
40-05-21	This section, which relates to the establishment of a Centennial Coordinating Committee for the 1989 Centennial celebration, is repealed.
43-04-40	This change is necessary because the State Board of Health no longer exists, and the State Department of Health does not issue rules governing sanitary regulations of barbershops.
43-53-04	This change reflects a correction in an inaccurate reference to the name of the "Marriage and Family Therapy Licensure Board" as stated in Section 43-53-01 and several other provisions.
50-06-05.1	This change removes a reference to the appointment of members to a board regarding sexually violent predators' determinations, an appointment requirement that was eliminated from this section by 1999 Session Laws Chapter 131.
61-06-13	This change removes obsolete references to documents that are typewritten or mimeographed.
61-07-03	This change removes obsolete references to documents that are typewritten or mimeographed.
65-02-03.1	The change is necessary due to a name change from the North Dakota Healthcare Association to the North Dakota Hospital Association.

10177.0100

Sixty-second
Legislative Assembly
of North Dakota

FIRST DRAFT:
Prepared by the Legislative Council staff for the
Judiciary Committee

September 2010

Introduced by

1 A BILL for an Act to amend and reenact subdivision a of subsection 2 of section 14-15-17,
2 section 15-12-25, subsections 2 and 3 of section 15-52-03, sections 23-34-02, 23-34-02.1,
3 43-04-40, 43-53-04, and 50-06-05.1, subsection 1 of section 61-06-13, subsection 5 of section
4 61-07-03, section 61-11-03, and subdivision a of subsection 2 of section 65-02-03.1 of the
5 North Dakota Century Code, relating to technical corrections and improper, inaccurate,
6 redundant, missing, or obsolete references; and to repeal sections 4-32-09 and 40-05-21 of the
7 North Dakota Century Code, relating to obsolete provisions.

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

9 **SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 14-15-17 of the
10 North Dakota Century Code is amended and reenacted as follows:

11 2. a. To obtain a validation of a foreign decree of adoption, the adoptive parent
12 shall provide to the court a petition for validation of foreign adoption, an
13 admission stamp in the adopted individual's passport which indicates that the
14 individual was admitted to the United States with an IH-3 or IR-3 visa, the
15 individual's foreign birth certificate and English translation, the individual's
16 foreign adoption decree and English translation, and a signed affidavit from
17 the agency which states that the foreign adoption is valid and which states the
18 name by which the individual is to be known. The petition for validation of
19 foreign adoption must be signed and verified by the petitioner, filed with the
20 clerk of the court, and state:

- 21 (1) The date and place of birth of the individual to be adopted, if known;
- 22 (2) The name to be used for the individual whose foreign adoption decree
23 is being petitioned for validation;

- 1 (3) The date the petitioner acquired custody or the date of placement of the
2 individual and the name of the foreign country's placing agency;
- 3 (4) The full name, age, place, and duration of residence of the petitioner;
4 and
- 5 (5) The marital status of the petitioner, including the date and place of
6 marriage, if married.

NOTE: A child adopted in one of the countries that is part of the Hague Adoption Convention is issued a category IH-3 visa. The IR-3 visa will be issued to a child adopted in countries that are not part of the Hague Adoption Convention.

7 **SECTION 2. AMENDMENT.** Section 15-12-25 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **15-12-25. Grants and contributions - Continuing appropriation.** The economic
10 feasibility institute may contract for, accept, and receive grants, gifts, and contributions of
11 money, property, services, or other things of value from individuals, the federal government,
12 limited liability companies, private and public corporations, political subdivisions of the state,
13 and other sources. All revenue received from gifts, grants, and contributions is hereby
14 appropriated for use by the economic feasibility institute in carrying out the provisions of
15 sections 15-12-22 through 15-12-26. ~~Any state funding for the institute may be provided~~
16 ~~through legislative appropriation to technology transfer, incorporated, for that purpose.~~

NOTE: Technology Transfer, Inc., was repealed in 1997.

17 **SECTION 3. AMENDMENT.** Subsections 2 and 3 of section 15-52-03 of the North
18 Dakota Century Code are amended and reenacted as follows:

- 19 2. The council consists of fifteen members:
- 20 a. (1) Two members of the senate, one of whom must be from the majority
21 party and one of whom must be from the minority party, selected by the
22 chairman of the legislative management; and
- 23 (2) Two members of the house of representatives, one of whom must be
24 from the majority party and one of whom must be from the minority
25 party, to be selected by the chairman of the legislative management;
- 26 b. One member selected by each of the following:
- 27 (1) The department of human services;
28 (2) The state board of higher education;

- 1 (3) The state department of health;
- 2 (4) The North Dakota medical association;
- 3 (5) The North Dakota ~~healthcare~~ hospital association;
- 4 (6) The veterans administration hospital in Fargo; and
- 5 (7) The university of North Dakota center for rural health; and
- 6 c. Four members selected by the dean of the university of North Dakota school
- 7 of medicine and health sciences, one from each of the four campuses of the
- 8 school of medicine and health sciences with headquarters in Bismarck, Fargo,
- 9 Grand Forks, and Minot.
- 10 3. The representatives named by the state agencies and boards must be selected to
- 11 serve as members of the advisory council for periods of at least one year, but may
- 12 not serve longer than their term of office on the public agency. The representatives
- 13 from the North Dakota state medical association and the North Dakota ~~healthcare~~
- 14 hospital association shall serve a term of three years or until their successors are
- 15 named and qualified.

NOTE: This section relates to the Medical Center Advisory Council. The Healthcare Association has been renamed as the Hospital Association.

16 **SECTION 4. AMENDMENT.** Section 23-34-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **23-34-02. Peer review records - Confidentiality.**

- 19 1. Peer review records are confidential and may be used by a peer review
- 20 organization and the organization members only for conducting a professional peer
- 21 review.
- 22 2. A health care organization may release reports, data compilations, analyses, and
- 23 summaries, which are prepared by a peer review organization and which identify or
- 24 analyze trends in medical errors to the state department of health, the North
- 25 Dakota ~~healthcare~~ hospital association, and the North Dakota hospital foundation.
- 26 3. The state department of health, the North Dakota ~~healthcare~~ hospital association,
- 27 and the North Dakota hospital foundation may release any information provided
- 28 under subsection 2 to the public.
- 29 4. This section does not prohibit access of the state department of health to peer
- 30 review records to determine compliance with requirements of federal or state law

1 for the survey and certification of a health care facility or for trauma center
2 designation and as authorized under any rules issued under section 23-01.2-01 or
3 23-01-11 to enable the state to be in compliance with any federal laws to qualify for
4 any federal funds related to medical facilities or agencies licensed by the state
5 department of health.

NOTE: See Note under Section 3.

6 **SECTION 5. AMENDMENT.** Section 23-34-02.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23-34-02.1. Peer review organization reports - Admissibility.** Any report, data, data
9 compilation, analyses, or summary that is generated by a peer review organization and made
10 available to the state department of health or the public by the state department of health, the
11 North Dakota ~~healthcare~~ hospital association, or the North Dakota hospital foundation, may not
12 be introduced into evidence, for any purpose, in any civil or administrative proceeding.

NOTE: See Note under Section 3.

13 **SECTION 6. AMENDMENT.** Section 43-04-40 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **43-04-40. Refusal and revocation of certificate.** The board either may refuse to
16 issue or renew a certificate of registration to practice barbering or may suspend or revoke the
17 same for any one, or a combination, of the following causes:

- 18 1. Conviction of an offense, shown by a certified copy of the record of conviction,
19 determined by the board to have a direct bearing upon a person's ability to serve
20 the public as a barber, or the board determines, following conviction of any offense,
21 that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
- 22 2. Gross malpractice or gross incompetency.
- 23 3. Continued practice by a person knowingly having an infectious or contagious
24 disease.
- 25 4. Habitual drunkenness or habitual addiction to the use of morphine, cocaine, or
26 other habit-forming drug.
- 27 5. Advertising by means of knowingly false or deceptive statements.
- 28 6. Immoral and unprofessional conduct.
- 29 7. When satisfied that any such person has violated any provision of this chapter.

- 1 8. Repeated violations of the sanitary rules ~~and regulations of the state board of~~
2 ~~health and board of barber examiners~~ governing the sanitary regulations of
3 barbershops and barber schools.

NOTE: The State Board of Health no longer exists and the State Department of Health does not issue rules governing sanitary regulations of barbershops. The Board of Barber Examiners is defined in this chapter as "board".

4 **SECTION 7. AMENDMENT.** Section 43-53-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-53-04. Marriage and family ~~therapist~~ therapy licensure board.**

- 7 1. The North Dakota marriage and family ~~therapist~~ therapy licensure board consists
8 of five members. The governor shall appoint the board members to serve terms of
9 four years, except for those first appointed one member must continue in office for
10 two years, two for three years, and two, including the chairman, for four years.
- 11 2. The governor shall appoint members of the board from among individuals who
12 meet the following qualifications:
- 13 a. At least three members must be licensed practicing marriage and family
14 therapists; and each must have been for at least five years immediately
15 preceding appointment actively engaged as marriage and family therapists in
16 rendering professional services in marriage and family therapy; in the
17 education and training of master's, doctoral, or postdoctoral students of
18 marriage and family therapy; or in marriage and family therapy research. A
19 member under this subdivision must have spent the majority of the time
20 devoted by that member to such activity during the two years preceding
21 appointment residing in this state.
- 22 b. At least one member must be a representative of the general public and may
23 not have any direct affiliation with the practice of marriage and family therapy
24 or another mental health profession.
- 25 c. The initial appointees, with the exception of any representative of the general
26 public, are deemed to be and become licensed practicing marriage and family
27 therapists immediately upon appointment and qualification as members of the
28 board.

- 1 3. The governor shall nominate a new member to fill a vacancy on the board within
2 thirty days of the vacancy. A member chosen to fill a board vacancy must be
3 appointed for the unexpired term of the board member whom that member is
4 succeeding. Upon the expiration of a member's term of office, a board member
5 shall continue to serve until a successor is appointed. An individual may not be
6 appointed more than once to fill an unexpired term or appointed to more than two
7 consecutive full terms. A member may not serve as chairman for more than four
8 years. The appointment of any member of the board automatically terminates
9 thirty days after the date the member is no longer a resident of this state.
- 10 4. The governor may remove any member of the board or the chairman from the
11 position as chairman for neglect of duty or malfeasance or conviction of a felony or
12 crime of moral turpitude while in office, but for no other reason. A member may not
13 be removed until after a hearing on the charges and at least thirty days' prior
14 written notice to such accused member of the charges and of the date fixed for
15 such hearing.
- 16 5. A board member may not participate in any matter before the board in which that
17 member has a pecuniary interest, personal bias, or other similar conflict of interest.
18 A board member shall serve without compensation but is entitled to be reimbursed
19 for the member's actual and necessary expenses incurred in the performance of
20 official board business.

NOTE: The correct name of the board is "Marriage and Family Therapy Licensure Board" as stated in Section 43-53-01 and several other provisions.

21 **SECTION 8. AMENDMENT.** Section 50-06-05.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **50-06-05.1. Powers and duties of the department.** The department has the following
24 powers and duties to be administered by the department through its state office or through
25 regional human service centers or otherwise as directed by it:

- 26 1. To act as the official agency of the state in any social welfare or human service
27 activity initiated by the federal government not otherwise by law made the
28 responsibility of another state agency.
- 29 2. To administer, allocate, and distribute any state and federal funds that may be
30 made available for the purpose of providing financial assistance, care, and services

- 1 to eligible persons and families who do not have sufficient income or other
- 2 resources to provide a reasonable subsistence compatible with decency and
- 3 health.
- 4 3. To provide preventive, rehabilitative, and other human services to help families and
- 5 individuals to retain or attain capability for independence or self-care.
- 6 4. To do needed research and study in the causes of social problems and to define
- 7 appropriate and effective techniques in providing preventive and rehabilitative
- 8 services.
- 9 5. To provide for the study, and to promote the well-being, of deprived, unruly, and
- 10 delinquent children.
- 11 6. To provide for the placing and supervision of children in need of substitute parental
- 12 care, subject to the control of any court having jurisdiction and control of any such
- 13 child.
- 14 7. To recommend appropriate social legislation to the legislative assembly.
- 15 8. To direct and supervise county social service board activities as may be financed
- 16 in whole or in part by or with funds allocated or distributed by the department.
- 17 9. To inform the public as to social conditions and ways of meeting social needs.
- 18 10. To secure, hold, and administer for the purpose for which it is established any
- 19 property and any funds donated to it either by will or deed, or otherwise, or through
- 20 court order or otherwise available to the department, and to administer those funds
- 21 or property in accordance with the instructions in the instrument creating them or in
- 22 accordance with the instructions in the court order or otherwise.
- 23 11. To formulate standards and make appropriate inspections and investigations in
- 24 accordance with such standards in connection with all licensing activities delegated
- 25 by law to the department including child care facilities, nonmedical adult care
- 26 facilities and maternity homes, and persons or organizations receiving and placing
- 27 children, and to require those facilities, persons, and organizations to submit
- 28 reports and information as the department may determine necessary.
- 29 12. To permit the making of any surveys of human service needs and activities if
- 30 determined to be necessary.

- 1 13. To issue subpoenas, administer oaths, and compel attendance of witnesses and
2 production of documents or papers whenever necessary in making the
3 investigations provided for herein or in the discharge of its other duties. A
4 subpoena may not be issued to compel the production of documents or papers
5 relating to any private child-caring or child-placing agency or maternity hospital or
6 to compel the attendance as a witness of any officer or employee of those facilities
7 except upon the order of a judge of the district court of the judicial district in which
8 the facilities are located.
- 9 14. To provide insofar as staff resources permit appropriate human services, including
10 social histories, social or social-psychological evaluations, individual, group, family,
11 and marital counseling, and related consultation, when referred by self, parent,
12 guardian, county social service board, court, physician, or other individual or
13 agency, and when application is made by self (if an adult or emancipated youth),
14 parent, guardian, or agency having custody; also, on the same basis, to provide
15 human services to children and adults in relation to their placement in or return
16 from the developmental center at westwood park, Grafton, state hospital, or North
17 Dakota youth correctional center.
- 18 15. To provide insofar as staff resources permit social services, including
19 social-psychological evaluations, predisposition reports, treatment, probation, and
20 aftercare services when requested by the judge of a juvenile court, all reports to be
21 kept confidential for the use of the judge except as may be disclosed by the judge.
- 22 16. To provide insofar as staff resources permit social services, including
23 social-psychological evaluations, predisposition reports, treatment, and probation
24 and parole services, when requested by the judge in a criminal case, all reports to
25 be kept confidential for use by the judge except as may be disclosed by the judge.
- 26 17. To act as the official agency of the state in the administration of the food stamp
27 program and to direct and supervise county administration of that program.
28 Provided, however, that the department with the consent of the budget section of
29 the legislative management may terminate the program if the rate of federal
30 financial participation in administrative costs provided under Public Law 93-347 is

- 1 decreased or limited, or if the state or counties become financially responsible for
2 all or a portion of the coupon bonus payments under the Food Stamp Act.
- 3 18. To administer, allocate, and distribute any funds made available for the making of
4 direct cash assistance payments, housing assistance payments, and rental
5 subsidies under any rental assistance programs initiated by the federal government
6 not otherwise by law made the responsibility of another state agency possessing
7 statewide jurisdiction.
- 8 19. To act as the official agency of the state in the administration of the energy
9 assistance program; to direct and supervise county administration of that program;
10 and to take such actions, give such directions, and adopt such rules, subject to
11 review in the courts of this state, as may be necessary or desirable to carry out this
12 subsection. For purposes of the administration of the energy assistance program,
13 funds are obligated at the earlier of the time a written commitment is made to pay a
14 vendor or contractor for services or supplies delivered or to be delivered, or at the
15 time payment is made to a vendor or contractor for services or supplies delivered
16 or to be delivered. The provisions of this subsection concerning obligation of funds
17 apply to payments and commitments made on or after July 1, 1991. The
18 department with the consent of the budget section of the legislative management
19 may terminate the program if the rate of federal financial participation in
20 administrative costs is decreased or limited to less than fifty percent of total
21 administrative costs, or if the state or counties become financially responsible for
22 all or a portion of the cost of energy assistance program benefits.
- 23 20. To administer, allocate, and distribute any funds made available for the payment of
24 the cost of the special needs of any child under the age of twenty-one years, who
25 is living in an adoptive home and would probably go without adoption except for
26 acceptance by the adopted family, and whose adopted family does not have the
27 economic ability and resources, as established by the department, to take care of
28 the special needs of the child, including legal fees, maintenance costs, medical and
29 dental expenses, travel costs, and other costs incidental to the care of the child.
- 30 21. To exercise and carry out any other powers and duties granted the department
31 under state law.

- 1 22. To coordinate services for pregnant women.
- 2 23. To administer, allocate, and distribute any funds made available for the payment of
- 3 transitional living services, to develop standards and conduct needs assessments
- 4 regarding transitional living services, to develop or approve and to evaluate
- 5 demonstration projects offering transitional living programs, to approve transitional
- 6 living facilities for the purpose of providing foster care, and to apply for and
- 7 administer federal and other funds that may be made available to undertake any of
- 8 the activities described in this subsection. For purposes of this subsection:
- 9 a. "Transitional living facility" means a specific site, identified by a licensed
- 10 child-placing agency and approved by the department, for the provision of
- 11 transitional living services.
- 12 b. "Transitional living program" means a program that provides transitional living
- 13 services and may include an identified program operations location approved
- 14 by the department.
- 15 c. "Transitional living services" may include housing, supervision, and supportive
- 16 services intended and designed to assist persons who have received foster
- 17 care services and who have reached age seventeen, but who have not
- 18 reached age twenty-one, to achieve independence and self-sufficiency.
- 19 24. With the approval of the governor, to lease or transfer use of any part of the
- 20 developmental center facilities or properties, located in section thirteen, township
- 21 one hundred fifty-seven north, range fifty-three west, located in Walsh County,
- 22 North Dakota, to the federal government, or any public or private agency,
- 23 organization, or business enterprise, or any worthy undertaking, under the
- 24 following provisions:
- 25 a. The department determines that the facility or property is not needed to serve
- 26 any present or reasonably foreseeable need of the developmental center.
- 27 b. The transaction is exempt from the provisions of section 50-06-06.6.
- 28 c. The term of any lease may not exceed ninety-nine years.
- 29 d. All required legal documents, papers, and instruments in any transaction must
- 30 be reviewed and approved as to form and legality by the attorney general.

- 1 e. Any funds realized by any transaction must be deposited in the state's general
2 fund.
- 3 25. To act as a decedent's successor for purposes of collecting amounts due to the
4 department. Any affidavit submitted by the department under section 30.1-23-01
5 must conform to the requirements of that section except that the affidavit may state
6 that twenty days have elapsed since the death of the decedent.
- 7 26. To provide those services necessary for the department and for county social
8 service boards to comply with the provisions of any law, rule, order, or regulation of
9 the United States or any federal agency or authority requiring civil service or merit
10 standards or classifications as a condition for providing funds administered by the
11 department.
- 12 27. ~~To provide for the qualifications for and the membership of a qualified board as~~
13 ~~required by section 12.1-32-15.~~
- 14 ~~28.~~ For purposes of administration of programs, and subject to legislative
15 appropriation, funds are obligated at the time a written commitment is made to pay
16 a vendor or contractor for services or supplies either delivered or to be delivered.
17 This subsection applies to payments and commitments made on or after
18 January 1, 1997.
- 19 ~~29.~~ 28. Notwithstanding section 50-01.2-00.1, to determine eligibility for medical
20 assistance and children's health insurance program benefits when the department
21 receives a joint application for these benefits.

NOTE: Department of Human Services appointment of members of a qualified board to determine if individuals are sexually violent predators was eliminated from Section 12.1-32-15 by 1999 Session Laws Chapter 131.

22 **SECTION 9. AMENDMENT.** Subsection 1 of section 61-06-13 of the North Dakota
23 Century Code is amended and reenacted as follows:

- 24 1. At least fifteen days before an election in an irrigation district, the secretary shall
25 prepare and have ~~typewritten, mimeographed, or printed~~ an official ballot
26 containing the names of all candidates which have been filed with the secretary.
27 The ballot must:
- 28 a. Be headed "Official Ballot";
29 b. Contain all names thus filed;

- 1 c. Show the name of the district;
- 2 d. State the number of individuals to be voted for;
- 3 e. Have blank spaces below for writing in other names; and
- 4 f. State any question or resolution submitted to the electors by the board of
- 5 directors.

6 **SECTION 10. AMENDMENT.** Subsection 5 of section 61-07-03 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 5. Establish bylaws and rules for distribution to and for the information of electors of
- 9 the district and water users, and fix charges or rentals to be paid by water users.
- 10 The bylaws and rules shall be printed, ~~typewritten, or mimeographed~~ in convenient
- 11 form.

12 **SECTION 11. AMENDMENT.** Section 61-11-03 of the North Dakota Century Code is
13 amended and reenacted as follows:

- 14 **61-11-03. Ballots to be provided - Form.** The board shall provide printed;
- 15 ~~typewritten, or mimeographed~~ ballots for an election held pursuant to the provisions of this
- 16 chapter. Such ballots shall be substantially in the following form:

17 The irrigation district of _____ County, North Dakota, shall be dissolved and its
18 property sold:

19 Yes

20 No

21 The board shall cause such ballots to be prepared at least fifteen days before the election and
22 shall place the ballots in the hands of the election officers of the district prior to the opening of
23 the polls on the day of such election.

24 **SECTION 12. AMENDMENT.** Subdivision a of subsection 2 of section 65-02-03.1 of
25 the North Dakota Century Code is amended and reenacted as follows:

- 26 a. A departing member representing an employer must be replaced by a
- 27 member representing an employer, most of whose employees are in a
- 28 different rate classification than those of the employer represented by the
- 29 departing member. The governor shall appoint the member for an employer
- 30 representative from a list of three potential candidates submitted by a
- 31 coordinating committee appointed by the governor, composed of

1 representatives from the associated general contractors of North Dakota, the
2 North Dakota petroleum council, the greater North Dakota chamber of
3 commerce, the North Dakota motor carriers association, the North Dakota
4 ~~healthcare~~ hospital association, the national federation of independent
5 business, the lignite energy council, and other statewide business interests.

NOTE: See Note under Section 3.

6 **SECTION 13. REPEAL.** Sections 4-32-09 and 40-05-21 of the North Dakota Century
7 Code are repealed.

NOTE: Section 4-32-09 provided an effective date of January 1, 1966, or later, based on the time other states ratified the Interstate Pest Control Compact. North Dakota joined the compact in 1973.

Section 40-05-21 provided for city establishment of Centennial Coordinating Committees for the 1989 Centennial celebration.