

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 203

H. B. No. 945
(Committee on Delayed Bills)

STATE HOSPITAL TRANSFER AND INSTITUTIONAL MANAGEMENT

AN ACT

Transferring the administration and control of the state hospital to the mental health and retardation division and to create and enact section 25-01-02.1, to amend and reenact sections 6-09-07, 15-52-03, 25-01-01, 25-01-02, 25-01-03, 25-01-04, 25-01-05, 25-01-06, 25-01-07, 25-01-08, 25-01-10, 25-01-11, 25-01-12, 25-01-15, 25-02-04, 25-02-09, 25-03-15, subsection 1 of section 25-03-16, subsection 2 of section 25-03-20, sections 25-03-25, 25-03-26, 25-09-02, subsection 2 of section 25-09-03, sections 25-09-04, 25-09-05, 25-09-06, 25-09-07, 25-09-08, 25-09-10, 25-09-11, 25-10-01, 25-10-02, 25-10-03, 26-24-08, 32-36-22, 32-36-33, 44-04-08, 48-02-01, 48-09-04, 50-14-04, 54-23-01, 54-23-22, 54-27-11, 54-27-12, and 54-27-13 of the North Dakota Century Code, relating to the administration and control of certain of the state's charitable institutions and other powers and duties of the board of administration, and to repeal chapters 12-57 and 23-08, sections 25-01-13, 25-05-04, 25-05-05, 54-23-16, and 54-23-21 of the North Dakota Century Code, relating to the powers and duties of the board of administration.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Transfer of Institutions Under the Board of Administration.) The administration and control of the state hospital at Jamestown is hereby transferred from the board of administration to the mental health and retardation division of the state department of health.

§ 2. Definitions.) In this chapter unless the context or subject matter otherwise requires, "supervising department" shall mean that department, division, board, or office responsible for and exercising supervision, control, and administration over the state hospital, as provided by law.

§ 3. Heads of Institutions Responsible to Supervising Department.) For the exercise of the duties of general supervision over the several institutions subject to the control of the supervising department, the heads of the institutions shall be responsible to the supervising department.

§ 4. Adopt Uniform System of Accounting.) The supervising department shall devise and install a system of accounting and auditing of all moneys appropriated, received, and expended. Such system shall be adapted to the institutions under its control and shall be made as nearly uniform as the necessities of the case may permit and in accordance with requirements of the department of accounts and purchases.

§ 5. Books and Accounts Kept by Supervising Department.) The supervising department shall keep at its office a proper and complete system of books and accounts with each institution under its control which shall show every expenditure authorized and made thereat. The book shall exhibit an account of each extraordinary or special appropriation made by the legislative assembly, with each item of expenditure thereof.

§ 6. Blanks and Forms Furnished by Supervising Department.) The supervising department shall formulate and furnish to each institution under its control, proper blanks and forms for all statements and accounts necessary to furnish the information required of the institution.

§ 7. Supervising Department to Have Access to Institutions and to Books and Records of Institutions.) The supervising department shall have access to all the state institutions under its management and control, and to all books, accounts, vouchers, supplies, and equipment of each of the institutions so that the supervising department may familiarize itself with the conditions, needs and requirements of the institutions. All books, documents, and records relating to the concerns and business of such institutions except personal records of patients at all times shall be open to the examination of any citizen of this state. Personal records of patients shall be made available upon court order or in accordance with rules and regulations established by the supervising department.

§ 8. Supervising Department May Make Rules and Regulations for Procedure and Administration of Institutions — Require Performance of Certain Duties.) The supervising department shall make all necessary rules and regulations for its own procedure and for the general administration, supervision, and management of the institutions under its control and management.

§ 9. Inspection of Institutions.) The supervising department or its duly authorized representative or representatives shall visit and inspect the institutions under its administration and control concerning administration, treatment, or finances of such institutions at any time, but shall make such inspection at least twice each year. If deemed necessary, the supervising

department shall examine under oath the officers and attendants, guards, and other employees, and make such inquiries as will determine their fitness for their respective duties.

§ 10. Investigation of Institutions—Witnesses—Fees—Not Excused from Testifying.) The supervising department, in aid of the investigation of any institution under its control, may summon and compel the attendance of witnesses and examine the same under oath, which any member thereof shall have the power to administer. The supervising department shall have access to all books, accounts, papers, and property material to such investigation, and may order the production of any other books or papers material thereto. Witnesses other than those in the employ of the state shall be entitled to the same fees as are allowed in civil cases in the district court. The claim that any testimony or evidence sought to be elicited or produced on such examination may tend to incriminate the person giving or producing it, or expose him to public ignominy, shall not excuse him from testifying or producing evidence, documentary or otherwise, but no person shall be prosecuted or subjected to any penalty or forfeiture for and on account of any matter or thing concerning which he may testify or produce such evidence. The witness shall not be exempt from prosecution and punishment for perjury committed in so testifying.

§ 11. Testimony Taken at Investigation Transcribed and Filed.) The supervising department shall cause the testimony taken at any investigation to be transcribed and filed in its office within ten days after the same is taken, or as soon thereafter as practicable. When so filed, the evidence shall be open for inspection of any person.

§ 12. Failure to Testify—Contempt.) Any person who fails or refuses to obey the orders of the supervising department issued in an investigation of any institution under its control, or to give or produce evidence when required, shall be reported by the supervising department to the district court or any judge thereof, and shall be dealt with by the court or judge as for contempt of court.

§ 13. Report to Governor Abuses and Wrongs Existing in Institutions.) The supervising department shall investigate and report to the governor any abuses or wrongs alleged to exist in the institutions under its control and management.

§ 14. Supervising Department to Keep Record of Persons in Institutions.) The supervising department shall keep in its office a record showing:

1. The residence, sex, age, nativity, occupation, religion, civil condition, and date of entrance or commitment of

- every person, patient, or inmate in the institutions under its control and administration;
2. The date of discharge of every such person from the institutions, and whether such discharge was final;
 3. The condition of the person at the time he left the institution;
 4. If a person is transferred from one institution to another, to what institution transferred; and
 5. If a person, patient, or inmate of an institution shall die, the date and cause of death.

This information shall be furnished to the supervising department by the institutions under its control. Such other obtainable facts shall be furnished as the supervising department, from time to time, may require. No one shall have access to the records, except as authorized by the supervising department, or on the order of a court of record.

§ 15. Entrance and Discharge Record of Persons at Institutions.) The managing officer of each institution, within thirty days after the commitment or entrance of a person, patient, or inmate to the institution, shall cause a true copy of his entrance record to be made and forwarded to the office of the supervising department. When a patient or inmate leaves, or is discharged, transferred, or dies in any institution, the superintendent or person in charge, within ten days thereafter, shall send such information to the supervising department having control of such institution. All such information shall be furnished on forms which the supervising department may prescribe.

§ 16. Supervising Department to Provide Protection Against Fire—Means of Escape.) The supervising department under advisement of the state fire marshal shall compel the superintendent of each of the institutions under its control to:

1. Provide at each institution adequate and ready means of protection against fire;
2. Construct proper means of escape for the patients and attendants where the same are not already constructed;
3. Establish and enforce rigid rules and regulations by which the danger of fire shall be minimized; and
4. Prevent, as far as possible, injury to the patients or pupils and loss or destruction, by any cause, of the property of the state.

§ 17. Inventory of Stocks and Supplies.) The supervising department, annually on June thirtieth of each year, shall require the superintendent of each institution under its charge to make a complete, minute, and accurate inventory of the stock and supplies on hand, and the amount and value thereof. The inventory shall be under the following heads:

1. Livestock;
2. Produce of the farm on hand;
3. Automobiles, trucks, and other vehicles;
4. Agricultural implements;
5. Machinery;
6. Mechanical fixtures;
7. Real estate;
8. Beds and bedding in patients' department;
9. Other furniture in patients' department;
10. Personal property of the state in superintendent's department;
11. Ready-made clothing;
12. Dry goods;
13. Provisions and groceries;
14. Drugs and medicines;
15. Fuel;
16. Library property; and
17. All other property under such heads as the supervising department may deem proper.

A like inventory shall be submitted by the proper superintendent of each institution to the supervising department when requested by the supervising department.

§ 18. Moneys Remitted to State Treasurer.) All moneys belonging to the state, derived from any source at any of the institutions under the control of the supervising department shall be accounted for and remitted to the state treasurer not later than the tenth day of each month. The state treasurer shall maintain a special operating fund within the state treasury for each remitting institution. All rents, interest, or income from land, money, or property donated or granted by the United States and allocated to specific charitable institutions under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each institution and expended in accordance with the provisions of section 159 of the Constitution. The state treasurer shall make periodic transfers upon order of the director of the department of accounts and purchases from each institutional general fund appropriation to the appropriate institu-

tional special operating fund whenever its balance falls so low as to require supplementation. All funds for necessary expenditures of such institutions shall be drawn from the special operating fund in the state treasury as provided by this chapter.

§ 19. Property of Institution Is Property of State.) All public property of every kind and all public money in charge of the superintendent of any institution under the control of the supervising department, or that shall come to his hands or under his control on account of the institution under his charge, or from the business thereof, is the property of the state and at all times shall be kept separate and apart from the property of such superintendent.

§ 20. Funds Belonging to Institutions or Patients To Be Paid to Superintendent.) Each officer and employee of all state institutions under the management and control of the supervising department shall pay over to the superintendent of the institution without delay any funds which may come into his hands belonging to any patient of the institution and of which the superintendent is the legal custodian. He shall pay over to the proper officer of the institution without delay any funds which may come into his hands belonging to the institution.

§ 21. Care and Custody of Funds Belonging to Patients of State Institutions.) The superintendent of any state institution under the management and control of the supervising department, when the care and custody of any funds belonging to patients thereof are by law devolved upon him, shall keep accurate accounts of such funds in books provided for that purpose, and shall pay out such funds under such rules and regulations as may be prescribed by law or by the supervising department, taking proper vouchers therefor in all cases from the patient or responsible representative of such patient. Each superintendent shall give a bond in such sum as may be required by law, or as may be prescribed by the supervising department, to be subject to the approval of the state examiner, conditioned for the faithful performance of his duties and a due accounting for the funds entrusted to his care.

§ 22. Property of Patients To Be Returned.) The money and effects, except clothing, in possession of each patient when committed to any institution under control of the supervising department, shall be preserved by the superintendent of such institution and returned to such patient when discharged.

§ 23. Estimate of Expenditures of Institutions Presented to Supervising Department and Department of Accounts and Purchases—Revision.) At the times and in the manner pro-

vided by the department of accounts and purchases, the superintendent shall cause to be prepared triplicate estimates of all expenditures required for the institution. Two of the said triplicate estimates shall be sent to the supervising department and the third shall be kept by the superintendent. The supervising department may revise the estimates for supplies or other expenditures, and shall certify that it has carefully examined the same and that the articles contained in such estimates as approved, or revised by it, are, to its best knowledge and belief, actually required for the use of the institution. An approved copy containing any revisions of the estimate by the supervising department shall be forwarded by the supervising department to the department of accounts and purchases which shall contract for the required purchases.

§ 24. Department of Accounts and Purchases to Advertise for Bids for Supplies—State Firm Given Preference.) The department of accounts and purchases, after estimates of all expenditures have been certified and revised by the supervising department as provided in section 23, shall advertise for bids for such supplies and shall require samples in every possible case and in every case shall require the supplies purchased to be equal in value to the sample submitted by the successful bidder. Where samples are submitted and bids are the same, the firm in the state so bidding shall have preference.

§ 25. Contract for Supplies Sent to Institution.) When the estimates for supplies for the institutions under the control of the supervising department have been certified and revised by the supervising department and bids for the supplies enumerated and described therein have been received and contracts for furnishing the supplies have been let by the department of accounts and purchases, a copy of such revised estimates and the contract for furnishing the supplies enumerated and described in such revised estimates, duly certified, shall be sent to the institution and another copy shall be sent to the supervising department having control of such institution.

§ 26. Department of Accounts and Purchases May Purchase Supplies on Open Market.) Whenever in the judgment of the department of accounts and purchases the interests of the state can best be served thereby, it may purchase in the open market such supplies as are necessary.

§ 27. Bill Presented to Institution — Form — Thirty Days Allowed to Pay for Supplies.) The supplies purchased for the institutions under the control of the supervising department shall be purchased so as to permit at least thirty days' time to pay therefor. The officer of the institution designated by

the supervising department shall require itemized bills to be rendered by the person who furnishes supplies, in duplicate, for all purchases whether made upon contract or otherwise, which shall be in the form prescribed by the department of accounts and purchases and certified as required for other claims against the state.

§ 28. Department of Accounts and Purchases to Make Rules for Purchase of Supplies—Jobbers to File Address with Department of Accounts and Purchases or Institutions.) The department of accounts and purchases shall make specific rules and regulations respecting the manner in which supplies shall be purchased and contract made for such institutions so as to insure the competition and publicity necessary to secure the economical management of each institution. Jobbers or others desirous of selling supplies to an institution, by filing with the superintendent of such institution, or with the department of accounts and purchases, a memorandum showing their address and business, shall be afforded an opportunity to compete for the furnishing of the supplies under such limitations and rules as the department of accounts and purchases may prescribe.

§ 29. Supplies of Institutions — Duty of Officers.) The officer of each institution who is designated by the supervising department to have charge of and to be accountable for all the supplies and stores of the institution shall be charged therewith at their invoice value, and shall:

1. Direct all purchases of such institution as may be ordered by the department of accounts and purchases under the estimates as provided in section 23, in conjunction with the superintendent of each institution;
2. Issue all the supplies upon requisition approved by the superintendent or other officer designated by the supervising department. The requisition shall be his voucher therefor;
3. Examine and register all goods delivered, according to their amount and quality, and if found to correspond with the samples and in good order and correct in charge, he shall certify the bills; and
4. Make a consolidated report of all purchases to the department of accounts and purchases and the supervising department and all other transactions of such institution to such supervising department at the close of the annual period.

§ 30. Shortage in Supplies—Liability of Officer in Charge.) If it shall appear that there is a shortage in the supplies of any institution, the supervising department having control of

such institution shall appoint a committee to investigate the cause thereof. If it shall appear that the shortage resulted from unavoidable loss, without the negligence of the officer designated to have charge of the supplies, such officer shall be credited therewith, otherwise he shall be charged with the amount thereof and shall be required to pay the same into the state treasury within sixty days after the determination of the loss. If default is made in such payment, the officer shall forfeit his office and suit shall be instituted upon his official bond to recover the same.

§ 31. Monthly Statement of Institutional Expenditures and Payroll to Supervising Department.) An officer designated by the supervising department for each institution under its control shall prepare two monthly statements showing first the payroll, and second the expenditures of every kind during the preceding month. Such statement shall be signed by the officer, approved by the superintendent of the institution, and filed with the supervising department on a date fixed by the supervising department for the examination and audit of such department. Attached thereto shall be the affidavit of the officer stating that the services therein specified were rendered and that the goods and other articles therein specified were purchased and received by him or under his direction at the institution and were purchased at a fair cash market price on credit not exceeding thirty days, that neither he nor any person in his behalf had any pecuniary or other interest in the purchases made, that he did not receive any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deductions or in any other manner whatever, and that the articles contained in such bill conformed in all respects to the invoiced goods received and ordered by him or the samples from which the goods were purchased, both in quality and quantity. Such monthly statement shall be accompanied by the original invoices of all institutional purchases and a complete itemized statement of each institutional expenditure. If any invoice or statement, or any part thereof, is found objectionable, the supervising department having control of such institution shall endorse its disapproval thereon with its reasons therefor, and shall return it to the management of the institution, and when the matter disapproved of is corrected, the statement and invoice shall be returned to the supervising department.

§ 32. Audit of Monthly Statements of Expenditures—Abstracts of Statement—Payment.) When the monthly statement of expenditures of an institution have been audited by the supervising department having control of such institution and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the

amount due each claimant, and the institution and the fund thereof on account of which the payment shall be made. He shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the division or department. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the auditing board, shall issue a warrant or warrants for the amount or amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in conformity with such rules as the supervising department may prescribe.

§ 33. Examination of Monthly Payroll—Payment.) When the monthly statement of the payroll of an institution has been audited by the supervising department and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the amount due each claimant, and the institution and the fund from which the payment shall be made. The supervising department shall deliver one copy thereof to the department of accounts and purchases and the other copy shall be retained in the office of the supervising department. The department of accounts and purchases, upon receipt of the certified abstract, after approval by the state auditing board, shall issue a warrant or warrants for the amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in accordance with such rules as the supervising department may prescribe.

§ 34. Use of Patient Labor in Erection or Repair of Buildings of Institutions.) All work for the erection, repair, or improvement of buildings, grounds, or properties under the control of the supervising department shall be let by contract, except that the work of patients in such institutions may be utilized if approved by the superintendent of such institution as having possible benefits to the patient and not detrimental to his health or treatment and where the use of such labor will not substantially depart from the requirements of section 48-02 of the title Public Buildings of the North Dakota Century Code.

§ 35. Supervising Department, Employees, or Employees of Institutions Not To Be Interested in Contracts.) No member of the supervising department, nor any employee of any of the same, nor any employee of the institutions under control of the supervising department, shall be interested, directly or indirectly, in any contract, purchase, or sale for or on account of any of the institutions under control of such supervising department. Any violation of the provisions of this section is sufficient cause for removal from office.

§ 36. Members of Supervising Department and Officers and Employees of Institutions Prohibited from Accepting Gifts—Penalty.) No member of the supervising department, nor any officer, agent, or employee thereof, and no superintendent, officer, manager, or employee of any of the institutions under the charge and control of the supervising department, directly or indirectly, for himself or any other person, shall receive or accept any gift or gratuity from any person, firm, or corporation dealing in goods, merchandise, or supplies which may be used in any of the institutions, or from any employee, servant, or agent of such person, firm, or corporation. Any person violating the provisions of this section is guilty of a misdemeanor. Such violation shall be cause for his removal from office.

§ 37. Employees — Penalty for Influencing Appointment.) Any member of the supervising department and any officer thereof who exerts any improper influence, by solicitation or otherwise, on the superintendent of any institution under the control of the supervising department, in the selection of any employee or assistant, is guilty of a misdemeanor.

§ 38. Political Influence or Contribution by Members of Supervising Department or Employees of Institution Prohibited.) Any member or officer of the supervising department, or any officer or employee of an institution subject to control of the supervising department, who, by solicitation or otherwise, exerts his influence, directly or indirectly, to induce other officers or employees of the state to adopt his political views shall be removed from his office or position by the proper authorities.

§ 39. Child Welfare—Powers and Duties of Supervising Department.) In addition to the other duties prescribed by law, the supervising department shall have the following duties and powers:

1. To accept the guardianship of the persons or children who may be committed to its care by courts of competent jurisdiction as neglected, delinquent, dependent, or defective;
2. To make such provisions for children committed to its care as are within the resources of the supervising department, and as will afford them proper care and protection;
3. To take the initiative in protecting and conserving the rights and interests of neglected, dependent, delinquent, illegitimate, and defective children; and

4. To act as parole officers of juveniles upon the request of courts of the state to which dependent, neglected, handicapped, or delinquent children may be committed.

§ 40. Amendment.) Section 6-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-07. State Funds Must Be Deposited in Bank of North Dakota.) All state funds, and funds of all state penal, educational, and industrial institutions shall be deposited in the Bank of North Dakota by the persons having control of such funds or shall be deposited in accordance with constitutional and statutory provisions.

§ 41. Amendment.) Section 15-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-03. Medical Center Advisory Council — Members, Terms, Meetings.) In order to assure the proper coordination and integration of the North Dakota state medical center with all other health and welfare activities of the state, a permanent medical center advisory council is hereby established to advise, consult, and make recommendations to the university administration, and to the several agencies represented on said medical center advisory council concerning the program of said North Dakota state medical center, the adaptation thereof to the needs of the state and to the requirements and facilities of the several agencies involved, and the use of said North Dakota state medical center and its facilities by the various institutions and agencies of the state and its political subdivisions. The medical center advisory council shall consist of seven members, two to be named by the governor, and one to be named by and from the membership of each of the following: The public welfare board of North Dakota, the state board of higher education, or such boards or departments as shall succeed them or any of them; the state health officer of the North Dakota state department of health; one shall be selected by the North Dakota state medical association; one shall be selected by the North Dakota hospital association.

The representatives named by the state agencies and boards above referred to shall be selected to serve as members of the medical center advisory council for periods of, at least, one year, but in no instance may they serve longer than their term of office on the public agency.

The representatives from the North Dakota state medical association and the North Dakota hospital association shall serve a term of three years or until their successors are named and qualified.

The three members appointed by the governor shall serve for three year terms. Of the persons appointed by the governor one shall be a representative of agriculture, one a representative of labor and one a representative of the public at large. The medical center advisory council shall name its own chairman and the dean of the University of North Dakota medical school shall serve as executive secretary thereof. The medical center advisory council shall meet in January and June of each year, and, from time to time, on its own motion or upon request of the university administration, to consider plans and program of action for the North Dakota state medical center, and make its recommendations thereon to the several agencies of the state and its political subdivisions involved and to the legislature.

§ 42. **Amendment.)** Section 25-01-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted by creating and enacting a new subsection to read as follows:

“Supervising officer” shall mean the state health officer of the state department of health, state mental health and retardation division of the state department of health, or the board of administration, as the case may be.

§ 43. **Amendment.)** Section 25-01-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-02. Transfer of Inmates Between Institutions.) The supervising officer may transfer patients of the state hospital, state school, or state sanatorium between such institutions whenever the superintendent of any such institution shall recommend such transfer and the supervising department is satisfied, upon investigation, that such transfer is advisable. If any patient, so transferred, is maintained at the expense of the county from which he was committed, the cost of his maintenance in the institution to which he is transferred shall be charged to such county and shall be collected therefrom upon notice to the county auditor of such county by the supervising officer.

§ 44.) Section 25-01-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-01-02.1. Health Council to Investigate Mental Health of Patients.) The health council may investigate the mental health and the condition of any person admitted to the state hospital, and shall order the discharge of any person so admitted or restrained, if, in its opinion, such person is not mentally ill or can be cared for after such discharge without danger to others and with benefit to the patient. In determining

whether the patient shall be discharged, the recommendation of the superintendent of the state hospital and supervising officer shall be secured. The granting of this power to the health council to determine the mental health of a person is permissive, and does not repeal or alter any statute respecting the discharge from, or admission to, the state hospital.

§ 45. **Amendment.)** Section 25-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-03. Supervising Officer to Appoint Superintendent of Institutions—Salaries—Removal.) The supervising officer shall appoint a superintendent for each of the institutions under its control. The tenure of office of each such superintendent shall be two years from the date of his appointment, and he shall possess such qualifications as are required by the provisions of this title. Any such superintendent may be removed by the supervising officer for misconduct, neglect of duty, incompetency, or other proper cause showing his inability or refusal properly to perform the duties of his office, but such removal at a time other than a termination of his two-year tenure shall be had only after an opportunity is given to such person to be heard before a board consisting of the governor, attorney general, and supervising officer of such institution on preferred written charges. A removal when made, however, shall be final. The supervising officer shall fix the compensation of each such superintendent within the limits prescribed in this title and within the appropriations made by the legislative assembly for such compensation.

§ 46. **Amendment.)** Section 25-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-04. Superintendent of Each Institution to Qualify.) The superintendent of each of the institutions mentioned in this chapter, before entering upon the duties of his office, shall take the oath prescribed for civil officers, and shall furnish a bond in such sum as may be fixed by the supervising officer which shall conform to the provisions of law applicable to the bonds of state officers and employees. Each such bond shall be filed by the supervising officer in the office of the secretary of state.

§ 47. **Amendment.)** Section 25-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-05. General Powers and Duties of Superintendents of Various Institutions.) The superintendent of each of the institutions mentioned in this chapter shall be the chief execu-

tive officer of the institution of which he is superintendent and, in connection with such institution, shall:

1. Employ all employees and assistants required in the management of the institution, the number of whom shall be determined in cooperation with the supervising officer;
2. Have general charge of the institution and of the grounds thereof;
3. Have general charge of the direction, treatment, control, and discipline of all persons, employees, and patients at or connected with the institution;
4. Formulate, subject to the approval of the supervising officer, all rules and regulations relating to the conduct of the persons within and employees of the institution;
5. Maintain salutary discipline among all employees and persons or patients in or connected with the institution and enforce strict obedience to all rules and regulations thereof;
6. Cause complete records to be kept of all persons admitted to the institution; and
7. Submit to the supervising officer reports of the institution in such form, at such times, and containing such information, as may be required by the supervising officer.

§ 48. **Amendment.)** Section 25-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-01-06. Duty of Superintendent and the Supervising Officer in Case of Questionable Commitment.) The superintendent of the state hospital and the superintendent of the state school shall notify the supervising officer immediately if there is any question as to the propriety of the commitment or detention of any person received at the institution, and the supervising officer, upon such notification, shall inquire into the matter presented and shall take such action as may be deemed proper in the premises.

§ 49. **Amendment.)** Section 25-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-07. Salaries of Officers and Employees Other Than Superintendent—How Fixed.) The supervising officer in cooperation with the superintendent, prior to July first in each

year, shall fix the annual or monthly salaries of all of the officers, exclusive of the superintendent, and all of the employees in each of the several institutions mentioned in this chapter. It shall classify such officers and employees into grades, and the salaries paid to those in each grade all other factors being equal shall be uniform in the several institutions. The schedule of salaries fixed by the supervising officer shall become operative on July first in the year in which the same are fixed. The supervising officer in cooperation with the superintendent may fix the salaries of additional employees hired after July first and may increase the salary of any employee deemed worthy of such increase. Such salaries shall be paid in the same manner as other expenses of the several institutions are paid. All of the salaries in each institution, however, shall be within the limits fixed by the appropriations made by the legislative assembly for salaries in such institution.

§ 50. Amendment.) Section 25-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-08. Discharge of Subordinate Officers and Employees.) The superintendent of any institution mentioned in this chapter may discharge any person employed therein, subject to such restrictions as may be placed upon such power by the supervising officer. He shall show in the record of any person discharged by him the reason therefor.

§ 51. Amendment.) Section 25-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***25-01-10. Supervising Officer May Accept Gifts and Bequests—State Treasurer to Have Custody of Funds.)** The supervising officer may accept in the name of the state and hold in trust for any institution mentioned in this chapter any lands conveyed or devised and any money or other personal property given or bequeathed for application to any purpose connected with such institution. All moneys and property coming into the hands of the supervising officer as grants, donations, devises, gifts, and bequests shall be used for the specific purposes for which they are granted, donated, devised, bequeathed, or given. If no terms are imposed upon the use of any grant, donation, devise, bequest, or gift, it shall be used for the general maintenance of the institution for the benefit of which it is made.

***Note:** Section 25-01-10 was amended twice during the 1965 Session, once by section 2, chapter 181, 1965 S.L. and once by section 51, chapter 203, 1965 S.L.

§ 52. **Amendment.)** Section 25-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-11. State Treasurer to Have Custody of Income from Granted Lands.) The state treasurer shall be custodian of all funds arising from the sale of any lands granted to any institution named in this chapter, and such funds shall be deposited with him. He shall keep a separate account of each such institution to which a land grant has been made, and moneys in each such separate fund shall be used exclusively for the benefit of the institution to which the same belongs.

§ 53. **Amendment.)** Section 25-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-12. Drawing of Funds — Sale of Lands — Release of Mortgages—Appropriations Limit Power to Contract.) Moneys appropriated or given to any institution mentioned in this chapter shall be expended only upon order of the supervising officer. The supervising officer, however, shall not have the power to bind the state for any purpose in connection with any such institution beyond the amount of the appropriation which may have been made to such institution for such purpose, nor to sell or convey any part of the real estate belonging to any such institution without the consent of the legislative assembly, except that it may release any mortgage or convey any real estate which may have been received by it through any gift, bequest, or devise or upon any trust, the terms of which authorize such satisfaction or conveyance.

§ 54. **Amendment.)** Section 25-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-15. Money Remaining in Inmates' or Patients' Personal Account Transferred to General Welfare Account of Institution.) Any moneys remaining in the personal account, in the institution, of any inmate or patient after six years from the date of the death or discharge of such inmate or patient have elapsed, shall be transferred to the fund maintained in such institution for the general welfare of the inmates or patients thereof. No probate or other proceedings shall be required for the making of such transfer.

§ 55. **Amendment.)** Section 25-02-04 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-04. Superintendent to Possess Certain Qualifications —Employees.) The superintendent of the state hospital shall be a certified psychiatrist. He shall appoint with the approval

of the state mental health and retardation division an assistant superintendent of administration who shall be under his supervision and who shall be a qualified and experienced hospital administrator. The superintendent shall appoint and employ the professional staff and define their qualifications and duties. The assistant superintendent shall employ such other personnel as may be necessary and shall define their qualifications and duties.

§ 56. Amendment.) Section 25-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-09. Care of Patients To Be Impartial—Exceptions.)

All patients at the state hospital shall be provided with equal care and treatment in accordance with the different degrees or conditions of mental and physical health. However, if relatives or friends of any patient shall request it and pay the expenses thereof, such patient may receive special care and be provided with a special attendant in such manner as may be agreed upon by the superintendent. In all such cases, the charges for special care and attendants shall be paid quarterly in advance. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient and the superintendent shall cause the account of such patient to be credited with any sums so paid. The superintendent shall account to the state mental health and retardation division for all money or property which shall come into his hands for the purpose of furnishing extra care or treatment to any patient at the state hospital.

§ 57. Amendment.) Section 25-03-15 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-15. Discharge.) The superintendent of the state hospital shall as frequently as practicable, but not less often than every six months, examine or cause to be examined every patient in the hospital. Whenever he determines that the conditions justifying hospitalization no longer exist, he shall discharge the patient and immediately notify the state mental health and retardation division and the mental health board of the county of residence of the patient. Unless a patient is discharged as cured or released in convalescent status as provided in section 25-03-16, the mental health board shall cause such patient to be removed from the hospital and shall provide all needed or suitable care, and the expense of such care and treatment shall be paid by the county of the patient's residence. Whenever a dispute arises between counties regard-

ing the residency of a patient for purposes of this section, it shall be determined by the state health officer. If the mental health board fails or neglects to remove and care for such discharged patient within thirty days from the notice of the order discharging him, or the order of the state mental health and retardation division upon finding of residency, the county shall be liable to the state for the full and actual cost of care of such patient as determined by the state health officer, commencing at the expiration of thirty days after the date of such notice. Such costs of care and treatment shall be paid by the county in the same manner as costs of care and treatment of other patients at the state hospital are charged and paid. Upon the discharge of any patient, the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing and a sum of money not exceeding twenty dollars, which shall be charged to the county of the patient's residence as other expenses of such patient in the hospital are charged.

§ 58. Amendment.) Subsection 1 of section 25-03-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The superintendent of the state hospital may release a patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status shall include provisions for continuing responsibility to and supervision by the hospital, and may include a plan of treatment on an out-patient or non-hospital patient basis. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the superintendent of the state hospital shall re-examine the facts relating to the hospitalization of the patient on convalescent status and, if he determines in view of the condition of the patient that hospitalization is no longer necessary, he shall discharge the patient and make a report thereof to the state mental health and retardation division and the mental health board of the county of residence.

§ 59. Amendment.) Subsection 2 of section 25-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Notwithstanding any limitations authorized under this section on the right of communication, every patient shall be entitled to communicate by sealed mail with at least one friend or relative of his choice, with the state mental health and retardation division, and with the mental health board of the county which ordered his hospitalization.

§ 60. **Amendment.)** Section 25-03-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-25. Reports to and Additional Powers of State Mental Health and Retardation Division.) The superintendent of the state hospital shall notify the state mental health and retardation division of all admissions to the state hospital. In addition to the specific authority granted under the provisions of this chapter, the state mental health and retardation division shall have authority to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any mentally ill patient; to visit any such hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent with the provisions of this chapter as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

§ 61. **Amendment.)** Section 25-03-26 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-26. Expenses of Stutsman County Mental Health Board.) All expenses of the mental health board of Stutsman County involving patients in residence at the state hospital shall be paid by the state hospital under the direction of the state mental health and retardation division.

§ 62. **Amendment.)** Section 25-09-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.) Except as provided in section 25-09-11, expenses for care and treatment of each patient at the state hospital or state school shall be the actual average per patient cost incurred by the state at each such institution. The supervising department shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from

any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the supervising department in the same manner and with the same effect as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the supervising department a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The supervising department shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

§ 63. Amendment.) Subsection 2 of section 25-09-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the supervising department; and

§ 64. Amendment.) Section 25-09-04 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-04. Responsible Relatives Shall Pay for Care and Treatment—Definition.) In the event of the patients' inability to pay for the costs of care and treatment, responsible relatives of such patients at the state hospital or state school shall pay to the supervising department quarterly, such costs as the supervising department may determine reasonable for the care and treatment of patients at each institution. For purposes of this chapter and title 25 of this code "responsible relatives" shall mean the patient's spouse, father, mother or children.

§ 65. Amendment.) Section 25-09-05 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-05. Inability to Pay All or Part of Expenses.) The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the supervising department to pay less than the costs or none of the costs

incurred by the state for the patient's care and treatment at the state hospital or state school. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives' of their estates' inability to pay. Upon receipt of such application the supervising department shall direct the county mental health board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, to determine whether the patient or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The supervising department shall approve, reject, or amend the determination made by the county mental health board. The determination made by the supervising department may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives.

§ 66. Amendment.) Section 25-09-06 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-06. Application for Review of Ability to Pay.) Any patient at the state hospital or state school or any responsible relative or their executors, administrators or guardians, may make application to the supervising department not more often than once each calendar year for a review of the determination made by the supervising department in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the supervising department may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the supervising department on its own motion may review the ability of the patient, or his responsible relatives, or their estates, to pay for costs of care and treatment.

§ 67. Amendment.) Section 25-09-07 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-07. State's Attorneys to Bring Action for Expenses.) Upon the request of the supervising department to the various state's attorneys, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital or state school the respective state's attorneys shall bring an action against the patient or his estate, or his responsible relatives or their estates, for the payment of the amount due the state.

§ 68. **Amendment.)** Section 25-09-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-08. Disposition of Funds Collected.) The amount collected from patients, their estates, or responsible relatives or their estates, by the supervising department under the provisions of this chapter shall be deposited with the state treasurer and credited to the general fund of this state.

§ 69. **Amendment.)** Section 25-09-10 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-10. Disposition of Nonresidents — Reciprocal Agreements.) If a person who has no legal residence in this state or whose residence is unknown is found to be fit subject for care and treatment in the state hospital, state school, or tuberculosis sanatorium, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of such person, and if found to be in another state or country the supervising department may arrange for transportation of such person to the place where he belongs. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill, feeble-minded or tubercular persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with laws of this state.

§ 70. **Amendment.)** Section 25-09-11 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-11. Reductions in Claims Against Responsible Relatives for Patients at State School.) Commencing with the effective date of this section, and at the beginning of each calendar year thereafter, the superintendent of public instruction shall certify to the supervising department the average annual per-pupil cost of education in the public schools of the state for the most recent school year for which statistics are available. The supervising department shall prorate such average annual per-pupil cost of education over the calendar year and shall deduct such cost from the expenses of care and treatment provided in and chargeable to each patient at the state school under section 25-09-02 or to responsible relatives of such patient under sections 25-09-04 and 25-09-06. Such deduction shall continue for a period of fifteen years after the date of the first admission of each patient to

the state school or until the patient reaches his twenty-first birthday, whichever shall first occur. During such period the responsible relatives, or their respective estates shall not be liable for more than a sum equal to seven hundred and fifty dollars, less the prorated average per-pupil costs of education. At no time shall the claims by the state to the responsible relatives or their estates be reduced below two hundred and forty dollars, annually, with the exception that such claims for care and treatment at the state school may be further reduced in accordance with the provisions of sections 25-09-05 and 25-09-06. After the passage of the above-mentioned fifteen-year period, or after such patient reaches his twenty-first birthday, whichever shall first occur, claims against responsible relatives shall be terminated against said responsible relatives, but actual costs of care and treatment shall accrue against the estate of the responsible relatives from this date.

Claims against the estates of responsible relatives for the care and treatment of patients at the state school shall not exceed an amount equal to that portion of the value of the estate which would pass to the patient under the intestacy laws of this state had the responsible relative died intestate during the life of the patient, but this limitation shall not bar additional or subsequent claims against any patient or any patient's estate regardless of the source of the property constituting such estate. Claims against the responsible relatives, or their estates, shall be retroactive to time of admission of the patient to the state school, in accordance with the above provision.

Parents with more than one patient in the state school shall pay as full payment for their children in the state school as follows:

1. Second child admitted to the state school, fifty percent of the regular charge assessed against the first patient;
2. Third child admitted to the state school, twenty-five percent of the regular charge assessed the first patient;
3. Fourth and successive children admitted to the state school, no charge.

Such claims may be further reduced as provided by sections 25-09-05 and 25-09-06.

No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and treatment at the state school from the patient or his estate and responsible relatives of their estates, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1963.

§ 71. **Amendment.)** Section 25-10-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-01. State Mental Health Division.) There is hereby established within the state department of health a division to be known as the State Mental Health and Retardation Division, such division to be under the direction and supervision of a certified psychiatrist who shall be appointed by the state health officer with the approval of the state health council, to perform the following functions in the field of mental health:

1. Cooperate in providing services to state and local departments and agencies and other groups for programs of prevention of mental illness, mental retardation, and other psychiatric disabilities;
2. Assist in providing informational and educational services regarding mental health to the public and lay and professional groups;
3. Assist in providing consultative services to schools, courts, and health and welfare agencies, both public and private;
4. Assist in providing out-patient diagnostic and treatment services; and
5. Assist in providing rehabilitation services for patients suffering from mental or emotional disorders, mental retardation, and other psychiatric conditions, particularly those who have received prior treatment in an in-patient facility.

The above services shall be undertaken by the state department of health to the extent funds are available to the department for the performance of these functions.

§ 72. **Amendment.)** Section 25-10-02 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-02. Psychiatric Clinic.) The administration of the children's psychiatric out-patient clinic established pursuant to chapter 39 of the 1959 Session Laws shall be transferred from the board of administration to the state mental health and retardation division on July 1, 1961, and continued thereunder. The purpose of the clinic shall be primarily to provide psychiatric care and treatment to minors and persons placed under the control of the state as well as other residents who are referred to such clinic by an agency of the state

who cannot avail themselves of psychiatric care through private means. The staff of the clinic may, however, be used by the mental health and retardation division to a limited extent in carrying out other mental health services and programs undertaken by the state mental health and retardation division. The clinic may operate under the supervision of a qualified psychiatrist until the certified psychiatrist heading the mental health and retardation division is appointed, who shall upon appointment become the director of the clinic.

§ 73. **Amendment.)** Section 25-10-03 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-10-03. Mental Health Coordinating Committee—Membership—Purpose.) There shall be maintained a mental health coordinating committee composed of the state health officer as chairman, the superintendent of public instruction or his representative, the executive director of the state welfare board or his representative, and the chairman of the board of administration or his representative, and such other members as may be appointed by the above members of the committee. Meetings of the committee shall be called at the discretion of the state health officer, but in no event shall the committee meet less than once each year. Members of the coordinating committee shall serve without compensation or mileage and travel expenses. It shall be the purpose of the committee to review, evaluate, and coordinate all the functions, programs, and services of all state agencies and departments and political subdivisions in the field of mental health, to prevent duplication of activities, provide for cooperation in common field of activity and the joint use of personnel and facilities. The committee shall investigate and procure, to such extent available, public and private funds to carry on mental health services and programs in this state.

§ 74. **Amendment.)** Section 26-24-08 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-08. Public Buildings To Be Reported to Commissioner of Insurance.) In each odd-numbered year, or upon application for insurance, the state board of higher education, and each officer, department, or agent of the state and of any industry thereof having in charge any public buildings of any kind whatsoever belonging to the state, and each county auditor, city auditor, township clerk, village clerk, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building and of the

fixtures and permanent contents therein belonging to the state or political subdivision, and shall supply such other information as may be required by the commissioner on forms provided by him.

§ 75. Amendment.) Section 32-36-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-36-22. Payment to Trustee.) The court may require the payments to be made by the father to be made to the county welfare board, if there is one, or to any other suitable and proper trustee or guardian. The trustee shall report to the court annually, or oftener as directed by the court, the amounts received and paid over.

§ 76. Amendment.) Section 32-36-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-36-33. Notice of Action to Compel Support — Duty of Executive Director of the Public Welfare Board of North Dakota.) The clerk of the district court shall give notice of any proceedings to compel support under the provisions of this chapter to the executive director of the public welfare board of North Dakota. The executive director thereupon shall advise or assist the complainant or the court in such proceeding.

§ 77. Amendment.) Section 44-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-08. Duty of the Heads of State Institutions and State Boards, Departments, or Offices to Make Reports.) The head of each institution and each state board, department, or office shall set forth, in the annual or biennial report required by law, a list of all persons in the employ of the institution, department, office, or board. Such list shall give the name of each person drawing a salary at such institution, or from such board, department, or office, the amount of salary and other emoluments drawn, the fund or funds from which drawn, and the number of installments per annum in which such salary is drawn.

§ 78. Amendment.) Section 48-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-01. Definition of Governing Board.) In this chapter, unless the context or subject matter otherwise requires, the term "governing board" shall mean the governing board, department, or office of any public institution of the state

including the industrial commission and the North Dakota mill and elevator association, and the governing body of any county, city, park district, village, school district, or other political subdivision of the state.

§ 79. Amendment.) Section 48-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-09-04. Rules and Regulations—Cancellation of Contract.)

The renting, leasing, or licensing, of any public property under the provisions of this chapter at all times shall be subject to the rules and regulations made and prescribed by the official, department, board, or commission having the control and management of the same. The renting and leasing term of any contract entered into in relation thereto may be canceled upon thirty days' written notice to the holder of the concession. Any contract granting a concession at any time after a breach of the terms thereof, or after a violation of any of the provisions of this chapter, shall be canceled upon thirty days' written notice to that effect.

§ 80. Amendment.) Section 50-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-14-04. Child Not Placed in Almshouse or Other Institution Without Consent of Executive Director of the Public Welfare Board of North Dakota.) No person, association, corporation, institution, or agency shall place a child in any almshouse in this state, or in any other institution, charitable, penal, or reformatory, in which delinquent children, or children charged with delinquency, are kept, without the consent of the executive director of the public welfare board of North Dakota, unless the placement is made pursuant to the order of a competent court duly entered by reason of the delinquency of the minor. Any person, association, corporation, institution, or agency violating the provisions of this section, is guilty of a misdemeanor.

§ 81. Amendment.) Section 54-23-01 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-01. Institutions Under Control of Board of Administration.) The board of administration shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, and the state tuberculosis sanatorium. The board shall not have the power to

manage, control, and govern the soldiers' home. The term "board" as used in this chapter shall mean the board of administration.

§ 82. Amendment.) Section 54-23-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-22. Transfer of Inmates from the Industrial School to Other Institutions.) The board may transfer inmates of the state training school to the state hospital or to the Grafton state school whenever the board is satisfied, upon investigation, that such transfer is advisable. If any inmate, so transferred, is maintained at the expense of the county from which he was committed, the cost of his maintenance in the institution to which he is transferred shall be charged to such county and shall be collected therefrom upon notice to the county auditor of said county by the board.

§ 83. Amendment.) Section 54-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***54-27-11. Appropriation—Record Kept by Department of Accounts and Purchases and Treasurer—Duties and Limitations of Department of Accounts and Purchases and Treasurer as to Appropriation.)** The department of accounts and purchases and state treasurer each shall keep a record in their office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof;
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof; and
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for maintenance of any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for the biennium but not to separate items appropriated for maintenance for all penal and charitable institutions of this state and all

*Note: Section 54-27-11 was amended twice during the 1965 Session, once by section 5, chapter 120, 1965 S.L. and once by section 83, chapter 203, 1965 S.L.

institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for maintenance for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for maintenance purposes.

§ 84. **Amendment.)** Section 54-27-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-12. Expenditure of Amount in Excess of Appropriation for State Institutions by the Administrative Department, Office, or Board, or State Board of Higher Education, or Managing Officer — Unlawful.) The administrative department, office, or board of any penal or charitable state institution, or the state board of higher education, or any person thereof, in the transaction of the business of any state institution under its direction or control, shall not make nor authorize knowingly any expenditure in the matter of the erection or improvement of any public building, or structure, or the purchase of any real property, in excess of any appropriation made by the legislative assembly for such purpose. The president, superintendent, or managing officer of any state institution conducted under the direction or control of any department, office, or board, or the state board of higher education, shall not connive nor conspire knowingly with such departments, offices, or boards, nor with any member thereof, to procure to be expended in the matter of the erection or improvement of any public building or structure, or the purchase of any real property at the state institution of which he is president, superintendent, or managing officer, any sum in excess of the appropriation therefor as made by the legislative assembly.

§ 85. **Amendment.)** Section 54-27-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-13. Penalty for Expenditure of Excess of Appropriation for State Institutions.) Any person violating the provisions of section 54-27-12, is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment, and shall be subject to summary removal from office by the governor except elected officials who shall be subject to impeachment.

§ 86. **Repeal.**) Chapters 12-57 and 23-08, sections 25-01-13, 25-05-04, 25-05-05, 54-23-16, and 54-23-21 of the North Dakota Century Code are hereby repealed.

Approved March 20, 1965.

CHAPTER 204

S. B. No. 118
(Urdahl, Lips)

RELEASE OF STATE HOSPITAL PATIENTS

AN ACT

To amend and reenact section 25-03-10 of the North Dakota Century Code, relating to the right to release and application for judicial determination.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.**) Section 25-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03-10. Right to Release—Application for Judicial Determination.) Any patient involuntarily hospitalized under the provisions of section 25-03-08 who requests to be released or whose release is requested in writing by his legal guardian, spouse, or adult next of kin shall be released within five days after the receipt of such request. It is provided, however, that upon application by the superintendent of the state hospital, or the county judge who consented to the emergency admission, to the mental health board of either the county in which the patient is hospitalized or of the county of the patient's residence, within five days from the time of such request for release, supported by a certification by the superintendent of the state hospital or a county judge that in his opinion such release would be unsafe for the patient or others, release may be postponed for a period not to exceed twenty days as the chairman of the mental health board may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 25-03-11. The superintendent of the state hospital or county judge shall provide reasonable means and arrangements for informing patients of their right to release as provided in this section, and for assisting them in making and presenting requests for release. If an examination as required in section 25-03-08 is not held within twenty days after the date of admission to the state hospital

or local hospital, or if the superintendent of the state hospital or local hospital or an examiner designated by him fails or refuses after such examination to certify that in his opinion the patient is mentally ill or is likely to injure himself or others if allowed to remain at liberty, the patient shall be immediately discharged.

Approved March 15, 1965.

CHAPTER 205

H. B. No. 664

(Collette, Gudajtes, Haugland, Staven, Lundene)

RELEASE OF PATIENTS AT GRAFTON

AN ACT

To amend and reenact section 25-04-05, and section 25-04-08 of the North Dakota Century Code, providing for commitment to and discharge from the state school at Grafton and to create and enact section 25-04-08.1 of the North Dakota Century Code providing for the temporary release of inmates of the state school under the supervision and control of the superintendent of such school.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 25-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-05. Commitment to State School Upon Order of County Mental Health Board—Judicial Procedure.) Mentally retarded persons shall be committed to the state school in the same manner and pursuant to the same course of legal commitment as governs admission to the state hospital on forms provided by the state school. Such commitment shall comply with such rules and regulations as may be prescribed by the superintendent and his governing authority or body.

§ 2. **Amendment.)** Section 25-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-08. Discharge of Inmate from Institution.) The superintendent may grant any inmate of the school a discharge or leave of absence under such rules and regulations as the superintendent and his governing authority may prescribe. Prior notification shall also be given to such inmate's parents or guardian, if any, by registered or certified mail to such

parents' or guardian's last address, if known and to the county mental health board which committed the patient and to the county mental health board of the parents' or guardians' legal residence.

§ 3.) Section 25-04-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

25-04-08.1. Temporary Release.) The superintendent of the state school may grant a temporary release to any inmate when he believes such release is in the best interests of such inmate. Such temporary release shall include provision for continuing responsibility to and supervision by the superintendent of the state school. The inmate may be returned to the state school at such time as the superintendent believes that the temporary release is no longer in the best interests of the inmate. Such temporary release may be for the purposes of medical treatment, examination, training, rehabilitation, to the care of his own home, that of a relative, or friend, to a licensed foster home, to another institution of this state, or to an environment likely to be beneficial to the inmate. Such temporary release shall be made only after notice by certified or registered mail to the inmate's parents or guardian at their last address, if known.

Approved March 15, 1965.

CHAPTER 206

S. B. No. 87
(Longmire, Reichert)

MENTAL HEALTH AND RETARDATION SERVICE UNITS

AN ACT

To authorize the establishment of mental health and retardation service units, to provide for their administration and for state aid and assistance from mental health division of the state department of health, to authorize a mill levy of not to exceed three-quarters of one mill for such purpose, and providing for an appropriation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Establishment of Mental Health and Retardation Service Units.) Upon petition of eight percent of the voters of any city as determined by the number voting for the office of governor in such city at the most recent general election at which a governor was elected, the governing body of any

city having a population of five thousand or more according to the last federal census may, with the approval of the board of county commissioners of the county within which such city is located, establish and maintain a mental health and retardation service unit.

Upon petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county containing a city having a population of five thousand or more according to the most recent federal census may establish and maintain a mental health and retardation service unit.

Any county or city establishing a mental health and retardation service unit may in accordance with section 54-40-08 make agreements with the governing bodies of other political subdivisions for the joint operation or participation in the operation of such service unit or contracts as provided in this Act.

Such service unit may be established by the county or city and operated by the political subdivisions involved, or in the discretion of their respective governing bodies such service unit may be operated by contract with a nonprofit corporation which shall agree to furnish such services in the field of mental health and retardation in accordance with such contract in a manner consistent with state law and rules of the division of mental health of the state health department.

These units will take into consideration and be coordinated with existing mental health and retardation services which are under other local, state, or private administrations, such as social service programs of county welfare boards, area child welfare and family services of the public welfare board of North Dakota, special education programs, specialized services of the division of vocational rehabilitation, and other facilities providing services in the broad field of mental health.

§ 2. State Aid — Application — Program Approval — Local Support.) Cities, counties, or other political subdivisions or any combination thereof, and private nonprofit corporations may apply to the mental health division of the state department of health for assistance in establishing and maintaining mental health and retardation service units. In the case of a private nonprofit corporation a contract between the mental health division and the corporation shall be entered into for state aid and for the provision of mental health and retardation services by such corporation, which contract shall be upon such terms as the mental health division shall prescribe.

The unit or corporation requesting state aid shall submit to the mental health division of the state department of health not later than March first of each year the proposed budget for the following year, plus detailed plans with regard to the extent of services which shall include fee schedules based on the ability to pay and programs to be undertaken. The division shall not allocate any funds to any unit maintaining or establishing mental health and retardation service units until the proposed budget and detailed plans shall be approved by the division. During July of each year the mental health division shall allocate funds, to the extent available, to the various units in accordance with approved budgets and programs. The division shall have authority to reallocate unencumbered funds that have been allocated and may withdraw unencumbered funds if the services and programs of the mental health and retardation service unit do not correspond to the approved budget and plans forwarded to the health department.

State support to any mental health or retardation service unit shall not exceed forty percent of such unit's total expenditure for salaries, contract facilities and services, maintenance and service costs, expenses of the board of directors of the unit, and other expenses authorized by the mental health division of the state department of health. No reimbursement from moneys appropriated to the mental health division of the state department of health by the legislative assembly shall be authorized for any capital expenditures.

A mental health and retardation service unit comprising only one political subdivision may receive aid from such political subdivision to the extent that its governing body agrees to participate. If a mental health or retardation service unit comprises more than one political subdivision, the unit shall receive aid from the political subdivisions in proportion to the assessed valuation of each political subdivision or in such other manner as their governing bodies shall agree. A private nonprofit corporation may receive aid from any political subdivision on a contract basis, entered into between the officers of the corporation and the governing body of the political subdivision or subdivisions, for services to be rendered to the political subdivision and its residents.

The governing body of any such political subdivisions for the purpose of operating, maintaining, or participating in the operation and maintenance of mental health and retardation service units or providing such services by contract in accordance with this Act, may by resolution of the governing body thereof submit the question of the authorization of a tax upon all taxable property in the political subdivision of not

to exceed three-quarters of one mill to the electorate of the political subdivision at any special or regular election. If such levy shall be approved by the majority of the electors voting thereon a tax not in excess of that authorized may be levied by the governing body of the political subdivision for the purpose of providing services as authorized in this Act. Such levy, when authorized, shall be over and above any mill levy limitation provided by law, provided, however, there shall not be more than one election per year on the mill levy.

§ 3. Board of Directors—Appointment—Term.) Each mental health and retardation service unit, whether established by a political subdivision or a body corporate, shall be governed by and under the general supervision of a board of directors. The board of directors shall be appointed by the governing body of the political subdivision which comprises such unit, and if more than one political subdivision comprises such unit then appointed by the governing bodies of each such political subdivision meeting jointly. The board of directors shall not exceed thirteen members, but may be less in the discretion of such governing bodies. The term of office of the board members shall be three years, staggered so that the term of office of an equal number of the board members, if possible, expires each year. Vacancies occurring on the board for other than the expiration of a term shall be filled in the same manner as original appointments, except that appointments shall be made only for the unexpired term. No compensation shall be allowed the board members, but they shall be allowed the same mileage and expenses as is allowed state officials. The board shall elect a chairman from their membership and such other officers as the board deems necessary. All members of each board of directors shall be residents of the area served by the mental health and retardation service unit and such membership shall represent as nearly as possible local health departments, medical societies, county welfare boards, hospital boards, and other lay and professional organizations and people.

§ 4. Powers and Duties of Board — Administration.) The following powers and duties shall be performed by the board of directors of the mental health and retardation service unit:

1. Determine, review, and evaluate services and programs provided by the unit and make periodic reports thereon to the mental health division of the state department of health, together with any recommendations the board may have for improvement in services, programs, or facilities;
2. Recruit and promote local financing from private and public sources;

3. Promote and arrange for cooperation and working agreements with other social service agencies, public and private, and with individuals and organizations in the educational field and judicial branch of government;
4. Determine the budgets and submit them to the governing bodies of the political subdivisions concerned for their approval and prepare detailed plans for services and programs of the unit for the forthcoming year; and
5. Perform any other act necessary to properly administer the mental health and retardation service unit.

The board may employ such professional personnel as may be necessary to properly staff the mental health and retardation service unit and may in its discretion employ such administrative personnel as may be necessary to assist them in the performance of their duties, including an administrator. The board may delegate to the administrator such of its powers and duties as the board deems necessary and desirable. The professional staff of such mental health and retardation service unit shall be under the medical direction of a qualified psychiatrist.

§ 5. Appropriation.) There is hereby appropriated out of any unappropriated moneys in the state treasury, the sum of one hundred and twenty-five thousand dollars or so much thereof as may be necessary, for the purpose of providing financial assistance in establishing and maintaining mental health and retardation service units for the biennium beginning July 1, 1965, and ending June 30, 1967.

Approved March 15, 1965.