

PUBLIC WELFARE

CHAPTER 437

HOUSE BILL NO. 1502
(Watkins, Rau, Orange, Farrington)

NONCOUNTY COMMISSIONER MEMBERS OF COUNTY WELFARE BOARDS

AN ACT to amend and reenact section 50-01-07 of the North Dakota Century Code, relating to appointment of noncounty commissioner members to county welfare boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-07. COUNTY WELFARE BOARD - MEMBERS - QUALIFICATIONS.) The board of county commissioners of each county in this state shall provide for the establishment of a county welfare board. Such county welfare board shall consist of five, seven, or nine members of which not less than one nor more than two shall be county commissioners designated by the board of county commissioners. The board of county commissioners shall designate two or more qualified individuals to fill each vacancy in the remaining membership of the county welfare board and shall submit the name and qualifications of such individuals to the social service board. One of the individuals so designated to fill each vacancy in the remaining membership shall be appointed by the board of county commissioners with the advice and consent of the social service board of North Dakota and shall be chosen without regard to political affiliation and upon the basis of their fitness to serve in said capacity by reason of character, experience, and training. Each of the sexes shall be represented on the board.

Approved March 18, 1975

CHAPTER 438

SENATE BILL NO. 2422
(Maher)

COUNTY SOCIAL SERVICE BOARDS

AN ACT relating to changing the name of the county welfare board to the county social service board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. COUNTY SOCIAL SERVICE BOARD TO BE SUBSTITUTED FOR COUNTY WELFARE BOARD.) Wherever the term "county welfare board", or "member of the county welfare board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, shall appear in the North Dakota Century Code, the term "county social service board", or member of "county social service board", as the case may be, shall be substituted therefor. It is the intent of the legislative assembly that the county social service board shall be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the county welfare board.

Approved March 19, 1975

CHAPTER 439

HOUSE BILL NO. 1204
(Eagles)

COMPENSATION OF COUNTY WELFARE BOARDS

AN ACT to amend and reenact section 50-01-08 of the North Dakota Century Code, relating to the compensation of the county welfare boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-01-08. MEMBERS OF COUNTY WELFARE BOARD - TERM OF OFFICE - OATH - COMPENSATION.) The members of the county welfare board shall serve for a term of three years or until their successors have duly qualified. Their terms of office shall be arranged so that the term of office of one of the members shall expire in one year, the term of one-half of the remaining members the next year, and the term of the remaining members the third year. Each member of the board shall qualify by taking the oath provided for civil officers. Such oath shall be filed with the county auditor. The members of the county welfare board shall receive, in addition to any salaries they may receive from any other source, from the state or county or any municipality, a sum not to exceed twenty-five dollars per day for time actually spent in transacting the business of the board not exceeding a maximum of twenty-five days a year. Members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties and shall be paid legal mileage for necessary travel. In counties having a population in excess of thirty thousand, members of the county welfare board shall receive, in addition to any salaries they may receive from any other source, from the state or county or any municipality, a sum not to exceed twenty-five dollars per day for time actually spent in transacting the business of the board not to exceed a maximum of thirty-five days a year. Members shall be reimbursed by the county for expenses actually incurred in the performance of their official duties and shall be paid legal mileage for necessary travel.

Approved April 8, 1975

CHAPTER 440

SENATE BILL NO. 2139

(Lips)

ADMINISTRATION OF FOOD STAMPS

AN ACT to create and enact a new subsection to section 50-01-09, a new section to chapter 50-03, and a new subsection to section 50-06-05.1 of the North Dakota Century Code, relating to the administration and financing of the food stamp program in North Dakota and relating to the powers and duties of the county welfare board and the social service board of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new subsection to section 50-01-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Subject to section 3 of this Act, to administer the food stamp program in the county under the direction and supervision of the social service board of North Dakota in conformity with the Food Stamp Act of 1964, as amended, and to enter into an agreement for such purpose with the social service board.

SECTION 2.) A new section to chapter 50-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPROPRIATION FOR FOOD STAMP PROGRAM ADMINISTRATION - FINANCIAL AGREEMENT.) Subject to section 3 of this Act, the board of county commissioners of each county annually shall appropriate and make available to the poor relief fund an amount sufficient to pay the local expenses of administration of the food stamp program and shall enter into a food stamp financial agreement with the social service board of North Dakota.

SECTION 3.) A new subsection to section 50-06-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

To act as the official agency of the state in the administration of the food stamp program in conformity with the Food Stamp Act of 1964, as amended, and to direct and supervise county administration of such program. Provided, however, that the board with the consent of the legislative council committee on budget may terminate the program should the rate of federal financial participation in administrative costs provided under Public Law 93-347 be decreased or limited, or should the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act.

Approved March 19, 1975

CHAPTER 441

SENATE BILL NO. 2192
(Committee on State and Federal Government)
(At the request of the Social Service Board)

SOCIAL SERVICE BOARD COMPENSATION

AN ACT to amend and reenact section 50-06-04 of the North Dakota Century Code, relating to the compensation paid to the members of the social service board.

BE-IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-06-04. MEMBERS OF BOARD - COMPENSATION.)

1. The members of the social service board, with the exception of the president of the board, shall be compensated at the rate provided for the members of the legislative council in subsection 1 of section 54-35-10, not to exceed seventy-five days in any one year.
2. The president of the social service board shall be compensated at the rate provided for the chairman of the legislative council in subsection 2 of section 54-35-10.
3. The members of the board, including the chairman, shall also be paid for expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

Approved March 19, 1975

CHAPTER 442

HOUSE BILL NO. 1291
(Atkinson, Wagner)

DEPENDENT CHILD DEFINED

AN ACT to amend and reenact subdivision a of subsection 6 of section 50-09-01 of the North Dakota Century Code, relating to the definition of a dependent child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subdivision a of subsection 6 of section 50-09-01 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Who is living in the home of a relative by birth, marriage, or adoption, who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is:
- (1) Under the age of eighteen years; or
 - (2) Under the age of twenty-one years and physically or mentally incapacitated; or
 - (3) Under the age of twenty-one years and a student regularly attending and making satisfactory progress in pursuance of a course of study of academic or vocational training designed to fit him for gainful employment.

Approved March 9, 1975

CHAPTER 443

SENATE BILL NO. 2241
(Melland)

SEASONAL AFDC ADJUSTMENTS

AN ACT authorizing the social service board to make seasonal adjustments in payments to AFDC recipients, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. SOCIAL SERVICE BOARD AUTHORIZED TO MAKE SEASONAL ADJUSTMENTS TO AFDC PAYMENT LEVELS.) The social service board shall make payments under the aid to families with dependent children program in amounts provided by law, except that for not more than six months in any calendar year the social service board may increase the rate of payment, except as may be limited by legislative appropriations, by a rate not to exceed ten percent of such amount to provide for increased costs incurred by recipients during months of increased living costs. This Act shall authorize payments greater than the three-hundred-fifteen-dollar-per-month level established for a family of four in section 6 of chapter 33 of the 1973 Session Laws.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 28, 1975

CHAPTER 444

SENATE BILL NO. 2446
(Holand)

SUPPLEMENTAL PARENTAL CARE

AN ACT to provide for the regulation of supplemental parental care for children through the licensing of day care centers and the registration of family day care homes and day care attendants; providing a penalty; to amend and reenact sections 50-11-01, 50-11-01.3, and 50-11-02 of the North Dakota Century Code, relating to the licensing of foster family care homes for children and the use of public funds; and to repeal sections 50-11-01.1 and 50-11-01.2 of the North Dakota Century Code, relating to the definition of family day care home for children and the definition of day care center for children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. PURPOSE.) The purpose of this Act is to assure that children requiring supplemental parental care be provided such food, shelter, security and safety, guidance and direction, nurture and comfort, and learning experiences commensurate to their age and capabilities, so as to safeguard the growth and development of such children, thereby facilitating their proper physical and emotional maturation.

SECTION 2. DEFINITIONS.) As used in this Act:

1. "Supplemental parental child care" shall mean the provision of food, shelter, security and safety, guidance and direction, nurture and comfort, and a learning experience commensurate to a child's age and capabilities, so as to safeguard such child's growth and development on a supplemental basis, either in or outside of the child's home by persons other than a parent, guardian, person in loco parentis, or relative, on a regular basis for daily periods of less than twenty-four hours.
2. "Family day care home" shall mean an occupied private residence in which supplemental parental child care is regularly provided for no more than twelve children from more than one family.

3. "Day care center" shall mean:
 - a. Any facility, other than an occupied private residence, which regularly receives one or more children for supplemental parental child care; or
 - b. Any facility, including an occupied private residence, which regularly provides supplemental parental child care for thirteen or more children.
4. "Child care attendant" shall mean any person who receives public funds in consideration for providing supplemental child care in the child's home.
5. "Registration" shall mean the process whereby the board maintains a record of all family day care homes and child care attendants, prescribes standards and promulgates regulations under section 8 of this Act, and requires the operator of a family day care home or child care attendant to certify that he has complied with the prescribed standards and promulgated regulations.
6. "Registrant" shall mean the holder of a registration certificate issued by the board in accordance with the provisions of this Act.
7. "Registration certificate" is a written instrument issued by the social service board to publicly document that the certificate holder has in writing certified to the board compliance with this Act and the applicable standards for supplemental parental child care established by the board.
8. "Board" shall mean the social service board of North Dakota.
9. "Relative" shall mean any person having the following relationship to the child by marriage, blood, or adoption: grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt.

SECTION 3. OPERATION OF DAY CARE CENTERS - LICENSE REQUIRED.) No person, partnership, firm, corporation, association, or non-governmental organization shall establish or operate a day care center unless licensed to do so by the board.

SECTION 4. APPLICATION FOR LICENSE - PREREQUISITES FOR ISSUANCE - LICENSE GRANTED - TERM.) Applications for day care licenses shall be made on forms provided, in the manner prescribed, by the board. The board shall investigate the applicant's activities and proposed standards of care and shall make an inspection of the proposed center. A license for the operation of a center shall be granted by the board to reputable and responsible persons upon a showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all children who may be received;
2. The persons in charge of such center and their assistants are properly qualified to carry on efficiently the duties required of them;
3. The center is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for therein; and
4. The center will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board. The license shall be in force and effect for a period of not more than two years.

SECTION 5. OPERATION OF FAMILY DAY CARE HOME - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) No person, partnership, firm, corporation, association, or nongovernmental organization shall operate a family day care home without first procuring a family day care registration certificate from the board. The board shall issue a registration certificate upon the finding that the registrant has certified in writing that the home is in compliance with the requirements of this Act and the standards prescribed by the board for the operation of the home. Family day care registration certificates shall be in force and effect for a period of not more than two years.

SECTION 6. CHILD CARE ATTENDANTS - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) Child care attendants, prior to providing in-home supplemental parental child care, shall procure a registration certificate from the board. The board shall issue a registration certificate upon the finding that the registrant has certified in writing that he is in compliance with the requirements of this Act and the standards prescribed by the board for child care attendants. Registration certificates for child care attendants shall be in force and effect for not more than two years.

SECTION 7. INVESTIGATION OF APPLICANTS, LICENSEES, AND REGISTRANTS - MAINTENANCE OF RECORDS - CONFIDENTIALITY OF RECORDS.)

1. The board and its authorized agents at any time may investigate and inspect the conditions and qualifications of any day care center, family day care home, or child care attendant seeking or holding such license or registration certificate under the provisions of this Act. Upon request of the board, the state department of health or the state fire marshal, or his designee, shall inspect any home or facility for which a license or registration certificate is applied for or issued and shall report its findings to the board.

2. Licensees and registrants shall:
 - a. Maintain such records as the board may prescribe regarding each child in their care and control, and shall report to the board, when requested, such facts as the board may require with reference to the children upon forms furnished by the board; and
 - b. Admit for inspection authorized agents of the board and open for examination all records, books, and reports of the home or facility.
3. All records and information maintained with respect to children receiving supplemental parental child care shall be deemed confidential and be properly safeguarded and shall not be disclosed except:
 - a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted boards or agencies; or
 - c. To persons having a definite interest in the well-being of the child or children concerned and who, in the judgment of the board, are in a position to serve their interests should that be necessary.

SECTION 8. MINIMUM STANDARDS - RULES AND REGULATIONS - INSPECTION BY A GOVERNMENTAL UNIT.) The board may:

1. Establish reasonable minimum standards for the operation of day care centers, the registration of family day care homes, and the registration of child care attendants. In appropriate circumstances and upon good cause shown, specific minimum standards may be substituted by alternate, equivalent standards, approved by the board.
2. Take such action and make such reasonable rules and regulations for the regulation of supplemental parental child care as may be necessary to carry out the purposes of this Act and entitle the state to receive aid from the federal government.
3. Authorize a governmental unit to:
 - a. Inspect any home or facility for which a registration certificate or license is applied for or issued under this Act; and
 - b. Certify to the board that the home or facility meets the requirements of this Act and the minimum standards prescribed by the board.

SECTION 9. REVOCATION OF LICENSE OR REGISTRATION CERTIFICATE.) The board may revoke the license or registration certificate of any day care center, family day care home, or child care attendant upon proper showing that:

1. Any of the applicable conditions set forth in section 4 as prerequisites for the issuance of the license no longer exist;
2. The license or registrant is no longer in compliance with the minimum standards prescribed by the board;
3. The license or registration certificate was issued upon fraudulent or untrue representation;
4. The licensee or registrant has violated any rules and regulations of the board; or
5. The licensee or registrant has been guilty of moral turpitude.

SECTION 10. DENIAL OR REVOCATION OF LICENSE OR REGISTRATION CERTIFICATE - ADMINISTRATIVE HEARING.) Before any application for a license or registration certificate under the provisions of this Act shall be denied, or before revocation of any license or registration certificate shall take place, written charges as to the reasons therefor shall be served upon the applicant, licensee, or registrant. The applicant, licensee, or registrant shall have the right to an administrative hearing in the manner provided in chapter 28-32 if written request for the hearing is made to the board within ten days after service of the written charges.

SECTION 11. USE OF PUBLIC FUNDS.) Public funds for the purchase of supplemental parental child care, including such care provided by relatives, shall be used only in licensed day care centers or registered family day care homes. The provisions of this section shall not apply to any home or institution under the management and control of the state.

SECTION 12. VIOLATION OF ACT OR REGULATIONS - INJUNCTION.) When there is a violation of this Act or a regulation promulgated thereunder, and the unlawful activity or condition of the day care center or family day care home is likely to result in serious harm to the children under care, the board may seek injunctive action against the day care center or family day care home in the district court through proceedings instituted by the attorney general on behalf of the board.

SECTION 13. PENALTY.) Any person, partnership, firm, corporation, association, or organization who violates any of the provisions of this Act is guilty of a class B misdemeanor.

SECTION 14. AMENDMENT.) Section 50-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-01. FOSTER CARE FOR CHILDREN - LICENSE REQUIRED.) Any person, partnership, voluntary association, or corporation owning or operating a home or institution receiving for foster care one or more children for more than thirty days during the calendar year shall procure annually from the social service board of North Dakota a license so to do. The provisions of this section shall not apply when the children received by such person are related to him by blood or marriage, nor shall it apply to any home or institution under the management and control of the state.

SECTION 15. AMENDMENT.) Section 50-11-01.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-01.3. USE OF PUBLIC FUNDS.) Public funds for the purchase of foster care for children shall be used only in licensed homes or facilities. The provisions of this section shall not apply to any home or institution under the management and control of the state.

SECTION 16. AMENDMENT.) Section 50-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11-02. LICENSE GRANTED - TERM.) A license for the operation of a home or institution receiving children for foster care shall be granted by the social service board to reputable and responsible persons upon showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all children who may be received;
2. The persons in active charge of such home or institution and their assistants are properly qualified to carry on efficiently the duties required of them;
3. The home or institution is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for therein; and
4. The institution or home will be maintained according to the standards prescribed for its conduct by the rules and regulations of the social service board. Such license shall be in force and effect for a period of not more than one year.

SECTION 17. REPEAL.) Sections 50-11-01.1 and 50-11-01.2 of the North Dakota Century Code are hereby repealed.

Approved March 31, 1975

CHAPTER 445

SENATE BILL NO. 2447
(Holand)

CHILD PLACEMENT

AN ACT to create and enact section 50-12-14.1 of the North Dakota Century Code, relating to conditions for the placement of children in the state; to amend and reenact section 50-12-17 of the North Dakota Century Code, relating to the penalty for illegal placement of children; and to repeal sections 50-12-14 and 50-12-15 of the North Dakota Century Code, relating to foreign associations placing children in the state and residents bringing children into the state for permanent care.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-12-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-12-17. PENALTY.) No person shall place or cause to be placed any child other than his or her own in family homes for adoption without a license so to do from the social service board of North Dakota. Every person who violates any provision in this chapter is guilty of a class C felony.

SECTION 2.) Section 50-12-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-12-14.1. CONDITIONS FOR PLACEMENT OF CHILDREN IN STATE - CONSENT OF SOCIAL SERVICE BOARD REQUIRED.) Any person, partnership, association, corporation, charitable agency, or other entity undertaking to bring or to send a child into this state for placement in foster care or as a preliminary to a possible adoption shall furnish the social service board with written notice of the intention to send, bring, or place the child in the state and shall obtain prior written consent from the social service board for each child to be so placed. The notice shall contain:

1. The name, date, and place of birth of the child;
2. The identity and address or addresses of the parent or legal guardian;

3. The name and address of the person, agency, or institution to or with which the child is proposed to be placed;
4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made; and
5. Such supporting or additional information as the social service board may deem necessary under the circumstances.

This section shall not apply to the sending or bringing of a child into this state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in this state.

SECTION 3. REPEAL.) Sections 50-12-14 and 50-12-15 of the North Dakota Century Code are hereby repealed.

Approved March 27, 1975

CHAPTER 446

HOUSE BILL NO. 1543
(Hilleboe)

REGISTRATION OF PROFESSIONAL FUND RAISERS

AN ACT to create and enact new sections to chapter 50-22 and to amend and reenact sections 50-22-01, 50-22-02, and 50-22-05 of the North Dakota Century Code, relating to registration of charitable organizations, professional fund raising counsel, and professional solicitors; and providing a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 50-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

REGISTRATION OF PROFESSIONAL FUND RAISER, PROFESSIONAL SOLICITOR, AND CHARITABLE ORGANIZATIONS WHO ENGAGED THEM.) The secretary of state or his designee shall examine each initial application of charitable organizations for the right to solicit funds and each renewal application of charitable organizations for the right to solicit funds, and if the solicitation is to be made in whole or in part by a professional fund raiser or professional solicitor shall determine whether or not the arrangement for payment is found to be in conformity with the requirements of this Act and all relevant rules and regulations, it shall be approved for registration. Any applicant who is denied approved registration may, within fifteen days from the date of notification of such denial, request in writing a hearing before the secretary, which hearing shall be held within fifteen days from the date of the request.

No person shall act as a professional fund raiser or professional solicitor for a charitable organization subject to the provisions of this Act unless he has first registered with the secretary. Applications for such registration shall be in writing, under oath or affirmation in the form prescribed by the secretary and contain such information as the secretary may require. The application for registration by professional fund raiser or professional solicitor shall be accompanied by an annual fee in the sum of one hundred dollars. A partnership or corporation which is a professional fund raiser or professional solicitor may register for and pay a single fee on behalf of all its members, officers, agents, and employees. However, the names and addresses of all officers, agents, and employees employed to work under the

direction of a professional solicitor or fund raiser must be listed in the application.

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

SECTION 2.) A new section to chapter 50-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

LIMITATIONS ON AMOUNT OF PAYMENTS FOR SOLICITATION OR FUNDING.) No charitable organization shall pay or agree to pay to a professional solicitor, professional fund raiser or his agents, servants, or employees in the aggregate a total amount in excess of fifteen percent (including reimbursement for expenses incurred and direct payment of expenses incurred) of the total moneys, pledges, or other property raised or received by reason of any solicitation activities or campaigns.

No charitable organization shall incur solicitation and fund-raising expenses (including not only payments to professional solicitors, but also payments to professional fund raisers and internal fund-raising and solicitation salaries and expenses) in excess of thirty-five percent of total moneys, pledges, or other property raised or received by reason of any solicitation, gift and/or fund-raising activities or campaigns. As used in this subsection, the term "internal fund-raising and expenses" shall include, but not be limited to, such portions of the charitable organization's salary and overhead expenses as are fairly allocable (on a time or other appropriate basis) to its solicitation

and/or fund-raising expense. In the event special facts or circumstances are presented showing expenses higher than thirty-five percent, the secretary has the discretion to allow such higher funds and may impose such conditions as he shall deem necessary for such exemption.

For purposes of this section, the total moneys, funds, pledges, or other property raised or received shall not include the actual cost to the charitable organization or professional solicitor of goods sold or service provided to the public in connection with the soliciting of contributions.

Every contract, written agreement, or written statement of the nature of the arrangement to prevail in the absence of a contract between a professional fund raiser or professional solicitor and a charitable organization shall be filed with the secretary of state within ten days after such contract, written agreement, or written statement is concluded. If the contract or arrangement with a professional solicitor does not provide for compensation on a percentage basis, the secretary shall examine the contract to ascertain whether the compensation to be paid in such circumstances is likely to exceed fifteen percent of the total moneys, pledges, or other property raised or received as a result of the contract or arrangement; if the reasonable probabilities are that the compensation will exceed fifteen percent of the total moneys, pledges, or other property, the secretary shall disapprove the contract or arrangement within ten days after its filing. No registered charitable organization or professional solicitor shall carry out or execute a disapproved contract, or receive or perform services, or receive or make payments pursuant to a disapproved contract. Any party to a disapproved contract shall, upon written request made within thirty days of disapproval, be given a hearing before the secretary within thirty days after such request is filed.

SECTION 3. AMENDMENT.) Section 50-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-22-01. DEFINITIONS.) As used in this chapter, unless the context otherwise requires, the term:

1. "Person" means any individual, organization, group, association, partnership, corporation, or any combination of them;
2. "Charitable organization" means any benevolent, philanthropic, patriotic, or eleemosynary organization or one purporting to be such except organizations soliciting funds for institutions of higher learning, and organizations soliciting funds for churches operating and having a place of worship within the state. This definition shall not be deemed to include duly constituted religious organizations or any group affiliated with and forming an integral part of said organization no part of the net income of which inures to the direct benefit of any individual and which have received a declaration of current

tax exempt status from the government of the United States: Provided, that no such affiliated group shall be required to obtain such declaration if the parent or principal organization shall have obtained same;

3. "Contribution" means the promise or grant of any money or property of any kind or value;
4. "Solicitation" means the asking, seeking, appealing, requesting, directly or indirectly by means of mail, personal contact, written material, radio, television, news media, magazines or other periodicals, or any other means of communication, of money or property of any kind or value or pledges for the same;
5. "Professional solicitor" means any person who, for a financial or other consideration, solicits contributions for, or on behalf of, a charitable organization whether such solicitation is performed personally or through their agents, servants, or employees or through agents, servants, or employees specially employed by, or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such persons, or a person who plans, conducts, manages, carries on, advises or acts as a consultant, whether directly or indirectly, to a charitable organization in connection with the solicitation of contributions but does not qualify as "professional fund raiser" within the meaning of this Act. A bona fide full-time salaried officer or employee of a charitable organization maintaining a permanent establishment within the state shall not be deemed to be a professional solicitor.

No attorney, investment counselor, or banker who advises any person to make a contribution to a charitable organization shall be deemed, as the result of such advice, to be a professional fund raiser or a professional solicitor; and

6. "Professional fund raiser" means any person who for a flat fixed fee under a written agreement plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or indirectly, in connection with soliciting contributions for, or on behalf of, any charitable organization but who actually solicits no contributions as a part of such services. A bona fide salaried officer or employee of a charitable organization maintaining a permanent establishment within the state shall not be deemed to be a professional fund raiser.

SECTION 4. AMENDMENT.) Section 50-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-22-02. LICENSE TO SOLICIT - TERM - REVOCATION.) No charitable organization shall solicit contributions from persons in this state by any means whatsoever without first having obtained a license from the secretary of state. The secretary of state shall

investigate the financial responsibility, experience, character, and general fitness of the applicant, and if such investigation warrants the belief that the solicitations are for a worthy charitable purpose and that the applicant will conduct solicitations in accordance with the law, a license shall be issued to such applicant, giving him the right to solicit within the state for a period of one year. If the secretary of state shall find the applicant is not qualified to be issued a license, he shall deny the application, forthwith notify the applicant of the denial, but the license fee shall be retained. All fees collected under the provisions of this chapter shall be credited to the general fund of the state. The fee for such license shall be ten dollars and may be renewed from year to year, but shall be subject to revocation by the secretary of state at any time for just cause.

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

* 50-22-05. ENFORCEMENT - PENALTIES.) Any person conducting a solicitation in violation of the provisions of this chapter or filing false information hereunder shall be guilty of a class C felony, and each officer or agent of a charitable organization who knowingly authorizes or conducts such solicitation in violation of this chapter, shall be subject to the penalty provided in this section.

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

Approved March 19, 1975

*NOTE: Section 50-22-05 was also amended by section 543 of Senate Bill No. 2039, chapter 106.

CHAPTER 447

HOUSE BILL NO. 1515
(Kretschmar)

SOCIAL SERVICE MEDICAL PAYMENTS

AN ACT to create and enact new sections to chapter 50-24.1 of the North Dakota Century Code, relating to the provision of remedial eye care, recovery from estates of medical assistance recipients, and inapplicability of statute of limitations to claims; to amend and reenact section 50-24.1-02 of the North Dakota Century Code, relating to persons eligible for the receipt of medical assistance; and to repeal section 50-09-05 of the North Dakota Century Code, relating to durational residency requirements for the receipt of aid to dependent children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 50-24.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24.1-02. ELIGIBILITY.) Medical assistance may be paid for any person who:

1. Is eligible for or is receiving financial assistance under chapter 50-09 or Title XVI of the Social Security Act, as amended; or
2. Has income or resources insufficient to meet the cost of necessary medical care and services, has not at any time before or after making application for medical assistance made an assignment or transfer of property for the purpose of rendering himself eligible for assistance under this chapter, and is eligible under rules and regulations established by the social service board.

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

REMEDIAL EYE CARE - WHEN PROVIDED.) On the basis of the findings of an examination made by an ophthalmologist, optometrist, or physician skilled in the diseases of the eye, remedial eye care services shall be provided by the social service board to any person under the age of sixty-five who is in need of treatment either to prevent blindness or to restore his eyesight if he is not

blind as defined under Title XVI of the Social Security Act, as amended, and he is otherwise qualified for assistance under this chapter. The remedial eye care services may include necessary travel and other expenses to receive treatment from a hospital or clinic designated by the social service board.

SECTION 3.) A new section to chapter 50-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

RECOVERY FROM ESTATE OF MEDICAL ASSISTANCE RECIPIENT.) On the death of any recipient of medical assistance who was sixty-five years of age or older when he received such assistance, the total amount of medical assistance paid on behalf of the decedent following his sixty-fifth birthday shall be allowed as a preferred claim against the decedent's estate after funeral expenses, expenses of last illness, and expenses of administering the estate, including attorney's fees approved by the court, have been paid. No claim shall be allowed during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled.

SECTION 4.) A new section to chapter 50-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATUTE OF LIMITATIONS SHALL NOT RUN.) The statute of limitations shall not run against claims of the state of North Dakota for repayment of medical assistance provided under this chapter.

SECTION 5. REPEAL.) Section 50-09-05 of the North Dakota Century Code is hereby repealed.

Approved April 8, 1975

CHAPTER 448

HOUSE BILL NO. 1257
(Committee on Social Welfare)
(At the request of the Social Service Board)

CHILD ABUSE AND NEGLECT

AN ACT relating to the mandatory reporting of child abuse and neglect by designated professional persons, relating to the permissive reporting of child abuse and neglect by other persons, providing for protective services, providing for the appointment of a guardian ad litem, providing immunity from liability, providing a penalty for failure to report abuse, and providing for confidentiality of records, and providing a penalty for unauthorized disclosure of reports; and to repeal chapter 50-25 of the North Dakota Century Code, relating to the reporting of physical injury and neglect by physicians and other persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. PURPOSE.) It is the purpose of this Act to protect the health and welfare of children by encouraging the reporting of children who are known to be or suspected of being abused or neglected and to encourage the provision of services which adequately provide for the protection and treatment of abused and neglected children and to protect them from further harm.

SECTION 2. DEFINITIONS.)

1. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means.
2. "Neglected child" means a deprived child as defined in chapter 27-20.
3. "Division" means the division of community services of the social service board of North Dakota.

SECTION 3. PERSONS REQUIRED AND PERMITTED TO REPORT - TO WHOM REPORTED.)

1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, school teacher or administrator,

school counselor, social worker, day care center or any other child care worker, police or law enforcement officer having knowledge of or reasonable cause to suspect that a child coming before him in his official or professional capacity is abused or neglected shall report the circumstances to the division.

2. Any person having reasonable cause to suspect that a child is abused or neglected may report such circumstances to the division.

SECTION 4. METHOD OF REPORTING.) All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the division. Oral reports shall be followed by written reports within forty-eight hours if so requested by the director of the division or his designee.

SECTION 5. INVESTIGATION AND REPORT TO THE COURT.) The director of the division shall forthwith investigate, or cause to be investigated, any initial report of child abuse or neglect made directly to him, including the home of the child, the circumstances surrounding the reported abuse or neglect, and, upon a finding of abuse or neglect, shall promptly make written report to the juvenile court having jurisdiction of the matter.

SECTION 6. PROTECTIVE AND OTHER SERVICES TO BE PROVIDED.) The division and the appropriate county welfare board shall provide protective services for the abused or neglected child and other children under the same care as may be necessary for their well-being, and shall provide other appropriate social services, as the circumstances warrant, to the parents, custodian, or other persons serving in loco parentis with respect to the child or the other children.

SECTION 7. PROTECTIVE CUSTODY.) Any physician examining a child with respect to whom abuse or neglect is known or suspected, after reasonable attempts to advise the parents, guardian, or other person having responsibility for the care of the child that he suspects has been abused or neglected, may keep the child in the custody of the hospital or medical facility for not to exceed ninety-six hours and must immediately notify the juvenile court and the division in order that child-protective proceedings may be instituted.

SECTION 8. GUARDIAN AD LITEM.) The court, in every case involving an abused or neglected child which results in a judicial proceeding, shall appoint a guardian ad litem for the child in those proceedings.

SECTION 9. IMMUNITY FROM LIABILITY.) Any person, other than the alleged violator, participating in good faith in the making of a report or in providing protective services under this Act, is immune from any liability, civil or criminal, that otherwise might result. For the purpose of any proceeding, civil or

criminal, the good faith of any person required to report cases of child abuse or neglect shall be presumed.

SECTION 10. ABROGATION OF PRIVILEGED COMMUNICATIONS.) Any privilege of communication between husband and wife or between any professional person and his patient or client, except between attorney and client, is abrogated and does not constitute grounds for preventing a report to be made or for excluding evidence in any proceeding regarding child abuse or neglect resulting from a report made under this Act.

SECTION 11. CONFIDENTIALITY OF RECORDS - AUTHORIZED DISCLOSURES.) All reports made under this Act, as well as any other information obtained, are confidential and shall be made available to:

1. A physician who has before him a child whom he reasonably suspects may have been abused or neglected;
2. A person who is authorized to place a child in protective custody and has before him a child whom he reasonably suspects may have been abused or neglected and the person requires the information in order to determine whether to place such child in protective custody;
3. Authorized staff of the division and appropriate county welfare boards;
4. Any person who is the subject of a report, provided, however, that the identity of persons reporting under this Act is protected;
5. Public officials and their authorized agents who require such information in connection with the discharge of their official duties;
6. A court whenever it determines that the information is necessary for the determination of an issue before the court;
7. A person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of a report is made available to the researcher unless the information is absolutely essential to the research purpose and the director of the division gives prior approval.

SECTION 12. COOPERATION REQUIRED.) All law enforcement officials, courts of competent jurisdiction, and appropriate state agencies shall cooperate in fulfillment of the purposes of this Act.

SECTION 13. PENALTY FOR FAILURE TO REPORT.) Any person required by this Act to report a case of known or suspected child abuse who willfully fails to do so is guilty of a class B misdemeanor.

SECTION 14. UNAUTHORIZED DISCLOSURE OF REPORTS - PENALTY.) Any person who permits or encourages the unauthorized disclosure of reports made or confidential information obtained under the provisions of this Act is guilty of a class B misdemeanor.

SECTION 15. REPEAL.) Chapter 50-25 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1975