

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 11-16-01, 11-16-06, 11-23-01, 14-09-06.3,  
2 14-09-06.4, 14-15-09, 14-15-11, 50-01.1-04, 50-01.1-08, 50-01.2-05, 50-06-05.8, 50-12-08,  
3 50-33-01, 50-33-02, 50-35-02, 50-35-03, 50-35-04, 50-35-05, 50-35-06, and 50-35-07 of the  
4 North Dakota Century Code, relating to the operation and financing of human service zones; to  
5 repeal chapter 50-11.2 of the North Dakota Century Code, relating to foster care parent  
6 grievance; and to provide for the transfer of employees.

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

8 **SECTION 1. AMENDMENT.** Section 11-16-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **11-16-01. Duties of the state's attorney.**

11 1. The state's attorney is the public prosecutor, and shall:

12 4. a. Attend the district court and conduct on behalf of the state all prosecutions for  
13 public offenses.

14 2. b. Institute proceedings before magistrates for the arrest of persons charged with or  
15 reasonably suspected of public offenses when the state's attorney has  
16 information that such offenses have been committed, and for that purpose, when  
17 the state's attorney is not engaged in criminal proceedings in the district court,  
18 the state's attorney shall attend upon the magistrates in cases of arrests when  
19 required by them except in cases of assault and battery and petit larceny.

20 ~~3.~~ c. Attend before, and give advice to, the grand jury whenever cases are presented  
21 to it for consideration.

22 4. d. Draw all indictments and informations.

23 ~~5.~~ e. Defend all suits brought against the state or against the county.

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- 1       6.   f. Prosecute all bonds forfeited in the courts of record of the county and prosecute  
2                   all actions for the recovery of debts, fines, penalties, and forfeitures accruing to  
3                   the state or to the county.
- 4       7.   g. Deliver duplicate receipts for money or property received in the state's attorney's  
5                   official capacity and file copies thereof with the county auditor.
- 6       8.   h. On the first Monday of January, April, July, and October in each year, file with the  
7                   county auditor an account, verified by the state's attorney's oath, of all money  
8                   received by the state's attorney in an official capacity in the preceding three  
9                   months, and at the same time, pay it over to the county treasurer.
- 10      9.   i. Give, when required and without fee, the state's attorney's opinion in writing to  
11                  the county, district, township, and school district officers on matters relating to the  
12                  duties of their respective offices.
- 13      10. j. Keep a register of all official business in which must be entered a note of each  
14                  action, whether civil or criminal, prosecuted officially, and of the proceedings  
15                  therein.
- 16      11. k. Act as legal adviser of the board of county commissioners, attend the meetings  
17                  thereof when required, and oppose all claims and actions presented against the  
18                  county which are unjust or illegal.
- 19      12. l. Institute an action in the name of the county to recover any money paid upon the  
20                  order of the board of county commissioners without authority of law as salary,  
21                  fee, or for any other purpose, or any money paid on a warrant drawn by any  
22                  officer to that officer's own order or in favor of any other person without  
23                  authorization by the board of county commissioners or by law.
- 24      13. m. Institute an action in the name of the county to restrain the payment of any  
25                  money described in any order or warrant of the kind described in subsection 13  
26                  when the state's attorney secures knowledge of such order or warrant before the  
27                  money is paid thereon.
- 28      14. n. Assist the district court in behalf of the recipient of payments for child support or  
29                  spousal support combined with child support in all proceedings instituted to  
30                  enforce compliance with a decree or order of the court requiring such payments.

1 15. o. Institute proceedings under chapter 25-03.1 if there is probable cause to believe  
2 that the subject of a petition for involuntary commitment is a person requiring  
3 treatment.

4 16. p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and  
5 chapters 14-15, 27-20, 27-20.1, and 50-01 upon consultation with the human  
6 service zone director or the executive director of the department of human  
7 services.

8 17. q. Act as the legal advisor and represent a human service zone as set forth in a  
9 plan approved under section 50-01.1-03. The state's attorney within the human  
10 service zone, by way of agreement, shall designate a singular state's attorney's  
11 office, within or outside the human service zone, to act as legal advisor of the  
12 human service zone. The host county state's attorney shall serve as the legal  
13 advisor if no agreement is reached. The agreement may not limit a state's  
14 attorney's individual discretion in court filings and representation.

15 18. r. Act as the legal advisor and represent the human service zone regarding  
16 employer actions, including grievances and appeals, taken against the human  
17 service zone team member. The state's attorney of the county by which the  
18 human service zone team member is employed shall act as the legal advisor of  
19 the human service zone, unless a different agreement is established by the  
20 affected state's attorney.

21 2. The state's attorney ~~shall~~may not require any order of the board of county  
22 commissioners to institute an action under subdivision l or m of subsection 12-01-13.

23 **SECTION 2. AMENDMENT.** Section 11-16-06 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **11-16-06. Failure of state's attorney to perform duty - Power of court - Appointment of**  
26 **acting state's attorney.**

27 If it shall appear, by affidavit or otherwise, to the satisfaction of a judge of the district court of  
28 the judicial district in which the county is situated, that the county has no state's attorney, or that  
29 the state's attorney is absent or unable to attend to the state's attorney's duties, or that the  
30 state's attorney has refused or neglected to perform any of the duties prescribed in ~~subsections~~  
31 2 through 6 subdivisions b through f of subsection 1 of section 11-16-01, or to institute any civil

1 suit to which the state or the county is a party after the matter has been properly brought to the  
2 attention of such state's attorney, and that it is necessary that some act be performed, the judge  
3 shall:

- 4 1. Request the attorney general or an assistant attorney general to take charge of such  
5 prosecution or proceeding; or
- 6 2. Appoint an attorney to take charge of such prosecution or proceeding and fix the  
7 attorney's fee therefor by an order entered upon the minutes of the court, and the  
8 attorney so appointed shall be vested with the powers of the state's attorney for the  
9 purposes of that action, but for no other purpose, and shall be the only person  
10 authorized to proceed in such action. The fee specified in the order shall be allowed by  
11 the board of county commissioners and, if so ordered by the court, the amount of such  
12 fee shall be deducted from the salary of the state's attorney.

13 **SECTION 3. AMENDMENT.** Section 11-23-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **11-23-01. Officers required to furnish commissioners with departmental budget.**

- 16 1. Every officer in charge of any institution, office, or undertaking supported wholly or in  
17 part by the county shall file with the board of county commissioners a departmental  
18 budget that is prescribed by the state auditor. The departmental budget must include  
19 an itemized statement of the estimated amount of money that will be required for the  
20 maintenance, operation, or improvement of the institution, office, or undertaking for the  
21 ensuing year. The board of county commissioners may require additional information  
22 to clarify the departmental budget.
- 23 2. a. The departmental budget submitted by the human service zone may not exceed  
24 an amount determined by the department of human services and the human  
25 service zone director pursuant to section 50-35-04 and must include the county's  
26 cost allocation of indirect costs based on a ~~formula~~ an amount established by the  
27 department of human services.
- 28 b. The county share of the human service zone's indirect costs must be funded  
29 entirely from the county's general fund.
- 30 c. The department of human services shall develop a process to review a request  
31 from a human service zone for any proposed increase in staff. As part of its

1 review process, the department of human services shall review pertinent factors,  
2 which may include caseload information. If the department of human services  
3 approves a request for a proposed increase in staff, the human service zone  
4 budget may be increased by the amount determined necessary by the  
5 department of human services to fund the approved additional staff. The human  
6 service zone director shall submit the proposed increase in staff to the human  
7 service zone board for review. The human service zone director shall work with  
8 the department to achieve equitable compensation and salary increases for all  
9 human service zone team members within the human service zone. The human  
10 service zone director shall notify appropriate host county staff of all staffing  
11 changes for administrative purposes.

- 12 3. For purposes of this section, "host county" means the county within the human service  
13 zone in which the human service zone administrative office is located and in which the  
14 human service zone team members are employed.

15 **SECTION 4. AMENDMENT.** Section 14-09-06.3 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **14-09-06.3. Custody investigations and reports - Costs.**

- 18 1. In contested proceedings dealing with parental rights and responsibilities the court,  
19 upon the request of either party, or, upon its own motion, may order an investigation  
20 and report concerning parenting rights and responsibilities regarding the child. The  
21 court shall designate a person or agency responsible for making the investigation and  
22 report, which designees may include the human service zone, public health officer,  
23 school officials, and any other public agency or private practitioner the court deems  
24 qualified to make the investigation.
- 25 2. The investigator may consult any person who may have information about the child  
26 and any potential arrangements for parenting rights and responsibilities, and upon  
27 order of the court may refer the child to any professional personnel for diagnosis.
- 28 3. The court shall mail the investigator's report to counsel and to any party not  
29 represented by counsel at least thirty days before the hearing. The investigator shall  
30 make available to any such counsel or party the complete file of data and reports  
31 underlying the investigator's report and the names and addresses of all persons whom

1 the investigator has consulted. A party may call the investigator and any person whom  
2 the investigator has consulted for cross-examination at the hearing. A party may not  
3 waive the party's right of cross-examination before the hearing.

4 4. The court shall enter an order for the costs of any such investigation against either or  
5 both parties, except that if the parties are indigent the expenses must be borne by the  
6 ~~human-service-zone~~county where the child resided at the time the action was  
7 commenced or if a modification of parental rights and responsibilities, at the time the  
8 motion to modify is served.

9 **SECTION 5. AMENDMENT.** Section 14-09-06.4 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **14-09-06.4. Appointment of guardian ad litem or investigator for child in proceedings**  
12 **involving parental rights and responsibilities - Immunity.**

13 In any action for an annulment, divorce, legal separation, or other action affecting marriage,  
14 when either party has reason for special concern as to the future of the minor child, and in any  
15 action when the parenting rights and responsibilities concerning the child is contested, either  
16 party to the action may petition the court for the appointment of a guardian ad litem to represent  
17 the child concerning parenting rights and responsibilities. The court may appoint a guardian ad  
18 litem or investigator on its own motion. If appointed, a guardian ad litem shall serve as an  
19 advocate of the child's best interests. If appointed, the investigator shall provide those services  
20 as prescribed by the supreme court. The court may direct either or both parties to pay the  
21 guardian ad litem or investigator fee established by the court. If neither party is able to pay the  
22 fee, the court may direct the fee to be paid, in whole or in part, by the ~~human-service-~~  
23 ~~zone~~county where the child resided at the time the action was commenced. The court may  
24 direct either or both parties to reimburse the ~~human-service-zone~~county, in whole or in part, for  
25 such payment. Any guardian ad litem or investigator appointed under this section who acts in  
26 good faith in making a report to the court is immune from any civil liability resulting from the  
27 report. For the purpose of determining good faith, the good faith of the guardian ad litem or  
28 investigator is a disputable presumption.

29 **SECTION 6. AMENDMENT.** Section 14-15-09 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **14-15-09. Petition for adoption.**

2       1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk  
3       of the court, and state:

4       a. The date and place of birth of the individual to be adopted, if known.

5       b. The name to be used for the individual to be adopted.

6       c. The date petitioner acquired custody or date of placement of the minor and the  
7       name of the individual placing the minor.

8       d. The full name, age, place, and duration of residence of the petitioner.

9       e. The marital status of the petitioner, including the date and place of marriage, if  
10       married.

11       f. That the petitioner has facilities and resources, including those available under a  
12       subsidy agreement, suitable to provide for the nurture and care of the minor to be  
13       adopted, and that it is the desire of the petitioner to establish the relationship of  
14       parent and child with the individual to be adopted.

15       g. A description and estimate of value of any property of the individual to be  
16       adopted.

17       h. The name of any individual whose consent to the adoption is required, but who  
18       has not consented, and facts or circumstances which excuse the lack of the  
19       individual's consent normally required to the adoption.

20       i. The department ~~and a human service zone~~ as ~~respondents~~respondent.

21       j. The human service zone as respondent if the minor to be adopted is in the  
22       custody of the human service zone.

23       k. That the petitioner's expenses were reasonable as verified by the court.

24       Reasonable fees may be charged for professional services and living expenses if  
25       reflected in a report of agreements and disbursements filed under this chapter  
26       and approved by the court. The fees may not be contingent upon placement of  
27       the child for adoption, consent to adoption, or cooperation in the completion of  
28       adoption. Reasonable fees may include:

29       (1) Preplacement counseling, adoption assessment, placement of the child,  
30       foster care, or other preadoption services, which must be paid directly to the  
31       provider of the services;

- 1           (2) Legal fees relating to the petition for relinquishment or adoption, that must  
2           be paid directly to the provider of the services;
- 3           (3) Medical expenses relating to prenatal care and the birth of the child, that are  
4           not already covered by health insurance;
- 5           (4) Expenses for transportation, meals, and lodging incurred for placement of  
6           the child or in order to receive counseling, legal, or medical services related  
7           to the pregnancy, birth, or placement; and
- 8           (5) Living expenses of the birth mother which are needed to maintain an  
9           adequate standard of living, which the birth mother is unable to otherwise  
10          maintain because of loss of income or other support resulting from the  
11          pregnancy.
- 12          (a) The payments may cover expenses incurred during the  
13          pregnancy-related incapacity but not for a period longer than six  
14          weeks following the delivery, unless the court determines within the  
15          six-week period that the birth mother is unable to be employed due to  
16          physical limitations relating to the birth of the child.
- 17          (b) Living expenses do not include expenses for lost wages, gifts,  
18          educational expenses, vacations, or other similar expenses of a birth  
19          mother.
- 20          2. A certified copy of the birth certificate or verification of birth record of the individual to  
21          be adopted, if available, and the required consents and relinquishments must be filed  
22          with the clerk.
- 23          3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in  
24          subsection 1 of section 27-05.2-03.

25          **SECTION 7. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is  
26          amended and reenacted as follows:

27          **14-15-11. Notice of petition - Investigation and hearing.**

- 28          1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place  
29          for hearing the petition. At least twenty days before the date of hearing, notice of  
30          the filing of the petition and of the time and place of hearing must be given by the  
31          petitioner to the department and if the minor to be adopted is in the custody of the



1            human service zone to the human service zone; any agency or individual whose  
2            consent to the adoption is required by this chapter but who has not consented; an  
3            individual whose consent is dispensed with upon any ground mentioned in  
4            subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not  
5            consented; and any individual identified by the court as a biological parent or a  
6            possible biological parent of the minor, upon making inquiry to the extent  
7            necessary and appropriate, as in proceedings under section 27-20-45, unless the  
8            individual has relinquished parental rights or the individual's parental rights have  
9            been previously terminated by a court. The notice to the department and if the  
10          minor to be adopted is in the custody of the human service zone to the human  
11          service zone must be accompanied by a copy of the petition.

12          b. Notice of the filing of a petition to adopt an adult must be given by the petitioner  
13          at least twenty days before the date of the hearing to each living parent of the  
14          adult to be adopted.

15          2. An investigation must be made by a licensed child-placing agency to inquire into the  
16          conditions and antecedents of a minor sought to be adopted and of the petitioner for  
17          the purpose of ascertaining whether the adoptive home is a suitable home for the  
18          minor and whether the proposed adoption is in the best interest of the minor.

19          3. A written report of the investigation must be filed with the court by the investigator  
20          before the petition is heard.

21          4. The report of the investigation must contain a review of the child's history; a  
22          preplacement adoption assessment of the petitioner, including a criminal history record  
23          investigation of the petitioner; and a postplacement evaluation of the placement with a  
24          recommendation as to the granting of the petition for adoption and any other  
25          information the court requires regarding the petitioner or the minor.

26          5. An investigation and report is not required in cases in which a stepparent is the  
27          petitioner or the individual to be adopted is an adult. The department and human  
28          service zone, when required to consent to the adoption, may give consent without  
29          making the investigation. If the petitioner is a relative other than a stepparent of the  
30          minor, the minor has lived with the petitioner for at least nine months, no allegations of  
31          abuse or neglect have been filed against the petitioner or any member of the

1           petitioner's household, and the court is satisfied that the proposed adoptive home is  
2           appropriate for the minor, the court may waive the investigation and report required  
3           under this section.

4           6. The department and human service zone, when required to consent to the adoption,  
5           may request the licensed child-placing agency to conduct further investigation and to  
6           make a written report thereof as a supplemental report to the court.

7           7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy  
8           of the petition and a notice of the time and place of the hearing be given to any  
9           individual whose consent to the adoption is required but who has not consented and to  
10          each living parent of the adult to be adopted. The court may order an appropriate  
11          investigation to assist it in determining whether the adoption is in the best interest of  
12          the individuals involved.

13          8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil  
14          Procedure for the service of process in a civil action in this state or in any manner the  
15          court by order directs. Proof of the giving of the notice must be filed with the court  
16          before the petition is heard.

17          **SECTION 8. AMENDMENT.** Section 50-01.1-04 of the North Dakota Century Code is  
18          amended and reenacted as follows:

19          **50-01.1-04. Plan - Financing - Human service zone board.**

20          1. A plan for the creation of a human service zone must describe the method of operation  
21          of the human service zone office, its administration, its location and the location of any  
22          ancillary offices, the disbursements from public funds, and the accountability for funds  
23          and manner of reporting receipts and disbursements. The plan must provide for the  
24          distribution of property owned by each of the county agencies affected by the  
25          consolidation and for the method of resolution of any disagreement between the  
26          boards of county commissioners involved in the human service zone or between the  
27          governing board and one or more boards of county commissioners. The plan must  
28          also require the participating counties to participate in the indirect cost allocation plan.  
29          The plan, once approved, may be continued for a definite term or until rescinded,  
30          terminated, or modified by the department through a process developed by the  
31          department.

1           2.    The human service zone director shall prepare a proposed budget for the human  
2           service zone at the time and in the manner as requested by the department and shall  
3           submit the department-approved proposed budget to the board of county  
4           commissioners of each county in the human service zone for review. The board of  
5           county commissioners may not take any action to amend or modify the amount  
6           approved by the department. The board of county commissioners may make  
7           recommendations to the human service zone director and the department to amend or  
8           modify the amount proposed or budgeted. The amount budgeted must be sufficient to  
9           defray the anticipated expenses of administration and the delivery of human services.  
10          Within ten days following review of the proposed budget by the boards of county  
11          commissioners, the human service zone director shall certify the budget to the  
12          respective county auditors of the counties in the district. Each board of county  
13          commissioners also shall budget and approve amounts sufficient to defray that  
14          county's anticipated indirect costs of the human service zone. The amounts budgeted,  
15          reviewed, and approved by the several boards of county commissioners or the  
16          department, or both must be periodically deposited with the treasurer of the host  
17          county in which the human service zone office is located and must be placed in a  
18          special human service zone human services fund. The human service zone's income  
19          must be deposited into the human service zone human services fund by the treasurer  
20          of the host county. The human service zone board shall establish procedures for the  
21          review and approval of all claims against the human service zone human services  
22          fund. The human service zone director or designee shall approve or ratify all claims  
23          against the human service zone human services fund. The county treasurer of the  
24          host county, shall pay approved or ratified claims from the human service zone human  
25          services fund. Unexpended human service zone human services funds remaining at  
26          the end of a fiscal year may be carried over to the next fiscal year pursuant to section  
27          50-35-05. The department may recalculate and adjust each human service zone's  
28          ~~formula~~ payment ~~biannually~~ based on pertinent factors, which include actual  
29          expenditures over the prior or current payment period, current costs, offered services,  
30          need, income, performance of duties directed or assigned and supervised by the  
31          department, and caseload.

1       **SECTION 9. AMENDMENT.** Section 50-01.1-08 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **50-01.1-08. Standards of administration - Action upon failure to administer.**

- 4       1. The department shall adopt standards for administration for human services and shall  
5 provide training for the implementation of those standards. Each human service zone  
6 shall provide for administration of human services that meet those standards.
- 7       2. The department shall develop a system of progressive discipline to address  
8 performance issues within the human service zone. The system shall reserve the most  
9 serious actions for severe or chronic failure to meet the standards adopted under  
10 subsection 1.
- 11       3. The department shall provide ongoing performance notifications to the human service  
12 zone board and human service zone director related to the overall compliance with the  
13 standards of administration.
- 14       4. If a human service zone fails to provide for administration of human services that meet  
15 the standards adopted under subsection 1, the department may take any of the  
16 following actions:
- 17       a. Provide training to the persons responsible for administration.
- 18       b. Require the human service zone to prepare and implement a corrective action  
19 plan.
- 20       c. Terminate or modify a human service zone, agreement, or plan which may  
21 include requiring the reconstituting of the human service zone board or rehiring of  
22 a human service zone director as part of a new or modified agreement or plan.
- 23       d. Recalculate and adjust the human service zone's formula payments.
- 24       e. Recommend disciplinary action to the human service zone director or the human  
25 service zone board.

26       **SECTION 10. AMENDMENT.** Section 50-01.2-05 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28       **50-01.2-05. Actions and proceedings - Duty of state's attorney.**

29       Any suit or other proceeding arising out of the administration of the laws pertaining to the  
30 support of persons eligible for county general assistance or general assistance must be brought  
31 by or against the county in its corporate name ~~or~~ human service zone, or department. The

1 state's attorney shall institute and conduct or defend any and all actions or proceedings that  
2 may be instituted under chapter 50-01. The department may institute and conduct or defend any  
3 and all actions or proceedings that may be instituted under section 50-01-21.

4 **SECTION 11. AMENDMENT.** Section 50-06-05.8 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **50-06-05.8. Department to assume costs of human services.**

7 The department shall pay each human service zone's expenses for administering human  
8 services for calendar years after December 31, 2019, based on the formula payment amount  
9 calculated for each human service zone under chapter 50-35. The executive director of the  
10 department shall authorize expenditures from the human service finance fund to reimburse the  
11 department for the department's costs of providing human services that historically have been  
12 provided by a county or human service zone, or for a new service or program based on federal  
13 or state law.

14 **SECTION 12. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **50-12-08. Child must be placed in suitable home - ~~Department~~Human service zone**  
17 **may remove child.**

18 A child may not be placed in any foster or adoptive home until adequate investigation has  
19 been made as to the suitability of the proposed foster or adoptive parents and their home  
20 surroundings. When the ~~department of human services~~service zone is satisfied that a child has  
21 been placed in an unsuitable home, the ~~department~~human service zone shall order the  
22 child-placing agency, in writing, to remove the child and place the child in a home that meets the  
23 approval of the ~~department~~human service zone. If within a reasonable period of time it appears  
24 that suitable arrangements have not been made for the care of the child, the ~~department shall~~  
25 ~~refer the child to the county social service board of the county in which the child has legal~~  
26 ~~settlement. The county social service board~~human service zone shall make immediate  
27 arrangements, ~~subject to the approval of the department,~~ for the care and support of the child. If  
28 the child has no legal settlement within the state, or in case of a dispute as to the determination  
29 of the child's legal settlement or responsibility for the child's support, the child must be brought  
30 before the juvenile court as a dependent child in the county in which the child is found, as  
31 provided by law.

1       **SECTION 13. AMENDMENT.** Section 50-33-01 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **50-33-01. Definitions.**

4       For the purposes of this chapter:

- 5       1. "Allowable activities" means paid work, job search, attending job training or an  
6       education program, any activity in the job opportunity and basic skills program,  
7       transportation time related to the activities, temporary illness or incapacity of a current  
8       recipient, and temporary illness of the child.
- 9       2. "Approved relative" means an individual provider related to a child in that provider's  
10      care by marriage, blood, or court decree as a grandparent, step-grandparent, great  
11      grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or  
12      step-sibling, who has been approved to care for specific children in the provider's own  
13      home, but does not mean a sibling provider who resides in the home of a child in that  
14      provider's care.
- 15     3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's  
16      biological or adoptive parent, or an individual acting in the stead of a child's parent at  
17      the request of the parent or another with authority to make the request, but does not  
18      mean a provider.
- 19     4. "Child care assistance unit" means all members of the caretaker's immediate  
20      household, including a child through the month of that child's nineteenth birthday, and  
21      any parent or stepparent of a child, including an acknowledged or adjudicated father of  
22      one or more children in the household, but does not mean any other person who is not  
23      acting in the stead of a parent, a child who is nineteen years of age or older, a child for  
24      whom the household receives foster care payments, or a minor parent of a child in the  
25      household unless the minor parent also requires child care or is incapable of caring for  
26      the child.
- 27     5. "Child care center" has the meaning provided in chapter 50-11.1.
- 28     6. ~~"County agency" means any county social services office.~~
- 29     7. "Department" means the department of human services.
- 30     8-7. "Family child care" has the meaning provided in chapter 50-11.1.
- 31     9-8. "Group child care" has the meaning provided in chapter 50-11.1.

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

25       **SECTION 14. AMENDMENT.** Section 50-33-02 of the North Dakota Century Code is  
26       amended and reenacted as follows:

27       **50-33-02. Child care assistance - Application for benefits - Applicant's duty to**  
28       **establish eligibility - Decisions - Rules.**

- 29       1. An individual desiring child care assistance or an individual seeking assistance on  
30       behalf of another individual may apply for child care assistance. An applicant shall  
31       submit a request for child care assistance in writing to a ~~county agency~~ human service

1           zone on a form prescribed by the department. The applicant shall complete, sign, and  
2           date the application. Eligibility begins on the first day of the month in which a signed  
3           and dated application is received by the ~~county agency~~human service zone. Eligibility  
4           may begin on the first day of the month prior to the month in which a signed and dated  
5           application is received by the ~~county agency~~human service zone, if the applicant  
6           requests child care assistance for that month and demonstrates eligibility in that  
7           month.

8           2. The applicant shall provide information sufficient to establish the eligibility of each  
9           individual for whom assistance is requested, including the age, verification of relative  
10          relationship, citizenship or resident alien status of the children, verification of  
11          participation in an allowable activity, and financial eligibility.

12          3. An eligibility decision must be made within thirty days on child care assistance  
13          applications whenever possible. The ~~county agency~~human service zone shall notify  
14          the applicant following a determination of eligibility or ineligibility.

15          4. The department shall establish rules for the administration of the child care assistance  
16          program, including rules on income requirements, appeals of eligibility determinations  
17          for child care assistance, closure of a child care assistance case, and a sliding scale  
18          fee schedule for child care assistance benefits and to establish and enforce standards  
19          against program fraud and abuse.

20          **SECTION 15. AMENDMENT.** Section 50-35-02 of the North Dakota Century Code is  
21          amended and reenacted as follows:

22          **50-35-02. State-paid human services - Application - Study.**

23          1. The department shall administer a statewide program for state funding of staffing and  
24          administrative costs related to the administration of human services.

25          2. Payments must be distributed to human service zones and the department pursuant to  
26          ~~the formula in~~ section 50-35-04, with the first ~~formula~~ payment distributions  
27          commencing in January 2020.

28          3. Human service zones shall cooperate with the department to adopt administrative and  
29          operational cost-savings methodologies and determine options for consolidations.  
30          Human service zones shall implement the administrative and operational cost-savings  
31          methodologies and consolidations.



- 1       4.    During the ~~2019-20~~2021-22 interim, the department, with assistance from the North  
2       Dakota association of counties and human service zone directors, shall ~~consider~~  
3       ~~options~~provide information to county commissioners outlining the process for allowing  
4       a human service zone to opt in to state employment. The ~~study~~process must identify  
5       under what conditions a transition to state employment may be desirable for a human  
6       service zone; outline the governance process for choosing to opt in to state  
7       employment, including a description of the role of the human service zone board,  
8       county commissions, and the department; and include a template and potential  
9       timeline for any zone choosing to make the transition to state employment. The  
10       transition to state employment is contingent on the approval from the sixty-eighth  
11       legislative assembly.

12       **SECTION 16. AMENDMENT.** Section 50-35-03 of the North Dakota Century Code is  
13       amended and reenacted as follows:

14       **50-35-03. ~~Formula payments~~Payments - Distributions by the director.**

- 15       1.    The director shall calculate the total ~~formula~~ payment for each human service zone  
16       pursuant to section 50-35-04 for each calendar year. The director shall notify each  
17       human service zone of the estimated amount of that zone's ~~formula~~ payment for  
18       ~~calendar year 2020, before December 16, 2019,~~ and for calendar year 2021 and the  
19       following years thereafter, before ~~June second~~July first of the previous year. The  
20       director may amend and modify each human service zone's ~~formula~~ payment. If the  
21       director amends and modifies a human service zone's ~~formula~~ payment, the human  
22       service zone director must be notified within thirty days of amendment or modification.  
23       2.    The director shall distribute fifty percent of the amount of each human service zone's  
24       ~~formula~~ payment determined under subsection 1, within the limits of legislative  
25       appropriation, before January eleventh.  
26       3.    By June first of each year, ~~excluding calendar year 2019,~~ the director shall recalculate  
27       the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04  
28       for the current calendar year.  
29       4.    ~~For payments disbursed after calendar year 2020, the~~The director shall subtract from  
30       a human service zone's June fifteenth disbursement any amount exceeding the  
31       limitation under section 50-35-05.

1       5. The director may subtract from a human service zone's payment any amount included  
2       in the human service zone human services fund.

3       6. The director shall calculate the total formula payment for the department pursuant to  
4       section 50-35-04.

5       **SECTION 17. AMENDMENT.** Section 50-35-04 of the North Dakota Century Code is  
6       amended and reenacted as follows:

7       **50-35-04. Calculation of formula payment - Expenditures.**

8       1. The director shall calculate the total formula payment for each human service zone.  
9       The calculation must be based on the human service zone's most recently available  
10      data on historical cost and income, and may include:

11      a. Other factors outlined in subsection 3;

12      b. The human service zone director's proposed budget for the human service zone  
13      which may include expansion of scope of human services to include kinship care  
14      services and payments and services in response to the federal Family First  
15      Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L.  
16      115-123];

17      c. Compensation equity and salary increases. The department may limit future  
18      salary increases for human service zone team members ~~who received a salary~~  
19      ~~increase from the county commissioners or county social service board for~~  
20      ~~calendar year 2018 or 2019 which was above~~ to the salary increase provided by  
21      the legislative assembly for state employees ~~or who receive a wage above~~  
22      equitable compensation; and

23      d. Current and future duties of and services offered by the human service zone and  
24      department.

25      2. The director shall authorize expenditures from the human service finance fund to  
26      reimburse the department for the department's costs of providing human services that  
27      historically have been provided by a county, human service zone, or a new service or  
28      program based on federal or state law. The department may authorize expenditures  
29      from the human service finance fund to reimburse the department for transitional costs  
30      incurred for implementing the statewide program for state funding.

1           3. The director may recalculate and adjust each human service zone's formula payment  
2           biannually based on pertinent factors, which include actual expenditures over the  
3           previous or current payment period, current costs, offered services, need, income,  
4           performance of duties directed or assigned and supervised by the department, and  
5           caseload. If the director amends and modifies a human service zone's formula  
6           payment, the human service zone director must be notified within thirty days of  
7           amendment or modification. The spending authority of the human service zone must  
8           be increased or decreased based on the approved, adjusted, or modified formula  
9           payment.

10          4. The director, during the period between January 1, ~~2020~~2021, and December 31,  
11          ~~2021~~2023, shall calculate payment for indirect costs according to a formula  
12          established by the department, during the period between January 1, 2020, and  
13          December 31, 2021. The total payment by the department for reimbursement of  
14          indirect costs incurred to support human services may not be less than the prorated  
15          amount paid to counties for this purpose in state fiscal year 2018 as identified in the  
16          indirect cost plan, unless a cost reduction or cost-savings is achieved by the county.

17          **SECTION 18. AMENDMENT.** Section 50-35-05 of the North Dakota Century Code is  
18          amended and reenacted as follows:

19          **50-35-05. Human service zone human services fund - Establishment - Fund balance**  
20          **limitations.**

21          1. Each human service zone in this state shall maintain a fund to be known as the human  
22          service zone human services fund. All expenditures by the human service zone for  
23          human services must be paid from the human service zone human services fund. If,  
24          due to unforeseen or other extenuating circumstances, a human service zone's  
25          formula distribution payment, the county's cost allocation of indirect costs, and balance  
26          of moneys carried over pursuant to subsection 2 are not sufficient to meet the  
27          expenses of that human service zone, the director may approve a transfer from the  
28          human service finance fund to the human service zone human services fund.

29          2. The balance of moneys in the human service zone human services fund on January  
30          first of each year, after calendar year 2020, may not exceed five hundred thousand  
31          dollars for a human service zone that had annual expenditures of two million dollars or

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

8 **SECTION 19. AMENDMENT.** Section 50-35-06 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **50-35-06. Human service zone human services fund - Transfer.**

- 11 1. The county treasurer shall transfer the full amount of the service area human services  
12 fund to the human service zone human services fund on January 1, 2020. If on  
13 January 1, 2021, and each year thereafter, the balance of a human service zone  
14 human services fund exceeds the limitations in section 50-35-05, the director shall  
15 reduce the human service zone's ~~formula~~ payment as directed in subsection 4 of  
16 section 50-35-03. The director may reduce the human service zone's payment as  
17 directed in subsection 5 of section 50-35-03.  
18 2. The county may not transfer any funds from the service area human services fund  
19 until January 1, 2020, unless approved by the department.

20 **SECTION 20. AMENDMENT.** Section 50-35-07 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **50-35-07. Human service finance fund.**

23 The human service finance fund is a special fund in the state treasury. Moneys in the fund  
24 may be used, subject to legislative appropriation, for the provision of ~~formula~~ payments to  
25 human service zones and payments to the department pursuant to this chapter.

26 **SECTION 21. REPEAL.** Chapter 50-11.2 of the North Dakota Century Code is repealed.

27 **SECTION 22. TRANSFER OF EMPLOYEES - HEALTH INSURANCE COVERAGE.**

- 28 1. Sixteen full-time equivalent foster care licensing positions of a human service zone  
29 become full-time equivalent positions of the department of human services upon  
30 notice of transfer to the human service zone director or county commissioners.

- 1        2. An employee who becomes a state employee under this section is entitled to receive a  
2            salary in an amount not less than the salary received as an employee of the host  
3            county.
- 4        3. Each year of county or host county employment of an employee who is transferred  
5            under this section will be considered a year of state employment for purposes of  
6            section 54-06-14.
- 7        4. Before the transfer of the full-time equivalent position from the host county to the  
8            department of human services, the host county shall pay the employer's share of any  
9            premium that is necessary to continue any existing health insurance coverage for an  
10          employee who is transferred under this section for one month after the effective date  
11          of this transfer.
- 12       5. Any equipment, including technology-related equipment, furnishings, and supplies in  
13          the control and custody of a county or human service zone on the effective date of an  
14          employment transfer from the host county to the department of human services under  
15          this section, must be transferred to the control and custody of the department of  
16          human services if requested.
- 17       6. A position added to the department of human services under this section would be  
18          position transfers from the human service zone and may not result in:
  - 19          a. A net addition of positions delivering human services programs, services, or  
20              functions under the appropriation provided in House Bill No. 1012, as approved  
21              by the sixty-seventh legislative assembly.
  - 22          b. An increase in human service zone team members delivering human services  
23              programs, services, or functions.