

**Sixty-seventh Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2086  
(Human Services Committee)  
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-01.1 of the North Dakota Century Code, relating to gifts and donations received by human service zones; to amend and reenact sections 11-16-01, 11-16-06, 11-23-01, 14-09-06.3, 14-09-06.4, 14-15-09, 14-15-11, 50-01.1-01, 50-01.1-04, 50-01.1-08, 50-01.2-01, 50-01.2-05, 50-06-05.8, 50-12-08, 50-33-01, 50-33-02, 50-35-01, 50-35-02, 50-35-03, 50-35-04, 50-35-05, and 50-35-07 of the North Dakota Century Code, relating to the operation and financing of human service zones; to repeal chapter 50-11.2 of the North Dakota Century Code, relating to foster care parent grievance; to provide for legislative management reports; to provide for a legislative management study; to provide for the transfer of employees; and to provide an effective date.

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

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

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

1. The state's attorney is the public prosecutor, and shall:
  - a. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.
  - b. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the state's attorney has information that such offenses have been committed, and for that purpose, when the state's attorney is not engaged in criminal proceedings in the district court, the state's attorney shall attend upon the magistrates in cases of arrests when required by them except in cases of assault and battery and petit larceny.
  - c. Attend before, and give advice to, the grand jury whenever cases are presented to it for consideration.
  - d. Draw all indictments and informations.
  - e. Defend all suits brought against the state or against the county.
  - f. Prosecute all bonds forfeited in the courts of record of the county and prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county.
  - g. Deliver duplicate receipts for money or property received in the state's attorney's official capacity and file copies thereof with the county auditor.
  - h. On the first Monday of January, April, July, and October in each year, file with the county auditor an account, verified by the state's attorney's oath, of all money received by the state's attorney in an official capacity in the preceding three months, and at the same time, pay it over to the county treasurer.

9. i. Give, when required and without fee, the state's attorney's opinion in writing to the county, district, township, and school district officers on matters relating to the duties of their respective offices.
  10. j. Keep a register of all official business in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.
  11. k. Act as legal adviser of the board of county commissioners, attend the meetings thereof when required, and oppose all claims and actions presented against the county which are unjust or illegal.
  12. l. Institute an action in the name of the county to recover any money paid upon the order of the board of county commissioners without authority of law as salary, fee, or for any other purpose, or any money paid on a warrant drawn by any officer to that officer's own order or in favor of any other person without authorization by the board of county commissioners or by law.
  13. m. Institute an action in the name of the county to restrain the payment of any money described in any order or warrant of the kind described in subsection 13 when the state's attorney secures knowledge of such order or warrant before the money is paid thereon.
  14. n. Assist the district court in behalf of the recipient of payments for child support or spousal support combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.
  15. o. Institute proceedings under chapter 25-03.1 if there is probable cause to believe that the subject of a petition for involuntary commitment is a person requiring treatment.
  16. p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, 27-20.1, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.
  17. q. Act as the legal advisor and represent a human service zone as set forth in a plan approved under section 50-01.1-03. The state's attorney within the human service zone, by way of agreement, shall designate a singular state's attorney's office, within or outside the human service zone, to act as legal advisor of the human service zone. The host county state's attorney shall serve as the legal advisor if no agreement is reached. The agreement may not limit a state's attorney's individual discretion in court filings and representation.
  18. r. Act as the legal advisor and represent the human service zone regarding employer actions, including grievances and appeals, taken against the human service zone team member. The state's attorney of the county by which the human service zone team member is employed shall act as the legal advisor of the human service zone, unless a different agreement is established by the affected state's attorney.
2. The state's attorney ~~shall~~may not require any order of the board of county commissioners to institute an action under subdivision l or m of subsection 12 or 13~~1~~.

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

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

If it shall appear, by affidavit or otherwise, to the satisfaction of a judge of the district court of the judicial district in which the county is situated, that the county has no state's attorney, or that the state's attorney is absent or unable to attend to the state's attorney's duties, or that the state's attorney has

refused or neglected to perform any of the duties prescribed in ~~subsections 2 through 6~~subdivisions b through f of subsection 1 of section 11-16-01, or to institute any civil suit to which the state or the county is a party after the matter has been properly brought to the attention of such state's attorney, and that it is necessary that some act be performed, the judge shall:

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

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

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

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2.
  - a. The departmental budget submitted by the human service zone may not exceed an amount determined by the department of human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs based on ~~a formula~~an amount established by the department of human services.
  - b. The county share of the human service zone's indirect costs must be funded entirely from the county's general fund.
  - c. The department of human services shall develop a process to review a request from a human service zone for any proposed increase in staff. As part of its review process, the department of human services shall review pertinent factors, which may include caseload information. If the department of human services approves a request for a proposed increase in staff, the human service zone budget may be increased by the amount determined necessary by the department of human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.
3. For purposes of this section, "host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

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

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

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may order an investigation and report concerning parenting rights and responsibilities regarding the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the human service zone, public health officer, school officials, and any other public agency or private practitioner the court deems qualified to make the investigation.
2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. The court shall mail the investigator's report to counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.
4. The court shall enter an order for the costs of any such investigation against either or both parties, except that if the parties are indigent the expenses must be borne by the ~~human service zone~~ county where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.

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

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

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

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

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

1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk of the court, and state:
  - a. The date and place of birth of the individual to be adopted, if known.

- b. The name to be used for the individual to be adopted.
- c. The date petitioner acquired custody or date of placement of the minor and the name of the individual placing the minor.
- d. The full name, age, place, and duration of residence of the petitioner.
- e. The marital status of the petitioner, including the date and place of marriage, if married.
- f. That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted.
- g. A description and estimate of value of any property of the individual to be adopted.
- h. The name of any individual whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of the individual's consent normally required to the adoption.
- i. The department ~~and a human service zone as respondents~~respondent.
- j. The human service zone as respondent if the minor to be adopted is in the custody of the human service zone.
- k. That the petitioner's expenses were reasonable as verified by the court. Reasonable fees may be charged for professional services and living expenses if reflected in a report of agreements and disbursements filed under this chapter and approved by the court. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption. Reasonable fees may include:
  - (1) Preplacement counseling, adoption assessment, placement of the child, foster care, or other preadoption services, which must be paid directly to the provider of the services;
  - (2) Legal fees relating to the petition for relinquishment or adoption, that must be paid directly to the provider of the services;
  - (3) Medical expenses relating to prenatal care and the birth of the child, that are not already covered by health insurance;
  - (4) Expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement; and
  - (5) Living expenses of the birth mother which are needed to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.
    - (a) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following the delivery, unless the court determines within the six-week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child.
    - (b) Living expenses do not include expenses for lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.

2. A certified copy of the birth certificate or verification of birth record of the individual to be adopted, if available, and the required consents and relinquishments must be filed with the clerk.
3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in subsection 1 of section 27-05.2-03.

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

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

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20-45, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone must be accompanied by a copy of the petition.
- b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.
2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.
3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.
4. The report of the investigation must contain a review of the child's history; a preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; and a postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.
5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.
6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.

7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.
8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

**SECTION 8. AMENDMENT.** Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-01.1-01. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.
3. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.
- ~~3-4.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
- ~~4-5.~~ "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
- ~~5-6.~~ "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.
- ~~6-7.~~ "Human services" means:
  - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
  - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
  - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
- ~~7-8.~~ "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost.

These Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

- 8-9. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone office and include:
- a. Temporary assistance for needy families;
  - b. Employment and training programs;
  - c. Child care assistance programs;
  - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
  - e. Supplemental nutrition assistance programs, including employment and training programs;
  - f. Refugee assistance programs;
  - g. Basic care services;
  - h. Energy assistance programs; and
  - i. Information and referral.

**SECTION 9. AMENDMENT.** Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department through a process developed by the department.
2. The human service zone director shall prepare a proposed budget for the human service zone at the time and in the manner as requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the human service zone for review. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted must be sufficient to defray the anticipated expenses of administration and the delivery of human services. Within ten days following review of the proposed budget by the boards of county commissioners, the human service zone director shall certify the budget to the respective county auditors of the counties in the district. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of the human service zone. Indirect costs of the human service zone may not become direct costs without written approval of the department. The amounts budgeted, reviewed, and



approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the human service zone office is located and must be placed in a special human service zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The human service zone board shall establish procedures for the review and approval of all claims against the human service zone human services fund. The human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year pursuant to section 50-35-05. The department may recalculate and adjust each human service zone's formula payment biannually based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

**SECTION 10. AMENDMENT.** Section 50-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 11.** A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

**Human service zones accepting gifts and donations.**

A human service zone shall secure, hold, and administer for the purpose for which the human service zone is established any property and any funds donated to the human service zone either by will or deed, or otherwise, or through court order or otherwise available to the human service zone, and to administer the funds or property in accordance with the instructions in the instrument creating the funds or property or in accordance with the instructions in the court order or otherwise. Property and

funds received by a human service zone under this section are not considered income to the human service zone.

**SECTION 12. AMENDMENT.** Section 50-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-01.2-01. Human service zone board - Members - Qualifications.**

The board of county commissioners of each county within the human service zone shall appoint the appointed members of the human service zone board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. Appointed members of the human service zone board must consist of local elected officials and other key community partners. Each~~Each~~if a human service zone consists of two or more counties, each county must be represented on the human service zone board by at least~~only~~one county commissioner of that county. If a human service zone consists of a single county, the county must be represented on the human service zone board by no more than two county commissioners of that county and the human service zone board must have at least five appointed members. Appointed members shall elect a vice presiding officer and appoint a secretary, and other officers as the human service zone board determines necessary. The human service zone director shall serve as presiding officer of the human service zone board as a nonappointed member.

**SECTION 13. AMENDMENT.** Section 50-01.2-05 of the North Dakota Century Code is amended and reenacted as follows:

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

Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance or general assistance must be brought by or against the county in its corporate name ~~or~~ human service zone, or department. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01. The department may institute and conduct or defend any and all actions or proceedings that may be instituted under section 50-01-21.

**SECTION 14. AMENDMENT.** Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the ~~department of human services~~ service zone is satisfied that a child has been placed in an unsuitable home, the ~~department~~ human service zone shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the ~~department~~ human service zone. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the ~~department shall refer the child to the county social service board of~~

~~the county in which the child has legal settlement. The county social service board~~ human service zone shall make immediate arrangements, ~~subject to the approval of the department,~~ for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

**SECTION 16. AMENDMENT.** Section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-33-01. Definitions.**

For the purposes of this chapter:

1. "Allowable activities" means paid work, job search, attending job training or an education program, any activity in the job opportunity and basic skills program, transportation time related to the activities, temporary illness or incapacity of a current recipient, and temporary illness of the child.
2. "Approved relative" means an individual provider related to a child in that provider's care by marriage, blood, or court decree as a grandparent, step-grandparent, great grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or step-sibling, who has been approved to care for specific children in the provider's own home, but does not mean a sibling provider who resides in the home of a child in that provider's care.
3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request, but does not mean a provider.
4. "Child care assistance unit" means all members of the caretaker's immediate household, including a child through the month of that child's nineteenth birthday, and any parent or stepparent of a child, including an acknowledged or adjudicated father of one or more children in the household, but does not mean any other person who is not acting in the stead of a parent, a child who is nineteen years of age or older, a child for whom the household receives foster care payments, or a minor parent of a child in the household unless the minor parent also requires child care or is incapable of caring for the child.
5. "Child care center" has the meaning provided in chapter 50-11.1.
6. ~~"County agency" means any county social services office.~~
7. "Department" means the department of human services.
- 8-7. "Family child care" has the meaning provided in chapter 50-11.1.
- 9-8. "Group child care" has the meaning provided in chapter 50-11.1.
9. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
10. "Provider" means an individual who is eighteen years of age or older, licensed as a provider in a family child care, group child care, or child care center, with a self-declaration as a provider of early childhood services who requires no license, registered as a child care provider by a tribal entity, or an approved relative, who meets criteria established by the jurisdiction with authority to regulate child care services.
11. "Recipient" means an individual who is receiving child care assistance.

12. "Tribal entity" means an organization authorized by the government of an Indian tribe within North Dakota to license, register, or otherwise recognize a child care provider operating within the jurisdiction of that Indian tribe.
13. "Work":
  - a. Means any paid employment and any self-employment providing commensurate income; and
  - b. Does not mean any unpaid activity except:
    - (1) With respect to a caretaker who is involved in job opportunity and basic skills or tribal native employment works required by temporary assistance for needy families, any approved activity for the program; and
    - (2) When a state has been determined to have a major disaster, activity by an individual who is residing in the disaster area and involved in unpaid work activities, including the cleaning, repair, restoration, and rebuilding of homes, businesses, and schools.

**SECTION 17. AMENDMENT.** Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a ~~county agency~~ human service zone on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the ~~county agency~~ human service zone. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the ~~county agency~~ human service zone, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.
2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.
3. An eligibility decision must be made within thirty days on child care assistance applications whenever possible. The ~~county agency~~ human service zone shall notify the applicant following a determination of eligibility or ineligibility.
4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance benefits and to establish and enforce standards against program fraud and abuse.

**SECTION 18. AMENDMENT.** Section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-35-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.

2. "Director" means the executive director of the department or the executive director's designee.
3. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.
4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:
  - a. Temporary assistance for needy families;
  - b. Employment and training programs;
  - c. Child care assistance programs;
  - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
  - e. Supplemental nutrition assistance programs, including employment and training programs;
  - f. Refugee assistance programs;
  - g. Basic care services;
  - h. Energy assistance programs; and
  - i. Information and referral.
- 4-5. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.
- 5-6. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.
- 6-7. "Human services" means:
  - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
  - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
  - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
- 7-8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. ~~These~~Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

**SECTION 19. AMENDMENT.** Section 50-35-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-35-02. State-paid human services - Application - Study - Report to legislative management.**

1. The department shall administer a statewide program for state funding of staffing and administrative costs related to the administration of human services.
2. Payments must be distributed to human service zones and the department pursuant to the ~~formula in~~ section 50-35-04, with the first ~~formula~~ payment distributions commencing in January 2020.
3. Human service zones shall cooperate with the department to adopt administrative and operational cost-savings methodologies and determine options for consolidations. Human service zones shall implement the administrative and operational cost-savings methodologies and consolidations.
4. During the ~~2019-20~~2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall consider options develop a process for allowing a human service zone to opt in to state employment. The study process must identify under what conditions and factors a transition to state employment may or may not be desirable for a human service zone and the department; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment. Before August 1, 2022, the department shall report to the legislative management the process developed for allowing a human service zone to opt in to state employment. The transition to state employment is contingent on the approval from the legislative assembly.
5. During the 2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall study indirect costs. The study must identify a plan defining the process to calculate payment for indirect costs. The department shall provide regular updates to the legislative management on the progress of the study. Before August 1, 2022, the department shall report to the legislative management the process developed to calculate payment for indirect costs.

**SECTION 20. AMENDMENT.** Section 50-35-03 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The director shall calculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for each calendar year. The director shall notify each human service zone of the estimated amount of that zone's ~~formula~~ payment for ~~calendar year 2020, before December 16, 2019, and for calendar year 2021 and the following years thereafter, before June second~~ July first of the previous year. The director may amend and modify each human service zone's ~~formula~~ payment. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification.
2. The director shall distribute fifty percent of the amount of each human service zone's ~~formula~~ payment determined under subsection 1, within the limits of legislative appropriation, before January eleventh.
3. By June first of each year, ~~excluding calendar year 2019,~~ the director shall recalculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for the current calendar year.

4. ~~For payments disbursed after calendar year 2020, the~~The director shall subtract from a human service zone's June fifteenth disbursement any amount exceeding the limitation under section 50-35-05.
5. The director shall calculate the total ~~formula~~ payment for the department pursuant to section 50-35-04.

**SECTION 21. AMENDMENT.** Section 50-35-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The director shall calculate, ~~in collaboration with the human service zone director or designee,~~ the total ~~formula~~ payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:
  - a. Other factors outlined in subsection 3;
  - b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];
  - c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members ~~who received a salary increase from the county commissioners or county social service board for calendar year 2018 or 2019 which was above~~to the salary increase provided by the legislative assembly for state employees or ~~who receive a wage above equitable compensation;~~ and
  - d. Current and future duties of and services offered by the human service zone and department.
2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.
3. The director may recalculate and adjust each human service zone's ~~formula~~ payment ~~biannually~~ based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified ~~formula~~ payment.
4. The director, during the period between January 1, ~~2020~~2021, and December 31, ~~2024~~2023, shall calculate payment for indirect costs ~~according to a formula established by the department, during the period between January 1, 2020, and December 31, 2021. Indirect costs of the human service zone may not become direct costs without written approval of the department.~~ The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the indirect cost plan, unless a cost reduction or cost-savings is achieved by the county.

5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.
6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.

**SECTION 22. AMENDMENT.** Section 50-35-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures by the human service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's ~~formula~~ distribution payment, ~~the county's cost allocation of indirect costs,~~ and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.
2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or ~~one~~two hundred ~~thirty~~fifty thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

**SECTION 23. AMENDMENT.** Section 50-35-07 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 24. REPEAL.** Chapter 50-11.2 of the North Dakota Century Code is repealed.

**SECTION 25. LEGISLATIVE MANAGEMENT STUDY - DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE ZONES EMPLOYEE COMPENSATION.**

1. During the 2021-22 interim, the legislative management shall study issues related to the department of human services and human service zones employee compensation. The study must include consideration of the following issues:
  - a. Total state employee and human service zone team members compensation, including wages and salaries, annual leave, pay grades, classification, disaster or emergency services volunteers' leave, employee assistance program benefits, family and medical leave, funeral leave, holidays, hours of work, administrative leave, jury and witness leave, leave without pay, the merit system, military leave, overtime compensation, retirement benefits, health insurance benefits, severance pay, sick leave, benefits for temporary employees, and time off to vote.



- b. Health insurance benefits, including the availability of health savings accounts, self-insurance, healthy lifestyle incentives, and the appropriateness of the human service zones' current health insurance benefits.
  - c. Compensation equity between the department of human services, other state agencies, human service zones, and the market; within human service zones; within the department of human services; and between human service zones.
  - d. The feasibility and desirability of implementing compensation equity.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

**SECTION 26. TRANSFER OF EMPLOYEES - HEALTH INSURANCE COVERAGE.**

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

**SECTION 27. EFFECTIVE DATE.** Section 12 of this Act becomes effective on January 1, 2022.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2086.

Senate Vote:    Yeas 45            Nays 1            Absent 1

House Vote:    Yeas 84            Nays 6            Absent 4

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2021,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State