

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1046

Introduced by

Human Services Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact section 50-01.1-01, subsection 3 of section 50-01.1-02,
2 and sections 50-01.1-03, 50-01.1-04, 50-01.1-06, 50-01.1-08, 50-35-01, 50-35-04, and
3 50-35-05 of the North Dakota Century Code, relating to direct and indirect costs, billing
4 practices, and payments to human service zones, human service zones agreements and plans,
5 creation of human service zones, human service zone directors, and the indirect cost plan.

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

7 **SECTION 1. AMENDMENT.** Section 50-01.1-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **50-01.1-01. Definitions.**

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

- 11 1. "Department" means the department of health and human services.
- 12 2. "Direct costs" means costs that are charged directly to the human service zone human
13 services fund. Direct costs are costs related directly to human service zone team
14 members or human service zone services, including compensation, fringe benefits,
15 and operating costs that are approved by the department and not identified by the
16 department as an indirect cost.
- 17 3. "Host county" means the county within the human service zone in which the human
18 service zone administrative office is located and in which the human service zone
19 team members are employed.
- 20 4. "Human service zone" means a county or consolidated group of counties
21 administering human services within a designated area in accordance with an
22 agreement or plan approved by the department.

- 1 5. "Human service zone director" means a human service zone team member who
2 oversees the human service zone's operation and budget and serves as presiding
3 officer of the human service zone board.
- 4 6. "Human service zone team member" means a county employee who is responsible for
5 administering or delivering human services under the direction of the human service
6 zone director.
- 7 7. "Human services" means:
- 8 a. A service or assistance provided to an individual or an individual's family in need
9 of services or assistance, including child welfare services, locally administered
10 economic assistance programs, medical service programs, and aging service
11 programs, to assist the individual or the individual's family in achieving and
12 maintaining basic self-sufficiency, including physical health, mental health,
13 education, welfare, food and nutrition, and housing.
- 14 b. A service or assistance provided, administered, or supervised by the department
15 in accordance with chapter 50-06.
- 16 c. Licensing duties as administered or supervised by the department or delegated
17 by the department to a human service zone.
- 18 8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing
19 those goods and services to support human services that are generally available for
20 the common benefit of multiple county agencies which are not identified by the
21 department as a direct cost. Indirect costs include legal representation; facilities and
22 related costs, such as utilities ~~and~~, maintenance, remodeling, construction, and
23 improvement costs; administrative support including payroll, accounting, banking, and
24 coordination; information technology support and equipment; and miscellaneous
25 goods and services, such as transportation, supplies, insurance coverage, phone, and
26 mail services. Indirect costs may not include non-space and non-facility costs and
27 expenses that are exclusively attributable to the human service zones.
- 28 9. "Locally administered economic assistance programs" means those primary economic
29 assistance programs that need to be accessible to all citizens of the state through a
30 human service zone office and include:
- 31 a. Temporary assistance for needy families;

- 1 b. Employment and training programs;
- 2 c. Child care assistance programs;
- 3 d. Medical assistance, including early periodic screening, diagnosis, and treatment;
- 4 e. Supplemental nutrition assistance programs, including employment and training
- 5 programs;
- 6 f. Refugee assistance programs;
- 7 g. Basic care services;
- 8 h. Energy assistance programs; and
- 9 i. Information and referral.

10 **SECTION 2. AMENDMENT.** Subsection 3 of section 50-01.1-02 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 3. Counties shall identify other counties with which to enter a human service zone
13 agreement, and together the board of county commissioners shall file with the
14 department a written agreement to create a human service zone ~~no later than~~
15 ~~December 1, 2019~~. The agreement must identify the proposed counties of the human
16 service zone, host county, identify the human service zone board members, proposed
17 effective date, and agree to seek approval from the department regarding hiring or
18 dismissal of ~~county social services or~~ human service zone employees. The
19 department shall review and approve all agreements in accordance with section
20 50-01.1-03. The department may modify the agreements as specified in section
21 50-01.1-03 or if some of the counties are not included in a human service zone. ~~If~~
22 ~~counties do not submit an agreement, the department shall create the human service~~
23 ~~zone.~~ The board of county commissioners shall submit a plan as prescribed in section
24 50-01.1-04 ~~by June 1, 2020~~. The department shall approve the plan in accordance
25 with section 50-01.1-04 ~~by January 1, 2021~~ within six months of receiving the plan. The
26 board of county commissioners shall provide quarterly updates as requested by the
27 department to the department after the agreement is approved until the plan is
28 submitted as requested. If counties do not submit an agreement or plan or if the
29 agreement or plan is rescinded or terminated by the constituent counties or by the
30 department pursuant to sections 50-01.1-02, 50-01.1-04, or 50-01.1-08, the

1 department shall create the human service zone. The department shall establish the
2 date the approved agreement or plan takes effect.

3 **SECTION 3. AMENDMENT.** Section 50-01.1-03 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-01.1-03. Manner of determination.**

- 6 1. In determining whether the creation of a human service zone should be approved or
7 established, the department shall refer to, among other pertinent factors, the following:
- 8 a. Whether the affected county agencies are able to supply an adequate level and
9 quality of human, social, and economic assistance services.
 - 10 b. The number and qualifications of staff personnel serving the affected county
11 agencies.
 - 12 c. The ratio of the number of cases handled by the affected county agencies to the
13 number of their staff personnel.
 - 14 d. The geographical area and population served by the affected county agencies.
 - 15 e. The distance of recipients from the affected county agencies.
 - 16 f. The benefits that would be realized from the creation of the human service zone
17 in terms of lower costs, increased availability of services, new services, and
18 improvement of services.
 - 19 g. The amount of current and future access points for individuals to apply for and
20 receive services within a human service zone.
 - 21 h. The existing pattern of the counties trade area and any regional pattern
22 established by the department.
 - 23 i. Whether the county has a population exceeding sixty thousand individuals
24 according to the 2010 United States census to operate as a single human service
25 zone and whether it is in the best interest of the neighboring counties.
 - 26 j. The maximum number of human service zones created may not exceed
27 nineteen.
 - 28 k. Whether the human service zone director can adequately supervise the activities
29 and operations of the human service zone.
 - 30 l. Whether the human service zone board is constituted of individuals that
31 represent the population of the human service zone.

- 1 m. Budget impact.
2 n. Other good cause.
3 2. The department has final approval of a human service zone. The department may
4 establish or modify a human service zone based on the criteria set forth in
5 subsection 1. All human service zones must be initially approved or established by
6 January 1, 2020, and may be rescinded or terminated pursuant to sections
7 50-01.1-02, 50-01.1-04, or 50-01.1-08, modified thereafter by the department, or
8 approved by the department through a process developed by the department and in
9 accordance with section 50-01.1-02.

10 **SECTION 4. AMENDMENT.** Section 50-01.1-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **50-01.1-04. Plan - Financing - Human service zone board.**

- 13 1. A plan for the creation of a human service zone must describe the method of operation
14 of the human service zone office, its administration, its location and the location of any
15 ancillary offices, the disbursements from public funds, and the accountability for funds
16 and manner of reporting receipts and disbursements. The plan must provide for the
17 distribution of property owned by each of the county agencies affected by the
18 consolidation and for the method of resolution of any disagreement between the
19 boards of county commissioners involved in the human service zone or between the
20 governing board and one or more boards of county commissioners. The plan must
21 also require the participating counties to participate in the indirect cost allocation plan.
22 The plan, once approved, may be continued for a definite term or until rescinded,
23 terminated, or modified by the department or approved by the department through a
24 process developed by the department and in accordance with section 50-01.1-02.
25 2. The human service zone director shall prepare a proposed budget for the human
26 service zone at the time and in the manner as requested by the department and shall
27 submit the department-approved proposed budget to the board of county
28 commissioners of each county in the human service zone for review. The board of
29 county commissioners may not take any action to amend or modify the amount
30 approved by the department. The board of county commissioners may make
31 recommendations to the human service zone director and the department to amend or

1 modify the amount proposed or budgeted. The amount budgeted must be sufficient to
2 defray the anticipated expenses of administration and the delivery of human services.
3 Within ten days following review of the proposed budget by the boards of county
4 commissioners, the human service zone director shall certify the budget to the
5 respective county auditors of the counties in the district. Each board of county
6 commissioners also shall budget and approve amounts sufficient to defray that
7 county's anticipated indirect costs of the human service zone. Indirect costs of the
8 human service zone may not become direct costs without written approval of the
9 department. Counties may not direct bill human service zones or the department as
10 counties will receive reimbursement of costs through the indirect cost plan and any
11 other expense incurred by the human service zone must be incurred through the
12 human service zone's approved budget. The amounts budgeted, reviewed, and
13 approved by the several boards of county commissioners or the department, or both
14 must be periodically deposited with the treasurer of the host county in which the
15 human service zone office is located and must be placed in a special human service
16 zone human services fund. Indirect cost payments received by the human service
17 zone are not required to be deposited in the special human service zone human
18 services fund. The human service zone's income must be deposited into the human
19 service zone human services fund by the treasurer of the host county. The human
20 service zone board shall establish procedures for the review and approval of all claims
21 against the human service zone human services fund. The human service zone
22 director or designee shall approve or ratify all claims against the human service zone
23 human services fund. The county treasurer of the host county, shall pay approved or
24 ratified claims from the human service zone human services fund. Unexpended
25 human service zone human services funds remaining at the end of a fiscal year may
26 be carried over to the next fiscal year pursuant to section 50-35-05. The department
27 may recalculate and adjust each human service zone's payment based on pertinent
28 factors, which include actual expenditures over the prior or current payment period,
29 current costs, offered services, need, income, performance of duties directed or
30 assigned and supervised by the department, and caseload.

1 **SECTION 5. AMENDMENT.** Section 50-01.1-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **50-01.1-06. Human service zone directors.**

4 Human service zone directors:

- 5 1. Must be employees of the human service zone ~~and located within the human service-~~
6 zone, ~~unless serving more than one human service zone.~~
- 7 2. Shall serve as the presiding officer of the human service zone board.
- 8 3. May serve one or more human service zones.
- 9 4. May hire, take disciplinary actions, and direct the work of a human service zone team
10 member in accordance with the department's policies. The human service zone
11 director has discretion to hire or separate from employment a human service zone
12 team member, on behalf of the human service zone board, subject to the allotted
13 number of approved and funded staff positions by the department.
- 14 5. Shall notify the department and appropriate host county staff, as directed by the
15 county commissioners, regarding the hiring, dismissal, demotion, suspension without
16 pay, forced relocation within the human service zone, reduction-in-force, or reprisal of
17 a human service zone team member.
- 18 6. May notify county commissioners, the human service zone board, or other appropriate
19 county staff regarding transfers of staff between the county and the department.
- 20 7. Shall establish, as agreed upon by the department, equitable compensation and salary
21 increases for all human service zone team members within established appropriation.
- 22 8. Shall develop a budget for the human service zone in partnership with the department
23 and other human service zone directors to ensure the administration of human
24 services.
- 25 9. May serve as a designee of the department to supervise department employees
26 assigned to or located within the human service zone.
- 27 10. Are the custodian designees of the executive director of the department for any child
28 in the custody of the department.

29 **SECTION 6. AMENDMENT.** Section 50-01.1-08 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **50-01.1-08. Standards of administration - Action upon failure to administer.**

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

25 **SECTION 7. AMENDMENT.** Section 50-35-01 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **50-35-01. Definitions.**

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

- 29 1. "Department" means the department of health and human services.
- 30 2. "Director" means the executive director of the department or the executive director's
31 designee.

- 1 3. "Direct costs" means costs that are charged directly to the human service zone human
2 services fund. Direct costs are costs related directly to human service zone team
3 members or human service zone services, including compensation, fringe benefits,
4 and operating costs that are approved by the department and not identified by the
5 department as an indirect cost.
- 6 4. "Economic assistance" means those primary economic assistance programs that need
7 to be accessible to all citizens of the state through a human service zone, including:
8 a. Temporary assistance for needy families;
9 b. Employment and training programs;
10 c. Child care assistance programs;
11 d. Medical assistance, including early periodic screening, diagnosis, and treatment;
12 e. Supplemental nutrition assistance programs, including employment and training
13 programs;
14 f. Refugee assistance programs;
15 g. Basic care services;
16 h. Energy assistance programs; and
17 i. Information and referral.
- 18 5. "Human service zone" means a county or consolidated group of counties
19 administering human services within a designated area in accordance with an
20 agreement or plan approved by the department.
- 21 6. "Human service zone director" means a human service zone team member who
22 oversees the human service zone's operation and budget and serves as presiding
23 officer of the human service zone board.
- 24 7. "Human services" means:
25 a. A service or assistance provided to an individual or an individual's family in need
26 of services or assistance, including child welfare services, economic assistance
27 programs, medical service programs, and aging service programs, to assist the
28 individual or the individual's family in achieving and maintaining basic
29 self-sufficiency, including physical health, mental health, education, welfare, food
30 and nutrition, and housing.

- 1 b. A service or assistance provided, administered, or supervised by the department
2 in accordance with chapter 50-06.
- 3 c. Licensing duties as administered or supervised by the department or delegated
4 by the department to a human service zone.
- 5 8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing
6 those goods and services to support human services that are generally available for
7 the common benefit of multiple county agencies which are not identified by the
8 department as a direct cost. Indirect costs include legal representation; facilities and
9 related costs, such as utilities and maintenance; remodeling, construction, and
10 improvement costs; administrative support, including payroll, accounting, banking, and
11 coordination; information technology support and equipment; and miscellaneous
12 goods and services, such as transportation, supplies, insurance coverage, phone, and
13 mail services. Indirect costs may not include non-space and non-facility costs and
14 expenses that are exclusively attributable to the human service zones.

15 **SECTION 8. AMENDMENT.** Section 50-35-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-35-04. Calculation of payment - Expenditures.**

- 18 1. The director shall calculate, in collaboration with the human service zone director or
19 designee, the total payment for each human service zone. The calculation must be
20 based on the human service zone's most recently available data on historical cost and
21 income, and may include:
- 22 a. Other factors outlined in subsection 3;
- 23 b. The human service zone director's proposed budget for the human service zone
24 which may include expansion of scope of human services to include kinship care
25 services and payments and services in response to the federal Family First
26 Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L.
27 115-123];
- 28 c. Compensation equity and salary increases. The department may limit future
29 salary increases for human service zone team members to the salary increase
30 provided by the legislative assembly for state employees; and

- 1 d. Current and future duties of and services offered by the human service zone and
2 department.
- 3 2. The director shall authorize expenditures from the human service finance fund to
4 reimburse the department for the department's costs of providing human services that
5 historically have been provided by a county, human service zone, or a new service or
6 program based on federal or state law. The department may authorize expenditures
7 from the human service finance fund to reimburse the department for transitional costs
8 incurred for implementing the statewide program for state funding.
- 9 3. The director may recalculate and adjust each human service zone's payment based
10 on pertinent factors, which include actual expenditures over the previous or current
11 payment period, current costs, offered services, need, income, performance of duties
12 directed or assigned and supervised by the department, and caseload. If the director
13 amends and modifies a human service zone's payment, the human service zone
14 director must be notified within thirty days of amendment or modification. The
15 spending authority of the human service zone must be increased or decreased based
16 on the approved, adjusted, or modified payment.
- 17 4. The director, ~~during the period between January 1, 2021, and December 31, 2023,~~
18 shall calculate payment for indirect costs. Indirect costs of the human service zone
19 may not become direct costs without written approval of the department. The total
20 payment by the department for reimbursement of indirect costs incurred to support
21 human services ~~may not be less than the prorated amount paid to counties for this~~
22 ~~purpose in state fiscal year 2018 as identified in the~~ must be within legislative
23 appropriation and be based on the annual indirect cost plan, ~~unless a cost reduction or~~
24 ~~cost savings is achieved by the county~~ starting August 1, 2023, for the counties to
25 budget for the 2024 fiscal year. The 2023 cost allocation plan must be based on the
26 requested information received from the counties.
- 27 5. Direct costs must be applied consistently within all human service zones and may not
28 be included in indirect costs.
- 29 6. Indirect costs must be applied consistently within all counties as it relates to human
30 service zones and may not be included in direct costs.

1 7. Counties shall provide the requested information for the cost allocation plan by
2 September fifteenth of each year. The department shall provide notice to the county
3 commissioners and auditors sixty days before the deadline if the county does not
4 participate in providing information for the cost allocation plan. If counties fail to
5 provide the requested information by September fifteenth of each year, the counties
6 may not participate in the cost allocation plan and must be responsible for
7 one hundred percent of all indirect costs.

8 8. The director may authorize expenditures from the human service finance fund to
9 reimburse all indirect costs associated with a statewide pilot project, service, or
10 program performed by a human service zone.

11 **SECTION 9. AMENDMENT.** Section 50-35-05 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **50-35-05. Human service zone human services fund - Establishment - Fund balance**
14 **limitations.**

15 1. Each human service zone in this state shall maintain a fund to be known as the human
16 service zone human services fund. All expenditures, excluding indirect costs
17 payments, by the human service zone for human services must be paid from the
18 human service zone human services fund. If, due to unforeseen or other extenuating
19 circumstances, a human service zone's distribution payment and balance of moneys
20 carried over pursuant to subsection 2 are not sufficient to meet the expenses of that
21 human service zone, the director may approve a transfer from the human service
22 finance fund to the human service zone human services fund.

23 2. The balance of moneys in the human service zone human services fund on January
24 first of each year, after calendar year 2020, may not exceed five hundred thousand
25 dollars for a human service zone that had annual expenditures of two million dollars or
26 greater in calendar year 2020 or two hundred fifty thousand dollars for a human
27 service zone that had annual expenditures of less than two million dollars in calendar
28 year 2020. The balance of moneys carried over must be used for the administration of
29 human services within that human service zone as approved by the human service
30 zone director and may not be used for the county's cost allocation of indirect costs.

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- 1 The human service zone human services fund is not subject to any other charges and
- 2 is exempt from section 21-02-08.