

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### **WELFARE REFORM COMMITTEE**

Tuesday and Wednesday, March 10-11, 1998  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Jim Yockim, Chairman, called the meeting to order at 9:00 a.m. in the Roughrider Room, State Capitol, Bismarck.

**Members present:** Senators Jim Yockim, Judy L. DeMers, Tom Fischer, Donna L. Nalewaja, Bob Stenehjem, Russell T. Thane; Representatives LeRoy G. Bernstein, Linda Christenson, Connie Johnsen, Ralph L. Kilzer, Clara Sue Price, Robin Weisz

**Members absent:** Senator Judy Lee; Representatives Jack Dalrymple, Carol A. Niemeier

**Others present:** See Appendix A

**It was moved by Senator DeMers, seconded by Senator Nalewaja, and carried on a voice vote that the minutes of the December 2-3, 1997, meeting be approved as mailed.**

#### **WELFARE REFORM STUDY**

The Legislative Council staff presented a memorandum entitled *Welfare Reform Study Responsibilities and Major Issues Identified to Date*.

Chairman Yockim invited Mr. David Zentner, Director of Medical Services, Department of Human Services, to provide an update regarding North Dakota's children's health insurance program, North Dakota Healthy Steps. A copy of his presentation is on file in the Legislative Council office. Mr. Zentner also discussed the status of the current caseload data for the Medicaid program, which indicates that as of January 1998 total Medicaid recipients were 6.9 percent less than anticipated in the 1997-99 budget. He said over the last five years the number of children and adult caretakers on Medicaid has decreased by nearly 5,900 while the number of disabled persons on Medicaid has increased by 843. He said disabled recipients on average received \$14,527 in Medicaid services in 1997 compared to the average child or adult receiving \$1,700 in services. He said based on current utilization, the Medicaid program could generate about \$1 million in general fund savings during the 1997-99 biennium. He said it is anticipated part of the savings will be used for the state's

share of implementing the children's health insurance program.

Mr. Zentner discussed the children's health insurance program which was enacted by Congress in 1997 and requires a state match of 20.7 percent. He said North Dakota has been allocated just over \$5 million for federal fiscal year 1998, which will require a match of \$1.3 million from the general fund. He said states are not required to spend the entire allotment but must have a plan approved by September 30, 1998, or forfeit the first-year allotment. He said during the fifth through seventh years of the program the state's allotment may be reduced by as much as 25 percent and the prudent thing is to generate carryover funds in the early years that will be available during the years of reduced federal funding. Mr. Zentner discussed the state's flexibility in implementing the children's health insurance program and said the Governor's plan in North Dakota Healthy Steps is to:

1. Add Medicaid coverage for 18-year-old children whose family income is below 100 percent of the poverty level.
2. Provide insurance coverage for uninsured children up to age 19 who are not Medicaid-eligible, up to 150 percent of the poverty level, currently \$24,675 for a family of four. North Dakota provides Medicaid coverage for children age 0 to 6 up to 133 percent of poverty and children 6 to 18 up to 100 percent of the federal poverty level.
3. Coverage will be similar to that provided by the Public Employees Retirement System with enhancements for preventive dental and vision coverage and other preventive services.
4. Families will be subject to the same asset test that is used for the Medicaid program.
5. Families will not be charged any premiums or copayments for insurance coverage.

6. Eligibility will be determined by personnel of county social service board offices.
7. Coverage will be for a six-month period, with a redetermination of eligibility every six months.
8. A six-month waiting period will be required to avoid the practice of "crowd out," where families who have insurance coverage choose to drop coverage in order to enroll in the children's health insurance program.

Mr. Zentner said preliminary estimates are the insurance coverage will cost \$950 per year per child compared to a cost of \$1,287 for Medicaid coverage for each child. The department estimates the number of children eligible for the program would be between 2,630 and 3,580 with the cost ranging from \$2.5 to \$3.4 million per year with a state general fund match requirement of between \$517,000 and \$704,000 per year.

In response to a question from Senator DeMers, Mr. Zentner said there are approximately 5,046 uninsured children at less than 100 percent of poverty, which indicates outreach is necessary as those children would be eligible for Medicaid unless the family exceeds the asset limit.

In response to a question from Senator Yockim regarding Legislative Assembly approval of the North Dakota Healthy Steps program, Mr. Zentner said because of the timing and the need for the state to submit a plan and get federal approval prior to September 30, 1998, the department expects to seek Emergency Commission and Budget Section approval to implement the program. Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, said Section 13 of 1997 House Bill No. 1015 provides authority for the implementation of new federal block programs subject to the approval of the Budget Section.

Senator Yockim said the plan should have an adequate waiting period to discourage people from "jumping" from existing insurance contracts to the state's children's health insurance program, and he asked if preexisting conditions would be covered under the North Dakota Healthy Steps program. Mr. Zentner said all preexisting conditions would have to be covered under the program.

Representative Price said she is concerned with "adverse selection" and that employers might drop employee insurance coverage. She suggested the department consider a phase-in coverage for dependents as well.

Senator DeMers questioned if the Department of Human Services could contract with an insurance provider for the North Dakota Healthy Steps

program insurance coverage without a formal bid process. Chairman Yockim asked the Legislative Council staff to prepare a memorandum regarding the bidding requirements for this type of insurance coverage.

Mr. Kevin Iverson, Director, Training, Education, Employment, and Management (TEEM) Division, Department of Human Services, provided an update regarding the state's implementation of the temporary assistance for needy families (TANF) program. A copy of his testimony is on file in the Legislative Council office. Attached as Appendix B is a summary also distributed by Mr. Iverson of the TANF requirements. Mr. Iverson discussed the status of the statewide implementation of the TEEM program. He said approximately 30 percent of the aid to families with dependent children (AFDC) cases have been converted to TEEM, with conversion in the larger counties to be completed by June 1998. He discussed the February 1998 TANF caseload of 3,299, down 52 cases from the previous month and the lowest since January 1971. He said TANF expenditures are projected to be approximately 17 percent below the original appropriation with total savings of \$12.7 million, including \$5.4 million from the general fund. Approximately \$2.4 million of the general fund savings will be used by the department to match \$4.7 million of federal funds under the welfare-to-work block grant program. The result will be net projected savings of \$2.9 million from the general fund and \$5.55 million in federal funds. The federal funds are expected to be carried over to subsequent years for use in the TANF program. He said maintenance of effort requirements for the biennium total \$19.4 million and the recent projection of maintenance of effort expenditures at the state and local level is \$20.1 million, for an excess maintenance of effort of \$750,000. He said any expenditures in excess of the maintenance of effort requirements can be used by the state to match federal welfare-to-work block grants.

Mr. Iverson also discussed the food stamp caseloads, which are down 204 households from December 1997 for a total of 13,885. Mr. Iverson said for January 1998 the TANF work participation rate was 27 percent compared to an adjusted federal requirement of 24 percent. He said the federal work participation rate requirement of 30 percent was reduced because of the state's reduction in average monthly caseload from 1995 levels. Mr. Iverson also discussed the JOBS contracts, the welfare reform evaluation efforts, allowable TANF administrative and program costs, benefit cap provisions, the Welfare Reform

Task Force, child care development fund status, the President's child care initiative, child support issues, and disability determination for supplemental security income.

In response to questions from Senator DeMers, Mr. John Hougen, Department of Human Services, discussed the additional \$1.8 million of child care block grant moneys provided by the department under contract to the North Dakota Association of Counties. Mr. Hougen said the department needed to enter into a contract to obligate the money prior to the end of the federal fiscal year on September 30, 1997, or the funds would have reverted to the federal agency.

Ms. Corinne Bennett, Administrator, Early Childhood Services, Department of Human Services, distributed information regarding the President's 1998 child care initiative and a summary of *Child Care Stories* in North Dakota. A copy of each document is on file in the Legislative Council office.

The Legislative Council staff presented a bill draft requiring the Department of Human Services to provide food stamp benefits to refugees who have exceeded the federal time limit for participation in the program, a 60-month period.

Mr. Ron Knutson, Assistant Director, Energy and Nutrition Division, Department of Human Services, provided testimony regarding the bill draft. He said the committee may want to consider providing the benefits to the entire group of legally admitted noncitizens who lose eligibility due to time limits. He said since September 1997, 58 people lost food stamp benefits, of which 15 were refugees. He said based on an average monthly food stamp benefit of \$64.14 cents per person, the cost for the 58 people who lost benefits would be approximately \$89,000 per biennium.

In response to questions from committee members, Ms. Alice Swenson, Cass County Social Services, Fargo, said the reasons that refugees typically require food stamps beyond the five-year period is because of being elderly or disabled. She said older refugees have a difficult time learning the English language and becoming employed.

Representative Kilzer questioned the cost estimates prepared by the Department of Human Services. He said it would appear that over time the number of refugees exceeding the 60-month limit would increase and the cost would increase accordingly. He said the committee needs to determine what the projected impact would be for refugees separately from other immigrants.

The committee recessed at 12:00 noon for lunch and reconvened at 1:00 p.m.

Ms. Carolyn Lean, Adolescent Health Coordinator, Division of Maternal and Child Health, Department of Health, presented information regarding the abstinence education grant, a copy of which is on file in the Legislative Council office. Ms. Lean said the state received a total of \$126,220 for an abstinence education grant program in North Dakota with the funds distributed to each of the eight regions based in part on the number of adolescents in the region. She said the federal law authorizing the program provides specific abstinence education goals.

Mr. Christopher Dodson, Executive Director, North Dakota Catholic Conference, provided testimony regarding the state's implementation of the abstinence education grant program, a copy of which is on file in the Legislative Council office. Mr. Dodson discussed the legislative requirements for using the grant funds and expressed concerns regarding the implementation of the program. He said the director of Catholic Family Services, an organization that provides abstinence education, informed him that they had not been consulted or received any invitation to participate in the new abstinence education grant program.

Mr. Ed Crawford, Williston, spoke in support of the abstinence-only education program. He stressed the state needs to implement an abstinence-only approach in a school setting so that it can be evaluated for its effectiveness. He said current programs emphasize safer sex and do not allow for an evaluation of an abstinence-only approach.

Ms. Marlys Fischer, Minot, testified in support of an abstinence-only education program. She said the alternative ignores the emotional damage to teenagers and increases the likelihood that other risky behaviors will follow. She said the Minot School District is developing a draft proposal for such a program.

Ms. Susan Richard, Executive Director, AAA Pregnancy Clinic, provided testimony in support of the abstinence-only education program. A copy of her testimony is on file in the Legislative Council office.

Mr. Iverson presented information on behalf of Job Service North Dakota, the Workforce Development Council, and the Department of Human Services regarding the welfare-to-work block grant program. A copy of his testimony is on file in the Legislative Council office. He said North Dakota is eligible for federal welfare-to-work block grant funds of \$2.7 million for fiscal year 1998 and \$2.5 million for fiscal year 1999, requiring state matching amounts of \$1.35 million for 1998 and \$1.25 million for 1999. He said the law was passed in August 1997 after the Legislative

Assembly had adjourned and the department plans to use savings from decreasing TANF caseloads to provide the state match, subject to approval of the Emergency Commission and the Budget Section. He said state matching moneys for the remainder of the biennium would be approximately \$2.4 million with \$250,000 in state matching funds required for the 1999-2001 biennium. He said states are allowed to carry forward unspent funds from a federal fiscal year as long as three years.

Mr. John Graham, Director, Burleigh County Social Services, presented a report on TANF caseloads. A copy of his presentation is on file in the Legislative Council office. He said the county, during the most recent 12-month period ending January 1998, experienced a TANF caseload reduction of 33.8 percent, from 420 cases to 278 cases. He said of the 102 January 1998 TANF clients participating in TEEM work (JOBS training), 43 were participating in vocational education or pursuing a general equivalency diploma, 28 were in unsubsidized employment, 49 were engaged in public or private sector work experience, and the remainder were involved in various job skills training or job search activities.

Ms. Donna Thigpen, President, Bismarck State College, provided testimony updating the progress of the Higher Education Task Force on Welfare Reform. A copy of her testimony is on file in the Legislative Council office. Ms. Thigpen discussed the membership of the task force, areas where higher education can be supportive in welfare reform efforts, and two programs that have a "strong track record of success," the Phoenix program and the "ACTS" project.

Ms. Janet Placek, Equity Administrator, State Board for Vocational and Technical Education, provided testimony regarding the Phoenix programs. A copy of her testimony is on file in the Legislative Council office. Ms. Placek's testimony also includes information regarding concerns expressed by the Phoenix coordinator for the Turtle Mountain Community College.

Dr. Michel Hillman, Vice Chancellor of Academic Affairs, North Dakota University System, presented testimony regarding TANF recipients enrolled in postsecondary education and the challenges higher education faces in welfare reform, a copy of which is on file in the Legislative Council office. He said some of the challenges for higher education include the TANF work requirement provisions that limit education to 12 months, the small and disbursed numbers in a rural state, and a large number of welfare recipients living in areas without good job opportunities and with transportation difficulties.

Dr. Hillman discussed the effect of educational attainment on earnings.

Dr. Hillman also discussed a report on the number of degrees granted to American Indian students by public, private, and tribal postsecondary institutions in North Dakota, a copy of which is on file in the Legislative Council office.

Representative Price discussed the status of the Welfare Reform Task Force which organized in February 1998 and has established subcommittees on domestic violence, statutory rape, and out-of-wedlock births. She said meetings are planned for April 22 and June 10, 1998.

Representative Christenson provided an update regarding the activities of the Child Support Committee and said testimony has been personal and emotional and the committee is finding it difficult to legislate appropriate behavior.

Ms. Kim Wai, Moorhead, a homeless and jobless parent of three children, discussed her problems becoming self-sufficient and exiting the assistance program. She said clients should be treated as individuals, should have transportation issues addressed, and be given an opportunity to earn more than "minimum wage."

Ms. Deanna Anderson, single parent, discussed her difficulties with chemical dependency and her inability to find employment. She said TANF work training should include a two-year educational program to allow clients to qualify for adequate paying jobs.

Ms. Theodora Menge, Fargo, discussed the sanctions and prejudices that clients encounter with the welfare system.

Ms. Kris Bjelde, Fargo YWCA, provided testimony for Ms. Melissa Taylor, a copy of which is on file in the Legislative Council office. Ms. Bjelde also distributed a packet of information regarding the Fargo/Moorhead YWCA services, a copy of which is on file in the Legislative Council office.

Mr. Duke Schempp, Director, People Escaping Poverty Project, Fargo, discussed the history of welfare reform and his participation in the previous Welfare Reform Task Force. He said his observation is that case management seems to be lacking under the new TEEM program and people's needs are not being adequately addressed. He said case management should be a focus of welfare reform. He said it appears clients are often not given sufficient time to process in the system and receive the necessary training for success. He said certain welfare reform stigmas still exist.

In response to a question from Representative Johnsen, Mr. Schempp said the People Escaping Poverty Project does assist clients with special

needs in understanding the system and preparing them by building their self-esteem.

Mr. Dave Archambault, Standing Rock Tribal Council member, discussed the education backgrounds of his family members and the significant problems Indians have to overcome. He said welfare is "killing the Indian people" and the tribes have been ruined by government policies. He said the Indians are an industrious people and can overcome the current situation.

Mr. Dodson provided testimony regarding the bill draft regarding food stamp benefits for refugees. A copy of his testimony is on file in the Legislative Council office. Mr. Dodson said the President has included in his fiscal year 1999 budget provisions to extend the refugee eligibility from a maximum of five years to seven years. Mr. Dodson said there has been statements that welfare recipients may have had different rates charged them for child care than other parents which appears to be an act of discrimination. He said the North Dakota Human Rights Act should be reviewed to see if it applies to this situation.

Senator DeMers asked the Legislative Council staff to review the provisions of the North Dakota Human Rights Act and its application if there is discrimination of welfare recipients receiving child care. Chairman Yockim asked that the Legislative Council staff prepare a memorandum for the next committee meeting regarding this issue.

The Legislative Council staff distributed a summary obtained from the Department of Health for each region submitting proposals for the abstinence education grant program, a copy of which is on file in the Legislative Council office.

The committee recessed at 4:37 p.m. and reconvened at 9:00 a.m. on Wednesday, March 11, 1998.

### **TRIBAL WELFARE REFORM ISSUES**

Mr. Leo Cummings, Three Affiliated Tribes, New Town, provided overview comments regarding tribal welfare reform issues. He said the major issue for tribal TANF programs is the provision of a state match to make the programs feasible for the tribes to operate programs. He said welfare reform is a monumental task on the Indian reservations due to a lack of available jobs and a large caseload. Mr. Cummings introduced other members of the state's tribes in attendance.

Mr. John Opp, Department of Human Services, provided testimony regarding tribal welfare reform issues, a copy of which is on file in the Legislative Council office. Mr. Opp discussed the requirements for a tribal TANF program and submitted "pros" and "cons" regarding why tribes

should consider TANF administration and should the state provide matching funds.

#### **Why a tribe should consider TANF administration:**

1. Pros:
  - a. Reinforces tribal sovereignty.
  - b. Might enhance the integration of social services in the tribe, particularly if the tribe contracts Bureau of Indian Affairs social services.
  - c. Efficacy of services may be better received by tribal members if provided by tribal members themselves.
  - d. Tribe and secretary establish work participation requirements which may be lower than for state.
  - e. Tailor work activities to unique circumstances of the tribe.
  - f. Create employment opportunities for the staff to administer the program.

2. Cons:
  - a. State will continue to administer food stamps, Medicaid, and other programs; therefore, program users need to apply and report to separate agencies which may involve additional travel.
  - b. Less coordination and regular exchange of information between tribe and state for purposes of aiding in administration of other programs.
  - c. Duplication of computer systems.

#### **Should the state provide matching funds:**

1. Pros:
  - a. May facilitate a decision by the tribe.
  - b. Tribal-administered TANF recipients are not considered in the determination of the state's work participation rate.
  - c. May engender good will with the tribes and the state, particularly since many prior government-to-government relationships were solely between the tribe and the federal government.

2. Cons:
  - a. State must maintain offices and basically the same size staff to deliver services to individuals for food stamps, Medicaid, etc., and nontribal individuals.
  - b. Individuals need to apply and report to separate entities.
  - c. Less coordination of program benefits among agencies of information.

- d. Unresolved child support issues including but not limited to establishing separate enforcement units, treatment of collections, etc.
- e. Expense of computer programs.

Senator Yockim said it seems the crucial areas to address in tribal/state welfare reform issues include the need for common computer systems and common eligibility standards.

In response to a question from Senator Thane, Mr. Opp said to date tribes have not been able to negotiate a different work participation rate, although the law does allow the Secretary of Health and Human Services to negotiate a different rate.

Chairman Yockim asked that the Department of Human Services provide information at the next committee meeting regarding whether the federal agency or Congress is considering increasing the 12-month educational limit in the work participation requirements in the TANF legislation. He also asked that the Department of Human Services also provide information regarding the financial implications of TANF programs, including information on the federal TANF funds available for each tribe and an estimate of the related state funds that could be saved and made available to a tribe that operated its own TANF program.

In response to a question from Senator Yockim, Mr. Opp said the welfare-to-work program focuses on the "difficult" and long-term assistance clients, specifically those who have been on assistance more than 30 months and lack a high school education.

In response to a question from Representative Price, Mr. Opp said there is only one state, Nevada, that has exceeded the 50 percent unemployment threshold for Indian service areas which in effect waives the application of the lifetime limit for assistance clients.

Senator Thane said that for clients to break the welfare dependency cycle they must be able to earn a living wage, which requires two years of postsecondary education. He said the state may need to pursue changes to allow for two years of education.

Ms. Shari Jensen, Curtis and Associates, Bismarck, discussed the services provided welfare recipients. She said clients are provided a four-day workshop that includes interview techniques, resume development, role playing, and self-esteem building. She said in the rural areas a more condensed program is provided.

Mr. Cummings provided additional comments regarding tribal welfare reform issues. A copy of his testimony is on file in the Legislative Council office. Mr. Cummings discussed the

memorandums of understanding between state, county, and tribe programs, his participation on the North Dakota University System Welfare Reform Task Force, the need for state matching for North Dakota tribal TANF operations, and specific problems and concerns regarding the JOBS contract.

Ms. Rose LeBeau, Spirit Lake Tribe, Fort Totten, provided testimony regarding her concerns with the JOBS contract "request for proposal" process. She said approximately one-half of the clients on the reservation have been sanctioned, a major concern because clients are having difficulties with county workers. She said the tribe should be able to serve their own people with job training efforts.

Ms. Bermelia St. Claire, Turtle Mountain JOBS program, Belcourt, discussed the tribe's feasibility study of operating a tribal TANF program and said the tribal council has scheduled a comment period through March 16, 1998, before determining whether it is appropriate for the tribe to administer its own TANF program. She said the tribe has a good working relationship with the state and she supports a two-year education program.

Mr. Charles Moore, Job Service North Dakota, discussed the services provided by Job Service for welfare recipients and expressed an interest in working with the tribes to provide the necessary services to clients. He said the program is successful in getting people off assistance.

Mr. Terry Red Fox, Fort Berthold Housing Authority, New Town, discussed the housing needs on the Fort Berthold Reservation. He said when welfare clients are placed on sanctions they ask the reservation for assistance. He said the Fort Berthold Housing Authority has 400 families on a waiting list for housing with only 410 housing units. He discussed the funding reductions at the federal level for Indian housing and said the tribes will never be able to meet the housing needs of reservation members with the current level of funding.

Mr. Ed Lone Fight, Program Director, Three Affiliated Tribes, New Town, provided testimony regarding tribal welfare reform issues. He said the Three Affiliated Tribes is exploring the possibility of establishing its own TANF program. He said the tribes need the state match to make it economically feasible to administer its own TANF program.

Mr. Carl Walking Eagle, Vice Chairman, Spirit Lake Tribal Council, Fort Totten, discussed the difficulties educating tribal members on TANF changes, including that clients will be sanctioned if they do not participate in work requirements.

Ms. Verna Bailey, Standing Rock Tribe, Fort Yates, said the Standing Rock Reservation plans to continue with a state-administered program but would like a more active role in employment training and child support enforcement.

Chairman Yockim informed committee members the next meeting is tentatively scheduled for May 4-5, 1998 in Williston and New Town and will include budget tour responsibilities in Williston. The committee adjourned at 12:05 p.m. subject to the call of the chair.

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Jim W. Smith  
Assistant Legislative Budget Analyst and Auditor

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Chester E. Nelson, Jr.  
Legislative Budget Analyst and Auditor

ATTACH:2