

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### BUDGET COMMITTEE ON HUMAN SERVICES

Thursday, September 14, 2000  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jeff Delzer, Ron Carlisle, Pat Galvin, Lyle Hanson, Carol A. Niemeier, Todd Porter, Clara Sue Price, Sally M. Sandvig, Ken Svedjan; Senators Dennis Bercier, Judy L. DeMers, Tom Fischer, Judy Lee, Russell T. Thane

**Members absent:** Representatives Audrey Cleary, Roxanne Jensen, Robin Weisz; Senators Marv Mutzenberger, David O'Connell

**Others present:** See attached appendix

**It was moved by Representative Svedjan, seconded by Senator Lee, and carried on a voice vote that the minutes of the June 29, 2000, meeting be approved as distributed.**

#### STUDY OF WELFARE REFORM ISSUES

Mr. John Hougen, Director, Public Assistance Division, Department of Human Services, provided testimony regarding the temporary assistance for needy families (TANF) program, a copy of which is on file in the Legislative Council office.

Mr. Hougen said:

- The July 2000 caseload was 2,790 recipients, which exceeds estimates included in the 1999-2001 appropriation.
- The department has an unobligated federal fiscal year 1999 TANF balance of \$1,914,755. The department anticipates using these funds for TANF assistance grants over the next few months.
- The department is estimating that approximately \$10.9 million of federal TANF funds will be carried forward into the 2001-03 biennium.
- Regarding the Rolette County pilot project which will be starting its second year of operation, the department is considering providing financial incentives to participants who complete a general equivalency diploma, maintain full-time employment for six months, and successfully complete the 15-week session.
- With a higher proportion of TANF recipients experiencing significant barriers to self-sufficiency, the department plans on using the new TANF spending flexibility to continue to

implement demonstration projects which allow families to overcome these barriers. Demonstration projects are in various stages of development in the Fargo, Grand Forks, and Williston areas.

- The department is also considering using the new TANF spending flexibility to implement a nonassistance program for TANF recipients who reach 60 months of assistance or for former TANF recipients who are no longer on assistance but are in low-wage employment. The program would provide support payments, such as transportation allowance or employment support, instead of a grant for traditional assistance.
- Regarding the federal fiscal year 1994 TANF funding allocation by tribe, any tribe filing a letter of intent to administer its own TANF program will be eligible to receive TANF funds based on the federal portion of aid to families with dependent children (AFDC) money spent in 1994 for Indian families in the service area. The following table provides information regarding the federal funds available to each tribe for administering a tribal TANF program and the corresponding decrease in the state's maintenance of efforts spending requirements.

Tribe	Federal Funds Available	Reduction in State Maintenance of Effort
Standing Rock	\$747,878	\$216,768
Three Affiliated Tribes	\$601,067	\$192,930
Spirit Lake	\$820,316	\$248,590
Turtle Mountain	\$3,002,353	\$883,854

- Regarding tribal TANF pilot programs, representatives from the Turtle Mountain Band of Chippewa have informally notified the department that they do not plan to pursue a tribal TANF program until after federal reauthorization of TANF in 2002. However, the Three Affiliated Tribes is actively pursuing administering a tribal TANF program. The Three Affiliated Tribes tribal TANF proposal would use the \$601,067 available federal funds to provide case management services in the employment and training area to the American

Indian population in the five counties that contain the reservation. The tribal TANF proposal does not include any provisions to pay TANF assistance grants to these families. The counties would continue to determine eligibility, and the state would continue to provide TANF assistance grants. The tribal TANF proposal does include a provision which would provide any unused funds to the state to assist with the payment of TANF assistance grants. The department is not aware of any approved tribal TANF programs which only provide case management services to TANF recipients.

- Due to the many different circumstances surrounding the implementation of a tribal TANF program, the department is unable to analyze the effect of a tribal TANF program on the department's SWAP agreement until a tribal TANF program has been finalized.
- Regarding unemployment information for Indian country, the Turtle Mountain Indian Reservation continues to have an unemployment rate greater than 50 percent for all months. The Spirit Lake Reservation had unemployment above 50 percent previously, but the rate dropped below 50 percent for April and subsequent months. Standing Rock and Three Affiliated Tribes Reservations continue to have unemployment below 50 percent. The Bureau of Indian Affairs recently released slightly different unemployment figures. These figures are not used because they are gathered only every two years instead of every month as required by federal TANF law. Also, the figures are collected for only American Indian people and the federal TANF law requires unemployment information to include all adults living in Indian country.
- Regarding individual development accounts (IDA), a provision in the federal TANF law allows for the development of IDAs, but at the time of welfare reform implementation in 1997, the state decided against the use of IDAs because higher asset limits allowed TANF recipients to build savings without being penalized and moneys in the IDAs may be used only for tuition, for purchase of a new home, or for business capitalization.
- Regarding suggested statutory changes pertaining to the administration of the TANF program, the department proposes replacing all references to training, education, employment, and management program (TEEM) and the TEEM waiver with TANF; removing language detailing the transition from AFDC to TANF, detailing the deadlines to complete various stages of TANF implementation, and intending to discourage people from moving

into North Dakota from a state with a shorter welfare lifetime limit; and making necessary changes to conform with the federal child support assignment provisions.

In response to a question from Senator DeMers regarding the development of TANF demonstration projects, Mr. Hougen said recipient input is sought at various planning stages of the TANF demonstration projects.

In response to a question from Senator Bercier regarding the possibility of the proposed nonassistance TANF program providing day care assistance, Mr. Hougen said the child care block grant program provides more flexibility for day care assistance. He said the child care block grant program may be enhanced through the TANF program due to a provision which allows for the transfer of a portion of the TANF funds to the child care block grant program.

In response to a question from Senator Lee regarding potential incentive payments for those who are willing to relocate to find employment, Mr. Hougen said the job opportunities and basic skills (JOBS) training program does offer a similar type of incentive payment. He said the department only encourages relocation where it believes appropriate.

Senator Bercier said relocation programs for American Indians have been attempted in the past. He said many individuals who were relocated returned due to the lack of support in other areas.

Senator Lee said relocation may not be an option for all American Indians, but for those individuals who are considering relocating, an incentive payment may be helpful.

In response to a question from Representative Delzer regarding tribal TANF programs, Mr. Hougen said an individual who resides on a reservation in which a partial or full tribal TANF program is implemented will have the option to either receive benefits from the state's TANF program or from the tribal welfare program.

In response to a question from Representative Price regarding the Three Affiliated Tribes proposed tribal TANF program, Mr. Hougen said Three Affiliated Tribes would use the \$601,067 in federal funds to provide education and employment services to TANF recipients on the reservation. He said these clients are currently being served by the state's JOBS program. He said the proposed plan also provides that any unused federal funds would be forwarded by the tribe to the state to be used for TANF assistance grants paid to recipients on the reservation. He also said if the proposed plan was implemented, there is the potential for the state to realize savings in its JOBS program and other TANF program areas funded by the general fund.

The Legislative Council staff presented a bill draft relating to exemptions to the TANF work requirements and 60-month benefit limit. The bill draft provides that a parent who is a victim of domestic violence as

defined in North Dakota Century Code Section 14-07.1-01 be included in 20 percent of the TANF caseload who are exempt from the 60-month benefit limit. The bill draft also provides that a parent who is a victim of domestic violence is exempt from the TANF program's work activities requirement.

Mr. Hougen said the Department of Human Services is supportive of the bill draft. He said an individual who is a victim of domestic violence is included in 20 percent of the TANF caseloads exempt from the 60-month benefit limit, but the bill draft would heighten awareness of the exemption. He also said he would like to see treatment activities for victims of domestic violence count as work activities.

In response to a question from Representative Price regarding victims of domestic violence under the TANF program, Mr. Hougen said not a single case of domestic violence has been identified in the TANF program's assessment phase. He said this signifies that training is needed for those individuals conducting assessments to be able to recognize signs of domestic violence.

Ms. Linda Isakson, Public Policy Coordinator, North Dakota Council on Abused Women's Services, provided testimony on the family violence option bill draft, a copy of which is on file in the Legislative Council office. Ms. Isakson said the family violence option has been available to victims of domestic violence in North Dakota since the state's TANF legislation was passed, but it has not been utilized. She said by clarifying the family violence option, the TANF population could be served more effectively. She provided the following suggestions to the bill draft:

- Waive the defined work requirements and "stop the clock" on the 60-month eligibility requirement for as long as necessary for past or present victims of domestic violence or those at risk of further violence.
- Clarify screening and referral procedures to provide for universal notification of the family violence option and to ensure referral to local domestic violence organizations for assessment and supportive services.
- Clarify the sanctions section to ensure that all applicants have been properly notified of the rights available to them under the family violence option.

In response to a question from Representative Delzer regarding the referral requirement under the universal notification option, Ms. Isakson said those individuals identified as victims of family violence would be referred to local domestic violence organizations; however, it would be up to each individual if that individual wanted to receive supportive services.

In response to a question from Representative Delzer regarding the need for the family violence option clarification, Ms. Isakson said the clarification is necessary due to the fact there is confusion at the county level as to whether the family violence option

is available, and the current law leads individuals to believe that an extensive amount of evidence is necessary to receive the waiver.

In response to a question from Representative Price regarding the universal notification option, Ms. Isakson said one possibility for universal notification would be to require the caseworker to review the family violence option with each individual and include the appropriate documentation in each recipient's file.

In response to a question from Representative Delzer regarding whether the Department of Human Services has reviewed the proposed language changes, Mr. Hougen said the department has not had a chance to review the language but is willing to do so.

Senator Lee said she would like to see the department and Ms. Isakson's organization work together and develop amendments for the bill draft for the 2001 Legislative Assembly.

**It was moved by Representative Carlisle, seconded by Senator Lee, and carried on a roll call vote that the bill draft relating to the family violence option as an exemption to the TANF work requirements and 60-month benefit limit be approved and recommended to the Legislative Council.** Representatives Delzer, Carlisle, Galvin, Hanson, Niemeier, Porter, Price, Sandvig, and Svedjan and Senators Fischer, Lee, and Thane voted "aye." Senators Bercier and DeMers voted "nay."

Mr. Mike Schwindt, Director, Child Support Enforcement Division, Department of Human Services, provided testimony regarding the progress of implementing child support income withholding through the state disbursement unit. A copy of his testimony is on file in the Legislative Council office. Mr. Schwindt said 1999 House Bill No. 1121 provides for the transfer of the income withholding responsibility for non-IV-D cases from the clerks of court to the Department of Human Services as of January 15, 2001. He said the transfer of the responsibility will occur on schedule and, in anticipation of the transfer, the department will begin changing the computer system as soon as work needed for federal certification is completed. He said from November 1999 through May 2000 the regional child support enforcement units issued 14,337 income withholding orders while the clerks of court issued 2,867. He said due to a lack of knowledge at the state level regarding case information, the department is considering the possibility of handling the income withholding order task through a contract with another entity such as the clerks of court or regional child support enforcement units. He said the department would prefer to contract with an entity experienced in the task rather than perform the task in-house where the department lacks staff, space, and experience.

In addition, Mr. Schwindt said the department received conditional certification of its child support computer system in May 2000 and anticipates

achieving full certification by the end of September 2000. He said the state disbursement unit is operational and on the average is receiving about \$6 million per month from about 20,000 payments and sending out approximately 30,000 payments to custodial parents.

In response to a question from Senator DeMers regarding the contracting of services with the clerks of court, Mr. Schwindt said a few of the clerks of court are in favor of entering into a contract for administration of income withholding orders.

In response to a question from Representative Svedjan regarding the identification of obligors unable to pay, Mr. Schwindt said currently it is not possible to retrieve information from the computer system regarding obligors who are unable to pay for circumstances such as unemployment or incarceration.

In response to a question from Representative Svedjan regarding the amount of child support arrearages, Mr. Schwindt said the department recently completed a project in which the financial data was reviewed on all cases where a debt was not recorded in the system. He said the department will be notifying individuals of any new information and correcting any errors. He expects the notification process will cover 50,000 individuals and take approximately two years to complete.

Ms. Darleen Bartz, Director, Health Resources Section, State Department of Health, provided testimony regarding teen pregnancy and abstinence programs. A copy of her testimony is on file in the Legislative Council office. Ms. Bartz said the Division of Maternal and Child Health of the State Department of Health coordinates the abstinence education grant program which resulted from the passage of the 1996 federal Welfare Reform Legislation Public Law 104-193. She said the total annual budget for abstinence education in North Dakota is \$221,429, \$126,220 from federal funds and \$95,219 in matching state and local funds. She said the department distributes the funding to the eight regional and four tribal children's services coordinating committees. She said on July 1 of each year contracts are offered to all children's services coordinating committees submitting proposals to conduct community programs. She said the distribution of funds is based on a number of factors, including incidence of teen pregnancy and teen births and rates of sexually transmitted diseases. She said the regional children's services coordinating committees notify potential agencies that funds are available for abstinence education. The committees are responsible for reviewing the proposals that are submitted and funding the selected programs within the region to carry out the education. She said of the 12 children's services coordinating committees, the Fargo region (Region 5), Fort Berthold, and Turtle Mountain opted to not apply for abstinence education grant funds. She said statewide statistics have shown a decrease

in the rate of pregnancies to teenagers 15 to 17 years of age, a reduction in the proportion of adolescents who have engaged in sexual intercourse, and a reduction in the incidence of individuals 15 to 19 years old who have contracted selected sexually transmitted diseases.

In response to a question from Senator Bercier regarding the Fort Berthold and Turtle Mountain children's services coordinating committees, Ms. Kim Senn, Program Coordinator, State Department of Health, said the committees did not apply for the grant funds due to not having adequate human resources to administer the funds. She said the entities may apply and receive the funds until June 30, 2001.

In response to a question from Representative Niemeier regarding the programs funded, Ms. Senn said the programs emphasize abstinence and do not refer to the use of birth control so parental permission is not required for children to participate in any of the programs. She said programs appear to be well received in all regions.

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

Mr. Robert Harms, Legal Counsel, Governor's office, provided a status report on the study of gaming addiction problems funded by the Indian gaming compact. He said in September 1999 the Governor and representatives of the tribal governments signed gaming compacts which called for the completion of a gaming addiction study by the beginning of the 2001 Legislative Assembly. He said the state and the tribal governments are each responsible for half of the cost of the study, which is estimated to be \$100,000. He said Gemini Research Limited and the University of North Dakota Social Science Research Institute were selected for completing the study. The University of North Dakota Social Science Research Institute is responsible for completing the fieldwork at an estimated cost of \$58,000, and Gemini Research Limited is responsible for analyzing the information and completing the written report at an estimated cost of \$42,000. He said the designated objectives of the study are to identify the demographics of those participating in gaming activities in North Dakota, identify where gaming is occurring in North Dakota, identify North Dakota gaming activities outside North Dakota, and identify the impact gaming activities are having on individuals. He said a representative of Gemini Research Limited is scheduled to provide status reports on the study in late September and in October with the final report to be completed before the start of the 2001 Legislative Assembly. He said approximately one-fifth of the fieldwork, which includes interviewing approximately 5,000 households in North Dakota, has been completed.

Mr. Leo Cummings, Department Administrator, Employment and Training, Three Affiliated Tribes, New Town, provided information regarding the tribe's proposed tribal TANF program. A copy of the

information is on file in the Legislative Council office. Mr. Cummings said under the proposed tribal TANF program, the tribe would provide case management services concentrating on education for all tribally enrolled Indians in their service area, and the state would continue to provide the TANF grant assistance payments. He said the proposed tribal TANF program would allow the tribe to determine appropriate work activities and work performance levels and use tribal data to calculate the unemployment rate. He said the tribe would coordinate with the state to continue to use the state's administrative infrastructure for eligibility determination and grant payments. He also said any of the federal funds not used by the tribe in operation of its program would be sent to the state to help pay for the TANF grant assistance payments made to tribal members.

In response to a question from Representative Porter regarding the funding difference between TANF assistance payments made to those in a tribal area and the moneys forwarded to the state by the tribe, Mr. Hougren said the difference would not have to be funded by the general fund. He said the department could use federal funds for the difference.

In response to a question from Senator Bercier regarding the tribe's case management infrastructure, Mr. Cummings said the tribe does have infrastructure in place to provide administrative and case management services. He said the tribe does not have infrastructure in place for eligibility determination which is why the tribe wants the state to make these payments.

At the request of Chairman Delzer, the committee discussed issues relating to the study of welfare reform.

Senator DeMers said she is concerned with the minimal amount of funds provided by the state for the abstinence education grant program.

**It was moved by Senator DeMers, seconded by Senator Bercier, and carried on a roll call vote that the committee request the Legislative Council staff to prepare a bill draft providing an additional \$75,000 per fiscal year for a total of \$150,000 for the biennium for the State Department of Health to further support the abstinence education grant program and when so drafted that the bill draft be approved and recommended to the Legislative Council.** Representatives Carlisle, Hanson, Niemeier, Porter, and Sandvig and Senators Bercier, DeMers, Fischer, Lee, and Thane voted "aye." Representatives Delzer, Galvin, and Svedjan voted "nay."

## **STUDY OF THE DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE CENTER SERVICES**

Ms. Yvonne Smith, Acting Executive Director, Department of Human Services, provided testimony regarding the status of the strategic planning process,

the implementation of the recommendations contained in Senate Concurrent Resolution No. 4003, and updated information regarding the regional human service center services and caseloads. A copy of her testimony is on file in the Legislative Council office.

Ms. Smith said the department has conducted training at the eight human service centers, the Developmental Center, and the State Hospital on incorporating the strategic plan results into critical job elements, which are workplans an employee is evaluated on, of all staff. She said all staff members in the department will have critical job elements that align with the strategic plan by June 30, 2001. She said divisions of the department are completing an evaluation of their progress toward obtaining their results measures this month. She also said most of the measures have a target date for completion of July 1, 2001, so the department is planning on holding meetings in April 2001 to determine the basis for strategic results measures for the 2001-03 biennium.

Regarding the department's implementation of the recommendations contained in Senate Concurrent Resolution No. 4003, Ms. Smith reviewed a status report detailing the 18 recommendations contained in the resolution and the department's progress in implementing each recommendation.

Regarding a status report of the human service center services and caseloads, Ms. Smith said the unduplicated count of clients receiving services from the eight human service centers during fiscal year 2000 was 27,659, an increase of 826 clients over the previous fiscal year. She also said for fiscal year 2000 the adult and child caseloads for all eight human service centers were 33,958 and 8,140, respectively. This represents an increase of 836 adult clients and a decrease of 129 child clients from the previous fiscal year. The total caseload is greater than the unduplicated client count since clients can simultaneously receive services from more than one program and would be counted as a part of the caseload for each of the programs.

In response to a question from Representative Niemeier regarding the intergovernmental transfer fund, Ms. Smith said the fund was established to provide funding for providers to transition from traditional nursing facilities to other less restrictive care.

Mr. Sheldon Wolf, Assistant Director, Medical Services Division, Department of Human Services, provided a status report of the prior authorization requirement for selective pharmaceuticals. A copy of his testimony is on file in the Legislative Council office. Mr. Wolf said due to a difference of opinion between the department's Medical Services Division, Pharma, and North Dakota physicians, the department has rescinded its proposed rules regarding prior authorization of antiulcers, antiarthritics, and antihistamines. He said the department is expecting to exceed its drug appropriation for the biennium by over

\$13 million. However, the department has been able to absorb the projected shortage of funds due to savings in other areas, mainly nursing facilities. He said due to the potential cost-savings and the high increase of usage of some of the drugs, the department is looking at introducing legislation at the next Legislative Assembly which would allow for prior authorization of select classes of drugs. In addition, he said, the Health Care Financing Administration has published the final rule on the Health Insurance Portability and Accountability Act's transaction and code sets. He said the department must implement this standard by October 16, 2002.

In response to a question from Senator DeMers regarding the Health Insurance Portability and Accountability Act, Mr. Wolf said the Act is trying to reduce the costs and administrative burdens of health care by finalizing formal standards centered around transactions, identifiers, security, and confidentiality. He said it is anticipated the implementation of the standards will require the department's computer system to be rewritten at an estimated cost of \$20 million.

At the request of Chairman Delzer, the committee discussed issues relating to the study of the Department of Human Services and human service center services.

Senator DeMers said she is impressed with the Department of Human Services strategic planning process and would like the committee's final report to commend the department on that process.

Chairman Delzer said without objection from the committee Senator DeMer's comments will be addressed in the final report.

**It was moved by Senator Thane, seconded by Senator Fischer, and carried on a roll call vote that the chairman and staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and present the report and recommended bill drafts to the Legislative Council.** Representatives Delzer, Carlisle, Galvin, Niemeier, Sandvig, and Svedjan and Senators Bercier, DeMers, Fischer, Lee, and Thane voted "aye." No negative votes were cast.

Chairman Delzer commended Senator DeMers on her years of service as this is her last Legislative Council interim committee meeting.

**It was moved by Representative Svedjan, seconded by Senator Bercier, and carried on a voice vote that the meeting be adjourned sine die.** The meeting was adjourned sine die at 2:15 p.m.

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Roxanne Hobza  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1