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staff for the Child Support Committee
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CHILD SUPPORT ENFORCEMENT SERVICES AND CHILD CARE LICENSURE - BACKGROUND MEMORANDUM

INTRODUCTION

Section 14 of House Bill No. 1041 directs the Legislative Council to study the provision of child support services and child care licensing in this state. Section 14 further provides that in conducting the study, the Legislative Council must consider whether child support services and child care licensing can be more efficiently and effectively provided and, if so, by which agency or unit of government.

House Bill No. 1041 (copy attached as Appendix "A") relates to the administration and financing of human services programs by the state and counties. The bill was recommended by the 1995-96 interim Budget Committee on Human Services. The bill directs the county to assume fiscal responsibility for certain programs, including the child care block grant program. In return, the state is directed to take responsibility for the complete grant cost of Medicaid and basic care. In light of the "swap" in responsibilities between the state and counties, the interim committee concluded that a study to determine which entity should be responsible for child support services and child care licensing was necessary.

CHILD CARE LICENSING

1997 Legislation

Legislation Enacted

House Bill No. 1226, which provides for the implementation of federal welfare reform, amended the statutes that address how the county administration of early childhood services is funded. The bill provides that effective July 1, 1997, the Department of Human Services no longer will reimburse counties for 50 percent of the amount expended by the counties for the administration of the early childhood services program and counties will no longer be required to reimburse the Department of Human Services for one-fourth of the amount expended in the counties for the program costs of the early childhood services program in excess of the amount provided by the federal government for the program costs.

Senate Bill No. 2055 provides for a penalty for providing early childhood services without a license.

Defeated Legislation

House Bill No. 1331 would have required licensure for all early childhood service providers except when the services were provided by a relative. This bill failed to pass the House.

House Bill No. 1352 would have created an early childhood services board. This bill failed to pass the House.

House Bill No. 1465 would have created a child care trust fund. This bill failed to pass the House.

Senate Bill No. 2345 would have provided public access to certain information regarding early childhood service providers. This bill failed to pass the Senate.

Recent Studies

Joint Social Service System Committee

In 1996 the Joint Social Service System Committee, composed of representatives of the North Dakota Association of County Social Service Board Directors, the Department of Human Services, the North Dakota Association of Counties, and the 1995-96 interim Budget Committee on Human Services, was formed. Subcommittees of the committee studied statutes relative to county-based social services; options for the provision of child support enforcement services; the current and ideal structure for early childhood licensing; and the overall structure and funding of children and family services.

This joint committee presented testimony to the interim Budget Committee on Human Services. The subcommittee on early childhood services testified that the subcommittee agreed with many of the recommendations made by the Child Welfare League of America, Inc., a consulting firm hired by the Budget Committee on Youth Services during the 1993-94 interim. The subcommittee determined the quality and consistency of early childhood services could be improved if the services were provided through a regionalized and specialized system.

The subcommittee determined early childhood licensing should be a regionalized service that is provided by specialists in early childhood education and should be funded with increased fees and at least partially funded with broad-based federal or state taxes. Because there was no increased funding available at the time, the subcommittee did not propose a specific plan.

The study proposed in Section 14 of 1997 House Bill No. 1041 in large part arose from the research conducted by this early childhood licensing subcommittee.

1993-94 Interim

During the 1993-94 interim, the Budget Committee on Youth Services, pursuant to Senate Concurrent Resolution No. 4055, studied the provision of services for children, including services related to child care, education, health, corrections, and foster care. The committee contracted with the Child Welfare League of America, Inc., to assist in its study of children's services in this state. Recommendations by the consultant regarding early childhood development and education addressed the need to ensure quality, licensed child care providers. The consultant made the following recommendations:

- Enact a state licensing authority for children's programs, administered by the Department of Human Services and located in each regional human service center which would be responsible for licensing child care, foster homes, and children's group care and institutional facilities. The licensing authority would serve as a liaison for fire inspections, health and safety, and law enforcement clearances and would balance parental decisionmaking with ensuring accurate and timely payments to caregivers. The licensing authority should be staffed with professionals with field experience in children's programs and training in child development.
- Clarify regulations to ensure that local officials have the authority to close child care facilities in emergency situations.
- Eliminate the category of "registered" day care homes and use one set of standards for child care licensing. The Department of Human Services should develop a phased plan over a two-year period to move appropriate "registered" homes into the "licensed" category.
- The Department of Human Services should develop a single eligibility determination process to simplify ease of access to child care resources irrespective of the public funding source.
- Priorities should be given to licensing school-based child care programs and adding slots for protective child care, prime-time day care, infant care, and nontraditional hours of care.

In response to the consultant's recommendations, the committee recommended Senate Bill No. 2043 to establish a child care licensing authority in each regional human service center for licensing child care facilities. The bill would have transferred child care licensing responsibility from the counties to the state. The bill also would have expanded the number of child care providers that would need to be licensed beginning July 1, 1997, from the current requirement of a provider who cares for six or more children at any one time to all child care providers unless the provider was a relative or a person caring for children from no more than one family other than their own. The fiscal note indicated that the state fiscal effect would be approximately $1.7 million per biennium and the county fiscal effect would be approximately $900,000 per biennium. Senate Bill No. 2043 failed to pass the Senate. Testimony received by the standing committee indicated opposition from the counties and opposition to the fiscal note.

1989-90 Interim

During the 1989-90 interim, the Budget Committee on Human Services, pursuant to Senate Concurrent Resolution No. 4030, studied child care issues and needs, including the feasibility and costs of providing child care support to low-income working families. The committee did not make any recommendation as a result of its study of child care.

Statutory Background of Early Childhood Services

Early Childhood Services

North Dakota Century Code (NDCC) Chapter 50-11.1 addresses early childhood services. According to Section 50-11.1-01, the statutory purpose of the chapter is to assure that children receiving early childhood services are provided food, shelter, safety, comfort, supervision, and learning experiences commensurate to their age and capabilities, to safeguard the health, safety, and development of those children.

North Dakota Century Code Section 50-11.1-02(5) defines "early childhood services" as:

> [T]he care, supervision, education, or guidance of a child or children, unaccompanied by the child's parent, guardian, or custodian, which is provided in exchange for money, goods, or other services and is, or is anticipated to be, ongoing for periods of two or more hours per day for a part of three or more days per week. Early childhood services does not include:
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> a. Substitute parental child care provided pursuant to chapter 50-11.
> b. Child care provided in any educational facility, whether public or private, in grade one or above.
> c. Child care provided in a kindergarten which has been established pursuant to chapter 15-45 or a nonpublic elementary school program approved pursuant to subsection 1 of section 15-34.1-03.
> d. Child care provided to preschool age handicapped children in any educational

facility through a program approved by the superintendent of public instruction.

e. Child care provided in facilities operated in connection with a church, shopping center, business, or other establishment where children are cared for during periods of time not exceeding four continuous hours while the child's parent, guardian, or custodian is attending church services, shopping, or engaged in other activities, other than employment, on or near the premises.
f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
g. Summer resident or day camps for children which serve no preschool age children for more than two weeks.
h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
i. Headstart programs that are federally funded and meet federal headstart standards.
j. Child care provided by a hospital by medical personnel within the physical structure of the hospital to children who are ill.

North Dakota Century Code Section 50-11.1-02(4) provides that an early childhood facility is any facility where early childhood services are provided.

Early childhood services are provided by a variety of facilities, including child care centers, family child care homes, group child care homes and facilities, in-home providers, multiple licensed facilities, and preschool educational facilities.

According to NDCC Section 50-11.1-02(1), a "child care center" is "an early childhood facility where early childhood services are provided to nineteen or more children."

North Dakota Century Code Section 50-11.1-02(6) defines a "family child care home" as "an occupied private residence in which early childhood services are provided for no more than seven children at any one time, except that the term includes a residence providing early childhood services to two additional school-aged children during the two hours immediately before and after the schoolday and all day, except Saturday and Sunday, when school is not in session during the official school year."

North Dakota Century Code Section 50-11.1-02(7) defines a "group child care home" or "group child care facility" as "a child care facility where early childhood services are provided for eight through eighteen children or a facility, other than an occupied private residence, which serves fewer than eight children."

According to NDCC Section 50-11.1-02(8), an "in-home provider" is "any person who provides early childhood services to children in the children's home."

North Dakota Century Code Section 50-11.1-02(10) defines a "multiple licensed facility" as "an early childhood facility that provides more than one type of early childhood services."

According to NDCC Section 50-11.1-02(11), a "preschool educational facility" is "a facility that offers early childhood services and follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled in the facility and that serves no child for more than three hours per day."

Early childhood service providers in North Dakota may be categorized as follows:

- Nonlicensed providers.
- State-licensed providers.
- State-registered providers.
- Carecheck registered providers.

Licenses

The following early childhood facilities are licensed by the Department of Human Services: family child care homes, group child care facilities, preschool educational facilities, and child care centers.

According to NDCC Section 50-11.1-03(1) a "license for a family child care home is required if early childhood services are provided for four or more children ages twenty-four months and under or six or more children at any one time."

North Dakota Century Code Section 50-11.1-03(2) provides that a governmental organization establishing or operating a group child care facility, preschool educational facility, or child care center must certify to the Department of Health that the facility complies with all applicable rules and that any nongovernmental person establishing or operating this type of facility must be licensed.

The following early childhood service facilities may be licensed, voluntarily registered, or voluntarily carecheck registered:

- **Licensure** - North Dakota Century Code Section 50-11.1-03 provides that a family child care home not required to be licensed under Section 50-11.1-02(1) may voluntarily be licensed as a family child care home.
- **Registration** - North Dakota Century Code Section 50-11.1-06 provides an in-home provider may voluntarily be registered. Registration is the process whereby the Department

of Human Services maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules. The standards and rules adopted by the Department of Human Services regarding registration are found in North Dakota Administrative Code Article 75-03. Under NDCC Section 50-11.1-06, registration certificates for in-home providers are effective for a maximum of one year.

- **Carecheck Registry** - North Dakota Century Code Section 50-11.1-06.1 provides that an in-home provider, a family child care home that is exempt from licensure, or a licensed early childhood services provider may voluntarily be carecheck registered. The carecheck registry provides for a toll-free telephone line, maintained by the Department of Human Services, for interested parents, guardians, employment agencies, and child care referral groups to find out if a person has met the requirements for placement in the carecheck registry.

Licensure Requirements

The requirements for early childhood licensure are found in NDCC Section 50-11.1-04. This section provides that an applicant must pass a mandatory investigation of the applicant's activities, proposed standards of care, and facilities; pass a possible investigation of an applicant, the applicant's employees, or every person living or working in an occupied private residence to determine whether any of them has a criminal record or has had a finding of probable cause for child abuse or neglect filed against them; comply with standards of sanitation, health, and safety; use qualified staff; maintain facility conduct in accordance with prescribed rules; have no license revocation within 180 days of the current application; pay all license fees and penalties; and maintain cardiopulmonary resuscitation standards. Section 50-11.1-07 requires that the provider must maintain and make available required records and information, and Section 50-11.1-08 requires the provider to meet minimum standards set by the Department of Human Services.

Registration Requirements

In-home provider registration requires compliance with a variety of requirements. North Dakota Century Code Section 50-11.1-07 requires the provider to pass possible investigations to determine the qualification of the provider and to maintain and make available required records and information. Section 50-11.1-08 requires the provider to meet minimum standards set by the Department of Human Services.

Carecheck Registration Requirements

Carecheck registration requires fingerprinting of an applicant and completion of a fingerprint card. If the Department of Human Services has no record of a determination of probable cause for child abuse or neglect, it submits a set of fingerprints to the Federal Bureau of Investigation and a set of fingerprints to the Bureau of Criminal Investigation to determine whether there is any criminal history record information regarding the applicant for carecheck registration. The applicant is placed in the carecheck registry after satisfaction of requirements adopted by the Department of Human Services and if no relevant criminal history record information is found and no report of a determination of probable cause for child abuse or neglect is found which disqualifies the applicant.

Penalties

The general penalty for noncompliance with NDCC Chapter 50-11.1 is a Class B misdemeanor. Specifically, as amended in 1997 by Senate Bill No. 2055, Section 50-11.1-13.1 provides:

> A person who provides early childhood services to any child, other than a child who is a member of that person's household, is guilty of a class B misdemeanor if:
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> 1. Those services are provided after that person is required to register under section 12.1-32-15;
> 2. The department has denied that person's application for licensure or registration to provide early childhood services or has revoked that person's license or certificate or registration to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that person; or
> 3. The person allows another person to be in the presence of the child receiving the services if that other person is required to register under section 12.1-32-15 or has had an application for licensure or registration to provide early childhood service denied by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other person.

Department of Human Services

Under NDCC Section 50-06-05.1(11), the Department of Human Services is responsible for formulating standards and making appropriate inspections

and investigations in accordance with these standards in connection with all licensing activities delegated by law to the department, including child care facilities. North Dakota Administrative Code Title 75 contains the administrative rules adopted by the Department of Human Services. Title 75 provides that the Department of Human Services has delegated the administration of the program to the Division of Children and Family Services. Title 75 also provides that each regional human service center must have a regional representative of county social service programs who is responsible for approving, denying, and revoking early childhood service licenses, providing technical assistance relevant to early childhood services, and providing or arranging inservice training for early childhood licensing staff within the region.

Under Title 75, delivery of the actual early childhood services, such as the processing of early childhood services license applications, is provided by county social service boards under the supervision of the designated regional representatives.

North Dakota Administrative Code Section 75-01-01-01 provides:

> The North Dakota department of human services administers the public welfare programs for the state of North Dakota. The department, managed by a governor-appointed executive director, maintains an array of human service programs funded by a combination of federal, state, county, and private donation dollars. The term "human service" means service provided to individuals or their families in need to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, vocational rehabilitation, aging, and food and nutrition. The administration of services is divided between economic assistance, which addresses financial and medical assistance needs, together with program and policy, and field services, which address services that enhance the quality of life for people who are at risk due to crisis or disabling circumstances. The department also includes the state council on developmental disabilities.
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> . . .
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> 2. Program and policy administers human service programs that are provided by the county social service boards and services centers. . . . The major programs supervised by program and policy which are subject, at least in part, to the provisions of North Dakota Century Code chapter 28-32 are:
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> . . .
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> c. Children and family services;
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> (3) Children and family services. The division protects and promotes the well-being of all children, including children with disabilities, homeless, dependent, and neglected children. The division seeks to prevent, remedy, or assist in the solution to problems that result in the neglect, abuse, deprivation, exploitation, or delinquency of children. Unnecessary separation of children from their families is prevented by identifying family problems and assisting families in resolving their problems, by restoring to their natural families children who have been removed, and by providing services to the child in the family home. When restoration to the natural family is not feasible, the division supervises the placement of the child in a suitable adoptive home and assures the provision of adequate care of children placed away from their natural homes on a permanent basis. These goals are met through service programs that include . . . early childhood services . . . . Emphasis is placed on the collaboration of services with the children's services coordinating committee and the regional children's services coordinating committees. (emphasis supplied)

North Dakota Administrative Code Section 75-05-05-03 provides:

> 1. The regional director shall designate a regional representative of county social services programs.
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> . . .
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> 4. With respect to early childhood services (day care services), the regional representative shall:

a. Approve, deny, or revoke all early childhood home, group, and center license applications, license applications for preschool educational facilities, and applications for standard compliance certification, and provide formal notification to all applicants;
b. Provide technical assistance regarding policies, procedures, rules, and laws for early childhood services in the region; and
c. Provide or arrange inservice training for early childhood licensing staff regionwide. (emphasis supplied)

Alternative Early Childhood Services Licensing Agencies

The 1996 Joint Social Service System Committee provided testimony to the 1995-96 interim Budget Committee on Human Services regarding possible alternative early childhood service licensing agencies. Alternative licensing agencies included the child care providers, the Department of Human Services, the Department of Health, the Attorney General's office, or county social service boards. Another alternative licensing agency not mentioned by the joint committee is the regional human service centers.

CHILD SUPPORT SERVICES

1997 Legislation

Legislation Enacted

House Concurrent Resolution No. 3031 directs a study of the issues of fairness and equity as they relate to child support guidelines and the issuance and enforcement of child custody and visitation orders. The study has been assigned to the 1997-98 interim child support committee.

House Concurrent Resolution No. 3034 directed the Legislative Council to study the impact of divorce on children and issues of equity and fairness as they relate to custody determinations, visitation orders, and child support obligations. The Legislative Council did not prioritize this resolution for study.

Senate Concurrent Resolution No. 4048 directed the Legislative Council to study the interrelationship of the postjudgment issues of child support and visitation, including the accountability of both parents to honor divorce orders and the development of a parenting education program that addresses the impact of divorce on children. The Legislative Council did not prioritize this resolution for study.

Section 83 of House Bill No. 1226, which contains numerous welfare reform provisions, establishes a task force to accomplish several of the goals and programs provided for under the bill.

House Bill No. 1226 brings the state into compliance with federal welfare legislation and includes numerous child support enforcement provisions, including a requirement that all employers report to the Department of Human Services all new employees within 20 days of hire and centralization of child support collection and disbursement with the Department of Human Services.

Senate Bill No. 2280 requires the Department of Human Services to request a child support enforcement agency to enter a child support withholding order within 20 days of the date income withholding is determined to be appropriate or the date of receipt of information necessary to carry out the withholding.

Defeated Legislation

House Bill No. 1244 would have required courts to order the obligor in child support cases to submit nonreimbursable medical expenses to the clerk of court as disbursements taxed in judgment. This bill failed to pass the House.

Senate Bill No. 2390 would have required the inclusion of a spouse's income in child support calculations. This bill failed to pass the House.

Recent Studies

1995-96 Interim

During the 1995-96 interim, the Budget Committee on Human Services studied the responsibilities of county social service agencies, regional human service centers, and the Department of Human Services under House Concurrent Resolution No. 3045. Testimony was received from the Joint Social Service System Committee. A copy of the relevant portion of the interim committee's final report is attached as Appendix "B". The committee recommended House Bill No. 1041 which requires counties to assume the financial responsibility for the costs of administering several economic assistance programs. In return for taking on this financial responsibility, the bill provides that the state will assume complete financial responsibility for the grant costs of medical assistance and basic care and contributes additional support of administrative costs for counties with Indian land. Section 14 of House Bill No. 1041 directed this study.

Joint Social Service System Committee

In 1996 the Joint Social Service System Committee, composed of representatives of the North Dakota Association of County Social Service Board Directors, the Department of Human Services, the North Dakota Association of Counties, and the 1995-96 interim Budget Committee on Human Services, was formed. Subcommittees of the committee studied statutes

relative to county-based social services, options for the provision of child support enforcement services, the current and ideal structure for early childhood licensing, and the overall structure and funding of children and family services. The study proposed in Section 14 of 1997 House Bill No. 1041 in large part arose from the research conducted by this child support subcommittee.

Audit - 1995

An audit reviewing the efficiency and effectiveness of this state's system of establishing and enforcing support orders, the potential for reducing costs through program fees and interest on arrears, and the adequacy of policies and procedures surrounding the collection of overpayments to custodial parents was conducted by the State Auditor as part of a joint performance audit initiated by the National State Auditors Association in 1995. A copy of the audit recommendations is attached as Appendix "C".

During the 1993-94 interim, the Budget Committee on Youth Services studied children and youth services in the state and the provision of services for children.

During the 1991-92 interim, the Administrative Rules Committee studied the impact of various child support guideline models on family units, the quality of the relationships among the persons in the families, and on children who receive child support.

During the 1991-92 interim, the Budget Committee on Human Services studied the distribution of child support enforcement incentive payments made by the federal government.

Introduction

Part D of Subchapter IV of the Social Security Act (IV-D) addresses child support and establishment of paternity as it relates to federal grants to states for aid and services to needy families with children and for child welfare services. The IV-D program is administered by the United States Department of Health and Human Services through the Office of Child Support Enforcement. IV-D services are provided to household members who receive aid to families with dependent children (AFDC) and Medicaid benefits and are also available to anyone who makes application for IV-D services. Additionally, referrals are made to the Child Support Enforcement Division on foster care cases to permit the recovery of foster care expenses from parents. Approximately one-half of the total child support cases in this state are IV-D cases.

Significant change in federal law relating to welfare reform is changing the state's provision of child support services. Child support services are currently provided by a variety of governmental agencies in North Dakota. North Dakota's child support program is state-supervised and county-administered. The eight regional offices provide the front-line enforcement services. The national trend is to move from county-administered programs to state-administered programs.

State IV-D Agency

The Department of Human Services Child Support Enforcement Division is the state IV-D agency and is responsible for the overall operation of the child support enforcement program.

The division's functions include:

- Ensuring compliance with federal and state laws and regulations governing the IV-D program; making and interpreting all matters of policy; administering a "new hire" data base (effective October 1, 1997);
- Performing intake and recordkeeping on all child support collections;
- Collecting and distributing child support collections (effective July 1, 1999);
- Preparing affidavits of public assistance and child support collections;
- Providing statewide, national, and international location services;
- Obtaining federal funds and state appropriations for operations of the statewide IV-D program;
- Assisting in regional unit budget preparations by providing the county social service boards with updates on state and federal projects;
- Processing and approving regional unit expenditures and ensuring payment of these expenditures;
- Providing statewide training to regional unit personnel;
- Acting as liaison between other state IV-D agencies and international, federal, state, and county entities;
- Completing reports as required by federal, state, and county officials;
- Providing statewide public relations for the program;
- Providing legal advice on IV-D matters;
- Paying incentives and reimbursements to political subdivisions;
- Preparing contracts and agreements with political subdivisions and other governmental agencies and divisions;
- Handling special requests from the state Department of Human Services and other states, counties, regional units, recipients, applicants, legislators, and related agencies;

- Serving as the state information agency for the Uniform Reciprocal Enforcement Security Act (URESA) and related IV-D matters;
- Providing program research and analysis;
- Preparing and updating the IV-D procedures manual; and
- Issuing policy and procedures.

Regional IV-D Units

Composition

Regional IV-D units are responsible for establishing paternity and support orders; enforcing and collecting child support; performing the initial parent location effort; implementing policy as determined by the state IV-D agency; and cooperating fully with the state IV-D agency. Each regional unit of the child support enforcement program is generally comprised of an administrator, investigator, attorney, and support staff. Each of these positions is responsible for providing a variety of functions for the unit.

Administrator

Each regional unit of the child support enforcement program is headed by a regional IV-D administrator. The administrator is responsible for the administration and management of a regional IV-D unit and the supervision of the operations and personnel within the unit. Duties of the administrator include:

- Hiring and discharging IV-D personnel within the unit;
- Conducting studies and surveys for statistical information and reports;
- Supervising and coordinating the work of all personnel within the unit;
- Coordinating the work of the unit with the state IV-D agency, county social service boards, county clerks of court, and other applicable agencies;
- Promoting public relations between the IV-D unit, other agencies, and the public;
- Interviewing recipients and applicants and working individual cases;
- Assisting in the preparation of legal documents and, if an attorney, performing all legal duties relative to cases;
- Overseeing the maintenance of case records and monitoring of the case records;
- Fiscal responsibility of the operation and budget preparation of the unit; and
- Ensuring compliance with program policies and procedures.

Investigator

Duties of a unit investigator include:

- Performing case intake, reviewing files, and gathering additional information when required;
- Interviewing a recipient, applicant, or absent parent and other necessary parties;
- Ensuring proper referral from IV-A (AFDC) is made and the case is within IV-D guidelines;
- Developing a plan of action for proceeding in each case;
- Locating absent parents;
- Investigating, gathering, and developing the evidence necessary for establishing paternity or establishing and enforcing support;
- Reviewing the obligor's financial status, ability to pay, and any other factors that might affect payment of child support obligations;
- Occasionally assisting in the preparation of legal documents;
- Occasional service of process; and
- Drafting of correspondence and assistance in monitoring cases for collections.

Attorney

A child support attorney is the legal representative of the unit. Attorney duties include:

- Responsibility for monitoring and advising decisionmaking matters regarding all legal procedures and actions;
- Responding and negotiating with opposing counsel and appearing in court as necessary;
- Advising the unit of court rules, practices, and child support law;
- Maintaining a close liaison with the state IV-D agency and county officials;
- Assisting investigators and other IV-D staff in legal matters; and
- Acting as an assistant state's attorney when appointed.

County Social Service Boards

County social service boards are responsible for the administration of the regional IV-D unit. Other duties include the budgeting and funding of the regional IV-D unit; contracting with public or private agents to discharge child support enforcement duties; reporting to the state agency; providing staff to operate the regional IV-D unit; interfacing with the regional unit on IV-A (AFDC) case matters helpful to successful child support enforcement; and approving all past AFDC and arrearage settlements.

Clerks of the District Court

Before July 1, 1997, the clerks of the district court were responsible for receiving and disbursing child support payments for IV-D and non-IV-D child support cases and implementing income withholding.

Section 9 of 1997 House Bill No. 1226 created a state disbursement unit which will assume the child support duties previously performed by the clerks. Section 84 of House Bill No. 1226 provides that the transition from the clerks acting as the agents for receipt and disbursement of child support payments will occur between July 1, 1997, and April 1, 1999. Between July 1, 1997, and the system implementation date, with respect to income withholding and other activities, the clerks and the state will share responsibilities. The transfer of responsibilities under the bill will occur on a county-by-county and case-by-case basis.

Alternative Child Support Enforcement Service Providers

Privatization - Collection

Child support services include locating noncustodial parents; establishing paternity and support orders; updating support orders to be current with a noncustodial parent's income; obtaining medical support from noncustodial parents; and collecting ongoing and past due support payments. According to a 1996 United States General Accounting Office (GAO) fact sheet, between 1980 and 1995 the national child support enforcement program's caseload more than tripled--from 5.4 million to 20.1 million cases. In addition, the amount of uncollected support from past years increased from $8.8 billion in 1986 to $30.8 billion in 1994. A study completed by the GAO determined that states are turning to private firms to collect child support payments because states are finding it increasingly difficult to service their growing child support enforcement caseloads with available staff and budgetary resources.

Privatized child support contracts in the states usually cover one or more services and, in general, either supplement state or local program efforts or replace them with privatized offices. According to the GAO, as of October 1995 one or more child support services has been privatized statewide in 20 states and at the local office level in 18 states. The privatized services include 21 contracts for full-service child support operations, 41 contracts for collections and related parent location services, nine contracts for payment processing services, and eight contracts for location services only. Most of these services were provided by four major contractors.

The type of cases referred for privatized collection dictate whether and to what extent the families and the government benefit financially. Variable factors include whether the collection is for an AFDC case or non-AFDC case; whether the collection is for current or past due support on AFDC cases; and whether AFDC collections are distributed to families. States predominately privatize collections of past due support.

A Texas study of privatization of child support services summarized private sector participation in child support enforcement would increase collections in both AFDC and non-AFDC cases, resulting in avoided costs, retained collections, federal incentives and federal matching funds, and additional support to children.

Recent privatization options considered in Florida included privatization of the collection and disbursement process by contracting with a bank to collect and disburse all child support payments and privatization of the collection process by contracting with a bank to collect child support payments but disbursing funds through the state.

Privatization - Disbursement

The 1996 Personal Responsibility and Work Opportunity Reconciliation Act (42 U.S.C. § 651 et seq.) specifies that each state must establish a single location to which employers can send child support income withholding payments and must establish a state child support disbursement unit to process payments. In response to this federal legislation, Florida conducted a study to determine how to comply with these requirements. One of the four options resulting from this study suggested privatization of disbursement process by contracting with a bank to disburse all child support payments.

Federal Administration

One alternative provider of child support services could be the Internal Revenue Service. In 1996 Ms. Vicki Turetsky of the Center for Law and Social Policy wrote *Improving Child Support Collections: States Establish the Order, While IRS Collects the Support*. In this article, Ms. Turetsky proposes the Internal Revenue Service would be able to make and implement improved child support collection services faster than the states have been able to; the system would be simpler, more efficient, and more accountable than the current state-run system; the system would ease the administrative burdens on employers; enforcement by the Internal Revenue Service would make nonpayment of child support a more serious offense; the system would be more effective at dealing with interstate cases; and the system would reduce the need for other costly and intrusive enforcement mechanisms.

STUDY APPROACH

This study focuses on which entity should provide child support enforcement services and child care licensing services. Areas that should be considered include:

- Who currently offers these services;
- Whether another entity could offer the services more effectively to the consumer, and;
- Whether another entity could offer the services more cost effectively.

Study approaches that may be helpful include gathering information from interested parties, evaluating how other states provide these services, and evaluating national trends.

ATTACH:3

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE BILL NO. 1041
(Legislative Council)
(Budget Committee on Human Services)
(Representatives Boucher, Sandvig, Svedjan)
(Senators Kelsh, O'Connell, Lips)

AN ACT to create and enact four new sections to chapter 50-01.2, four new sections to chapter 50-03, a new subsection to section 50-06-05.1, a new section to chapter 50-06, a new section to chapter 50-24.1, and a new section to chapter 50-24.5 of the North Dakota Century Code, relating to the administration and financing of human services programs; to repeal sections 50-03-07, 50-09-16, 50-09-17, 50-09-18, 50-09-20, 50-09-20.1, 50-09-20.2, 50-09-21, 50-09-22, 50-24.1-03, and 50-24.5-06 of the North Dakota Century Code, relating to the administration and financing of human service programs; to require a legislative council study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-01.2 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

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

2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, costs associated with achieving caseload ratios of sixty-five cases to one worker, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the training, education, employment, and management program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996, or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.

3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:

   a. Temporary assistance for need families;

   b. Child support enforcement programs;

   c. Programs established under section 50-06-01.8;

   d. Employment and training programs;

   e. Child care assistance programs;

   f. Medical assistance, including early periodic screening, diagnosis, and treatment;

g. Food stamp programs, including employment and training programs;

h. Refugee assistance programs;

i. Basic care services;

j. Energy assistance programs; and

k. Information and referral.

SECTION 2. A new section to chapter 50-01.2 of the North Dakota Century Code is created and enacted as follows:

Standards of administration - Action upon failure to administer - Peer review committee - Appeal.

1. The department shall adopt standards for administration for locally administered economic assistance programs and shall provide training for the implementation of those standards. Each county social service board shall provide for administration of locally administered economic assistance programs that meet those standards.

2. If a county social service board fails to provide for administration of locally administered economic assistance programs 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 county social service board to prepare and implement a corrective action plan.

   c. Appoint a receiver to act in place of the county social service board.

3. At least thirty days before taking any action under subsection 2, the department shall provide notice of its proposed action to the county social service board and the board of county commissioners of the affected county. The notice must describe the proposed action and the reasons therefor.

4. If the county disputes a notice of proposed action, the board of county commissioners, before the effective date of the action, shall:

   a. Request reconsideration by the department;

   b. Propose an alternative action under subsection 2;

   c. Request a peer review; or

   d. Make any combination of these responses.

5. If the county's response includes a request for reconsideration or proposed alternative action under subsection 2, the department promptly shall consider that request or proposal and notify the county of its determination.

6. If the county's response includes a request for a peer review, the board of county commissioners shall name two members of a peer review committee, the department shall name two members of the peer review committee, and those four committee members shall name a fifth member of the peer review committee. At least one member of the peer review committee must be a member of a board of county commissioners and at least two members of the peer review committee must be county social service board directors or former county social service board directors. No member of the peer review committee may hold or have held office as county social service board director, or as a member of the county social service board or board of county commissioners, or be a resident of the county requesting the peer review.

7. A peer review must be based upon written submissions made by the department and the county requesting the peer review. The county submission must be made within fifteen days after the county requests peer review, and the department's submission must be made within fifteen days after receipt of a copy of the county's submission. The peer review committee may direct written questions to the parties, and the parties shall respond in writing within fifteen days.

8. A committee member designated by the department shall chair the peer review committee. The committee shall meet at the call of the presiding officer, and may meet by teleconference. Any committee action must be by motion. A decision on the county's request must be made within sixty days after receipt of the county's request, and subject to subsection 9, is binding on both parties.

9. The decision of the peer review committee is a final administrative decision. That decision may be appealed to the district court, and for that purpose, the decision must be treated as a decision on a request for rehearing made pursuant to section 28-32-14. Appeal to the district court must be taken in the manner required by section 28-32-15. The department shall submit a record consisting of:

   a. Submissions made, and questions asked and answered, under subsection 7; and

   b. The motion and vote upon which the peer review committee acted to decide the matter.

10. A timely dispute of a notice to appoint a receiver under subsection 2 stays that action until thirty days after issuance of a decision by a peer review committee.

11. A timely appeal of a decision by a peer review committee stays that decision until determination of that appeal.

12. A receiver appointed under this section may take any action that may lawfully be taken by the county social service board and may draw upon the human services fund.

13. Members of a peer review committee are entitled to receive compensation by the department in the same amounts as members of the legislative council. The county requesting the review shall reimburse the department for one-half of that cost.

SECTION 3. A new section to chapter 50-01.2 of the North Dakota Century Code is created and enacted as follows:

Board may contract. In addition to actions a county social service board may take under chapter 54-40, a board may contract with another county social service board, the receiver of a county social service board appointed under section 2 of this Act, the department, or any other public or private person to discharge any of its duties or exercise any of its powers to administer economic assistance programs.

SECTION 4. A new section to chapter 50-01.2 of the North Dakota Century Code is created and enacted as follows:

County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:

   a. Locally administered economic assistance programs;

   b. Replacement programs with substantially similar goals, benefits, or objectives; and

   c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.

2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:

   a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;

   b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;

   c. Totaling the amounts determined under subdivision b for all counties entitled to a distribution;

   d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and

   e. Multiplying that decimal fraction times one-half of the biennial appropriation.

3. The department shall seek appropriations for the purpose of providing additional financial assistance to county social service boards for human service program costs and local expenses of administering human service programs in counties in which the presence of an Indian reservation substantially reduces the amount of property subject to taxation.

SECTION 5. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Definitions. Terms defined in chapter 50-01.2 have the same meaning when used in this chapter.

SECTION 6. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Appropriation for county social service board administration and programs. The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay:

1. The local expenses of administration of locally administered economic assistance programs; and

2. That county's share of fifteen percent of the amount expended in this state, in excess of the amount provided by the federal government, for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services; and

3. That county's share of the cost of other family preservation services, including intensive in-home services, provided under title VI-B, subpart 2, of the Social Security Act [Pub. L. 103-66, title XIII, 13711(a)(2); 107 Stat. 649, et seq.; 42 U.S.C. 629, et seq.], as amended, as may be agreed to by the department and the county social board.

SECTION 7. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Department to develop formula. The department, with the cooperation of the boards of county commissioners, shall develop a formula to be used to determine the appropriate amount of each county's share under subsection 2 of section 6 of this Act.

SECTION 8. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

County commissions to make recommendations. Before August first of each year, the boards of county commissioners of the counties shall make a collective recommendation to the department concerning the distribution between counties, of the social service block grant funds, general fund equivalents of social service block grant funds, and child support incentive funds available to the department for distribution to county social service boards. The department shall consider the recommendation of the county commissioners in determining the distribution to the county social service boards, in the following calendar year, of the social service block grant funds, general fund equivalents of social service block grant funds, and child support incentive funds available to the department for that purpose.

SECTION 9. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.

SECTION 10. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:

   a. Except as provided in section 11 of this Act, services provided under chapter 50-24.1;

   b. Benefits provided under subsection 19 of section 50-06-05.1;

   c. Supplements provided under chapter 50-24.5 as basic care services;

   d. Services provided under section 50-06-06.8 and chapter 50-09 as child care assistance;

   e. Services provided under chapter 50-09 as employment and training programs;

   f. Welfare fraud detection programs;

   g. Temporary assistance for needy families; and

   h. Special projects approved by the department and agreed to by any affected county social service board.

2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

SECTION 11. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Responsibility for expenditures - Exceptions.

1. Except as otherwise specifically provided in subsection 2 and section 6 of this Act, expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.

2. Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 6 of this Act.

SECTION 12. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Responsibility for expenditures. Except as otherwise specifically provided in section 6 of this Act, expenditures required under this chapter are the responsibility of the state of North Dakota.

SECTION 13. REPEAL. Sections 50-09-16, 50-09-17, 50-09-18, 50-09-20, 50-09-21, 50-09-22, and 50-24.1-03 of the North Dakota Century Code and sections 50-03-07, 50-09-20.1, 50-09-20.2, and 50-24.5-06 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 14. LEGISLATIVE COUNCIL STUDY OF CHILD SUPPORT SERVICES AND CHILD CARE LICENSING. The legislative council shall study the provision of child support services and child care licensing in this state during the 1997-98 interim. The study must consider whether child support services and child care licensing can be more efficiently and effectively provided and, if so, by which agency or unit of government. The legislative council shall report its findings, together with any legislation required to implement the recommendations, to the fifty-sixth legislative assembly.

SECTION 15. COMPUTER DEVELOPMENT - BUDGET SECTION APPROVAL. Except as may be waived by approval of the budget section of the legislative council, the department of human services shall meet the requirements provided by the administration for children and families of the United States department of health and human services in its communication dated February 12, 1997, related to the state's development of the reforming and enhancing services for the people of North Dakota (RESPOND) and training, education, employment, and management (TEEM) projects. The requirements include information regarding client eligibility and expert system rules, cost benefit analysis for the TEEM and RESPOND projects, and a revised budget for the TEEM and RESPOND projects. The department of human services may not spend the related general fund appropriations provided by the fifty-fifth legislative assembly until the department receives assurances that the requirements will be met.

SECTION 16. EFFECTIVE DATE. Sections 1 through 11 of this Act become effective January 1, 1998.

Approved April 4, 1997
Filed April 4, 1997

BUDGET COMMITTEE ON HUMAN SERVICES

The Budget Committee on Human Services was assigned four study responsibilities. House Concurrent Resolution No. 3045 directed a study of the responsibilities of county social service agencies, regional human service centers, and the Department of Human Services. Senate Bill No. 2035 required the Department of Human Services to seek authorization for a welfare reform demonstration project and to report to the Budget Committee on Human Services regarding the implementation status of the project during the 1995-96 interim. House Concurrent Resolution No. 3021 directed a study of the issues and concerns related to fetal alcohol syndrome. Senate Concurrent Resolution No. 4047 directed a study of refugee resettlements in North Dakota, including the definition and identification of the net fiscal effects of refugees and other limited English proficient students on school districts and the providers of social services.

Committee members were Senators Jerome Kelsh (Chairman), Evan E. Lips, Donna Nalewaja, David O'Connell, and Russell T. Thane and Representatives Merle Boucher, Ron Carlisle, Tony Clark, Pat Galvin, Pam Gulleson, Sally Sandvig, Ken Svedjan, Gerald O. Sveen, and Laurel Thoreson. Senator Kit Scherber was also a member of the committee until her death in November 1995.

The committee submitted this report to the Legislative Council at the biennial meeting of the Council in November 1996. The Council accepted the report for submission to the 55th Legislative Assembly.

HUMAN SERVICES DELIVERY SYSTEM STUDY

House Concurrent Resolution No. 3045 directed the Legislative Council to study the responsibilities of county social service agencies, regional human service centers, and the Department of Human Services. The committee, in addition to Bismarck meetings, held meetings in Lisbon, Mohall, and Williston to receive testimony from county officials and other interested persons regarding human service priorities and suggested changes to the human service delivery system.

Background

North Dakota has a state-supervised, county-administered social services delivery system. The total amount spent on economic assistance programs for the 1993-95 biennium was $800.4 million, of which $182.4 million was from the state general fund and $37.1 million was from county funds. This amount included total county operational costs of $33.9 million, of which $18.6 million was from federal funds, $1.4 million from the state general fund, and $13.9 million from county funds. Statewide there were a total of 293.33 full-time equivalent (FTE) economic assistance employees of county social service agencies with a total caseload of 46,784, an average of 159.5 cases per FTE employee. The ratio of total cases to FTE employee ranged from a high of 250.2 for Richland County to a low of 42.8 for Oliver County.

Issues Identified for Study

Early in the committee's study, representatives of the following entities suggested the following issues be considered by the committee in its review of the human services delivery system:

Department of Human Services

1. Program financing.
2. The economic assistance formula used to distribute costs to individual counties (developed in 1982).
3. Economic assistance program administration economies of scale.
4. Federal funding changes, including welfare and Medicaid block grant proposals.

North Dakota Association of County Social Service Board Directors

1. State/county communications - Direct communications between the department and county social service agencies, rather than the current procedure of communicating through the regional human service centers.
2. Transfer of human services responsibilities - In the areas of crippled children's services and early periodic screening, diagnosis, and treatment programs.
3. Licensing responsibilities - Licensing of day care and foster care facilities and homes be conducted by multicounty licensing agencies rather than individual counties.
4. Provider training - The state provide training of foster care and day care providers for planned and systemic training.
5. Program and delivery standards - Eliminate program supervision at the regional human service centers and establish program and delivery standards for county social services resulting in accreditation.
6. Alternative funding - Explore alternatives to property tax collections for the financing of social service programs.
7. Alternative delivery methods - Review other methods of delivery of human services.

Regional Human Service Centers

1. Balance between planning/service development and cost efficiency.
2. Economies of scale.
3. Flexibility of funding.
4. Privatization.
5. Prevention and early intervention.
6. Outreach services in rural areas.
7. Service needs of the most difficult to serve individuals.

North Dakota Association of Counties

1. Review the management of each of the major economic assistance programs including areas that county officials believe are duplicative or unnecessary.
2. Consider the various components of the direct services provided by county and regional workers.
3. Identify administrative procedures that create inefficiencies.
4. Review the actual cost of human services delivery.

Multicounty Social Service Districts

North Dakota Century Code Chapter 50-01.1 provides for the establishment of multicounty social service districts summarized as follows:

1. Section 50-01.1-02 - Allows the consolidation of county agencies into multicounty social service districts, subject to approval by the Department of Human Services.
2. Section 50-01.1-02.1 - Provides, within the limits of legislative appropriations, for financial incentives for the creation of multicounty social service districts based upon achieved economies of scale, adherence to caseload standards, reduced administrative costs, specialized qualifications of staff, and quality of services provided.
3. Section 50-01.1-03 - Provides the factors to be considered for multicounty district approval including the level and quantity of social and economic assistance services, the number and qualifications of staff, caseloads, the geographical area and population served, the distance of recipients from county agencies and the benefits that would be realized from the creation of the district in terms of lower costs, increased availability of services, new services, and improved services.

Department of Human Services Testimony

The committee received information from the Department of Human Services regarding a compilation of central office, human service center, and county social services administrative costs and caseloads for calendar year 1994 which includes:

Central office

- 98.25 FTE employees and costs of $6.3 million, $2.7 million from the general fund.

Human service centers

- 141 FTE employees and costs of $5.3 million, $4.4 million from the general fund.

County social services

- The ratio of economic assistance cases to employees varies by county from a high of 250 in Richland County to a low of 42.8 cases per employee in Oliver County.
- The average monthly administrative cost per economic assistance case ranges from a low of $15.35 per case in Rolette County to a high of $92.10 per case in Oliver County.
- County social service board administrative and service costs per capita averages $41.83 per person, ranging from a high of $86.64 per person for Benson County to a low of $27.47 per person for Grand Forks County.
- The ratio of county residents to county social service board employees ranges from a high of 1,235 residents per employee for Grand Forks County to a low of 348 residents per employee for Adams County.
- Total county social service board employees authorized was 1,077.7, of which 952.3 were filled.
- Economic assistance recipient projections for the year 2010 indicate only 16 counties will have more than 1,000 recipients and those 16 counties serve 87 percent of the state's assistance recipients.

Testimony from the Department of Human Services also provided the following information:

1. Principles regarding public policy for human service delivery that have been identified include:
   a. Administrative responsibility belongs with the lowest level of government feasible to make decisions.
   b. Accountability is optimal when the decisionmaker is also the payer, and if a significant portion of program costs is borne by the level of government administering the program, accountability is maximized.
   c. The entity responsible for program administration must be free to "own the program," "establish policy," and "make a difference."
   d. The administrative agency must be an economically viable unit that can operate effectively and cost efficiently.
2. The application of these principles can lead to the following conclusions:
   a. Counties could assume a greater share of the administrative and program costs in areas in which they exercise control, including foster care, family preservation services, child protection, aid to families with dependent children (AFDC), job opportunities and basic skills (JOBS), child care, and food stamp employment and training.
   b. Counties could also assume a greater share of the cost of nursing facility care, service payments for elderly and disabled (SPED), Medicaid waiver, and basic care, resulting in counties having a stake or incentive in developing less costly alternatives to nursing facility care.
   c. The state could assume a greater share of the costs in those programs in which it or the federal government dictates program parameters, including low-income home energy assistance program (LIHEAP), food stamps, Medicaid (exclusive of long-term care), and child support.
3. The realignment of fiscal responsibilities between the state and the counties could be a

"zero sum" exchange, with neither the state nor the counties paying more or less program costs in total than under the current system.

North Dakota Association of Counties Testimony

The committee invited county officials and other interested persons to provide input relating to program priorities in the event federal welfare reform including block grants is implemented. County officials were asked to provide input on which programs were a priority and would be continued if federal or state matching funds were not available, which programs would be considered for administration with a neighboring county or counties if federal or state administrative cost reimbursement is substantially reduced, and suggestions for an appropriate formula to allocate administrative funds if limited by federal block grant reforms.

The North Dakota Association of Counties formed a committee of county officials to study the human services delivery system and the association made the following statements:

1. Counties should be more involved in the development of policy regarding federal and state welfare reform.
2. A complete analysis should be done of all levels of human services administrative efficiency.
3. The implementation of federal block grant administration caps should not be in a manner that allows unequal recognition of state and county administrative costs.
4. The current allocation of economic assistance costs to counties has no relation to property values.
5. As the property tax burden shifts from agricultural property to commercial and residential property, the connection between human services and property values becomes less defensible.
6. Counties have performed the personal contact, evaluation, guidance, and personal assistance aspects of human services and any change to the current structure must maintain the close relationship between the person providing the service and those being served.

Testimony of other county representatives included:

- County commissions are required to levy property taxes to fund the county share of between 30 to 40 separate federal, state, and local social service programs but have very little authority concerning who can receive services, the type of services and benefits delivered, program administration, or salary levels of county social service staff.
- Funding formulas for some economic assistance programs are based on a formula developed in 1983 allocating costs to individual counties, and subsequent population changes have resulted in a wide variation in the per capita county costs with the highest per capita cost of medical assistance of $36.54 per year for Sheridan County.
- Several examples of county sharing of staff and services were provided, including the sharing of a county social service board director between McKenzie and Williams counties.

Department of Human Services, North Dakota Association of Counties, and North Dakota Association of County Social Service Board Directors Study

The Department of Human Services, the North Dakota Association of Counties, and the North Dakota Association of County Social Service Board Directors met and discussed alternative methods of delivery and funding of the administration of economic assistance programs. These entities provided the committee findings and recommendations regarding the delivery and funding of economic assistance programs in North Dakota.

The Department of Human Services made the following observations resulting from this study:

- About 65 percent of the counties experienced costs in excess of the statewide weighted average for the administration of economic assistance programs.
- Nearly 86 percent of the eligible economic assistance recipients lived in 23 North Dakota counties.
- The trade areas for North Dakota's 24 largest cities contained about 88 percent of the unduplicated economic assistance cases in 1994.
- Any federal reform of economic assistance programs will likely require statewide application for uniform eligibility, benefits, and program operations.
- Counties with large Indian populations will continue to require state financial assistance to defray a substantial portion of the local costs of administering economic assistance programs.

Committee Considerations

The Department of Human Services and county representatives suggested alternatives for changing the administration and financing of human service programs. Originally, a "swap" proposal was developed that would have increased the counties' financial responsibilities for the administration of economic assistance programs and reduced the counties' financial responsibilities for medical assistance and basic care program grant costs. However, because the "swap" proposal would have resulted in additional costs for 18 counties, the Department of Human Services and county representatives were unable to reach agreement regarding the administration and financing of human service programs. As a result, the committee considered alternative bill drafts, one reflecting the department's state/county cost neutral "swap" of financial responsibilities and the second reflecting the county representatives' position exchanging financial responsibilities in a

manner that has less negative impact on individual counties but has an additional cost to the state general fund.

Both bill drafts would provide for an exchange of financial responsibilities requiring the counties to pay for and administer defined local economic assistance programs in exchange for the state paying the entire grant costs of medical assistance and basic care assistance. The Department of Human Services proposal, while overall cost neutral between the state and counties, had a negative financial impact on 18 counties. The county proposal would allow counties to retain the current federal/state funding for the administration of child support enforcement at a biennial cost of $3,662,360 from the state general fund and would provide financial assistance for 13 counties containing Indian reservation land within their boundaries at a cost of $780,000, for a total biennial state cost of $4,442,360. This information is based on calendar year 1995 costs. The counties' proposal would result in five counties being negatively impacted.

Committee Recommendation

The committee recommends House Bill No. 1041 that requires counties, effective January 1, 1998, to assume the financial responsibility for the costs of administering the following economic assistance programs:

1. Aid to families with dependent children (AFDC).
2. Job opportunities and basic skills (JOBS) program.
3. Child care block grant.
4. IV-A at-risk child care.
5. Food stamps.
6. Medical assistance.
7. Low-income home energy assistance program (LIHEAP).
8. Refugee assistance.
9. Basic care.

In return, the bill requires the state to assume complete financial responsibility for the grant costs of medical assistance and basic care and contribute additional support of administrative costs for counties with Indian land.

The following is a summary of the estimated annual general fund fiscal impact of the bill based on actual program costs for calendar year 1995:

Additional county cost (reduced state cost) related to the counties assuming the financial responsibility for administering the economic assistance programs	$(8,591,240)
Additional state cost (reduced county cost) related to the state assuming the financial responsibility for the medical assistance ($9,812,155) and basic care ($610,265) grant costs, and additional support of administrative costs for counties with Indian land ($390,000)	10,812,420
Net annual cost to the general fund	$ 2,221,180

The estimated cost to the general fund during the 1997-99 biennium, based on a January 1, 1998, effective date, would be $3,331,770.

The bill also:

- Requires the Department of Human Services to establish standards for the administration of the locally administered programs.
- Provides procedures if a county fails to meet the standards, which may include corrective action plans, a receiver, or peer review.
- Allows a county to contract for the administration of economic assistance programs.
- Provides a statutory mechanism to calculate and provide additional relief to counties that have human service mill levies that exceed the statewide average by at least 10 percent. Annually, counties would submit reports on human service mill levies and county costs. The Department of Human Services would determine the counties that exceed the statewide average by at least 10 percent and allocate to each county its proportionate share of any funds appropriated for this purpose.
- Requires the Department of Human Services to seek an appropriation for financial assistance to county social service boards for human service program costs and local expenses of administering human service programs in counties where the presence of an Indian reservation substantially reduces the amount of property subject to taxation. (An appropriation of $1,220,000 for the 1997-99 biennium is provided.)
- Requires the Department of Human Services to develop a formula to determine each county's share of 25 percent of the nonfederal share of the amount expended for AFDC.
- Repeals sections in North Dakota Century Code Chapter 50-09 regarding county responsibilities for AFDC grants, Section 50-24.1-03 regarding county responsibilities for medical assistance grant matching, Section 50-03-07 regarding the county's share of food stamps, Section 50-09-20.1 that requires the state to reimburse counties for 50 percent of administration of certain programs, and Section 50-24.5-06 that requires counties to pay for 30 percent of basic care costs.

WELFARE REFORM DEMONSTRATION PROJECT MONITORING

Pursuant to 1995 Senate Bill No. 2035, the Budget Committee on Human Services monitored the Department of Human Services implementation of North Dakota's welfare reform demonstration project during the 1995-96 interim. The bill required the Department of Human Services to seek federal authorization for a welfare reform demonstration project.

TEEM Project

The Department of Human Services provided status reports at each of the committee's meetings

RECOMMENDATION #3 CREATE COMPREHENSIVE CHILD CARE AND EARLY CHILDHOOD EDUCATION RESOURCES

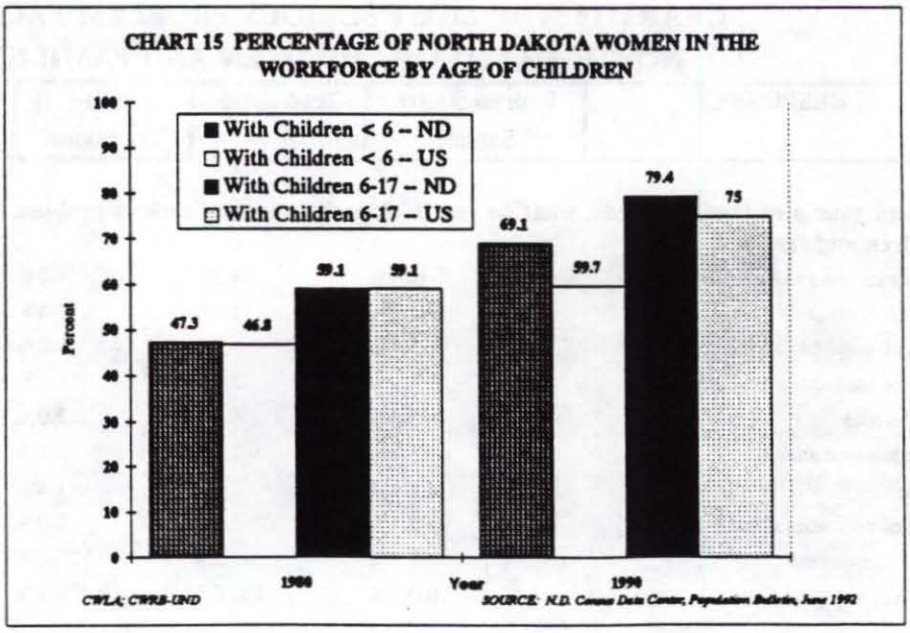
Issue

Many parents and others are concerned that increasing numbers of young children are insufficiently supervised and that many of them require added attention if they are to grow and develop to their maximum potential.

Discussion

Two changing social conditions cause parents much concern as they try to nurture the early growth and development of their children: increasing numbers of mothers entering the workforce, and growing reliance on caretakers other than parents.

While the proportion of working mothers is increasing across the country, North Dakota has had a higher growth rate than the national average since 1980, as can be seen in **Chart 15.**



The increased economic demands of raising a family also have created shifts in parenting patterns:

- often both parents must work to provide adequate basic necessities
- many mothers return to work shortly after childbirth, often as early as eight weeks or sooner
- work hours for both men and women are more likely to be other than the traditional eight to five timeframe
- informal, home-based child care arrangements (often with family members serving as caretakers) are no longer the rule as more and more children are now being supervised by others

Therefore, many young children find themselves in the care of unrelated adults at an earlier stage in their lives and for longer periods of time each day. Compounding this reality for more and more young children is the growing number of mothers who are single parents and whose income capacity is sharply reduced.

When surveyed, North Dakota parents expressed serious concern about child care and supervision as can be seen in **Chart 16.**

CHART 16 THE MOST SERIOUS PROBLEM FACING NORTH DAKOTA'S CHILDREN AND FAMILIES

RESPONSES	Representative Sample	Traditional	Non-Traditional	Low Income	High/Mod. Income
Beyond your own family's needs, what do you think is the one most serious problem facing other North Dakota children and families?					
Inadequate supervision of children	16.2%	18.3%	14.0%	13.5%	17.3%
Alcohol & drugs	12.4%	11.3%	13.5%	11.5%	12.7%
Lack of good paying jobs	7.4%	6.7%	8.0%	12.0%	6.1%
Lack of inadequate income	4.3%	3.6%	5.0%	7.8%	3.2%
Child abuse	3.3%	4.6%	2.0%	4.2%	3.1%
Inadequate education	3.2%	2.7%	3.8%	2.6%	3.2%
Crime	2.1%	2.4%	1.8%	2.6%	2.0%
Lack of recreational activity	2.1%	2.2%	2.0%	1.6%	2.4%
Other responses	49.1%	48.2%	50.0%	44.3%	49.9%
TOTAL	100.1%	100.0%	100.1%	100.1%	99.9%

NOTE: Columns may not add up to 100% due to rounding differences.

CWLA; CWRB-UND

SOURCE: North Dakota Family Survey 1994

Similarly, in the DPI Survey of School Superintendents, **44% of respondents indicated supervision issues were a significant unmet need for students in their districts.**

Parental and educator concern is affirmed by data provided by DHS regarding the number of children currently served in regulated care as compared to those who are either in unregulated care or have no supervised care at all, as can be seen in **Chart 17**.

Chart 17 CHILD CARE PROGRAM: NUMBER OF NORTH DAKOTA CHILDREN IN REGULATED AND UNREGULATED CARE BY REGION

Region	Regulated Care	Unregulated Care*
Region I	1,316	3,801
Region II	3,417	10,519
Region III	2,643	5,237
Region IV	5,438	9,250
Region V	8,450	11,882
Region VI	3,408	5,787
Region VII	6,130	13,789
Region VIII	1,827	4,804
TOTAL	32,629	65,069

*Based on 1990 Census data for children ages 0-13 and percentage of mothers in the workforce; equals total number of children needing child care minus the number of children in regulated care.

CWLA; CWRB-UND SOURCE: ND State Agency Survey 1994

Advocates and government officials in North Dakota have worked hard to meet parental demand for child care resources. Governor Schafer committed "to improving the quality and availability of services for our children in their critical years of development" in the 1993 report, "**Visioning for Children**", a five year plan for Early Childhood Services in North Dakota. He called for the state to "take a leadership role in considering quality programs for children, adequate funding and compensation for staff members of early childhood care centers, and affordable care for parents".

This excellent document lays out a multi-year public/private partnership approach to the five critical areas influencing child care and early education:

1. **Program Standards**, including issues of licensure.

2. **Professional Development**, including training, compensation, credentialing, and cultural competence.

3. **Collaboration** (multi-disciplinary and intergovernmental).

4. **Public Awareness**, including promoting a statewide education campaign for parents about child care and early education resources.

5. **Program Development**, including local community planning, expanded Head Start, "wrap-around" child care for Head Start sites, increased infant care, school-based child care, expanded availability for 24 hour/7 days weekly care, and care for children whose parents participate in therapy and addiction counseling groups.

Recommendations

A. Ensure Quality, Licensed Child Care Providers.

1) Enact a State Licensing Authority for Children's Programs, administered by DHS, and including regional licensing staff in each Human Services Center, that would be responsible for:

a. licensing child care, foster homes and children's group care and institutional facilities

b. serving as liaison for fire inspections, health and safety, and law enforcement clearances, such as fingerprints and criminal record checks for caregivers and other adults living in the facility.

c. developing automated payment systems which balance parental decision-making with ensuring accurate and timely payment to caregivers.

Confusion exists among many providers of child care services (both day care and residential) about meeting licensing requirements. Often, they must go to several governmental agencies to get the required clearances demonstrating that their home or facility is safe for children. While the "stamps of approval" are necessary, the time and duplicate paperwork required may delay availability of resources or deter others from even considering offering their services.

Also, because the agencies required to provide the inspections and clearances were not created with the notion of child care as a focus (e.g., fire departments, law enforcement), their regulations may not be sensitive to the unique needs of children.

2) Staff the Licensing Authority positions with professionals with field experience in children's programs and training in child development.

Currently, child care and foster care licensing personnel come from a variety of backgounds, some having very little to do with children's programs. Throughout the state, parents, state agency and Human Services Center professional staff, county social services advocates, and training personnel from NDSU advised that licensing staff for children's programs should have training and demonstrated expertise in child development.

They should have the professional judgement to assess the abilities of potential providers and to investigate alleged abuse and neglect. They need the background to "coach" child care providers who work with difficult children and mentor those who are in the early stages of developing their skills.

3) In calculating the cost of additional licensors, use recognized standards to determine needed capacity, using county clusters for regional workers as workload dictates.

Licensing staff must have manageable caseloads—workload standards which permit annual supervisory visits and building in counseling and support opportunities.

4) Clarify regulations to ensure that local officials have the authority to close child caring facilities in emergency situations.

Licensing personnel should jointly develop a protocol with law enforcement and county social services which clearly lays out an efficient and thorough process for balancing the need to protect children in unsafe conditions with the obligation to ensure the rights of providers of care.

A crucial area for parents seeking licensed child care is the assurance that the provider has successfully met basic health and safety requirements. However, distinctions between "registration" and "licensing" of child care homes creates confusion for parents. When a home is "registered," only minimal information is requested on an application form and no verifying home visit or follow-up are conducted. When a home is "licensed," basic health and safety standards must be met before children can be placed in care.

5) Eliminate the category of "registered" day care home and utilize one set of standards for day care licensing. DHS should develop a phased plan over a two year period to move appropriate "registered" homes into the "licensed" category.

Parents stated that they did not know about or understand the differences and often assumed that the two categories had the same requirements. Actions should be taken to design a single licensing category for child care homes which provides clarity for both parents and non-related providers. The next recommendation supports this clarification.

6) DHS should develop a single eligibility determination process to simplify ease of access to child care resources irrespective of the public funding source.

Parents must overcome multiple eligibility determination processes in order to sort out which child care assistance they may receive. In fact, parents often do not know that there are different programs and may give up in frustration if they are turned down by one of them, rather than pursuing alternative programs.

7) Priority should be given to licensing school-based child care programs.

In support of the another recommendation in this report to use school sites for child care, licensing staff should establish a streamlined process to aid local schools quickly establish child care services and supports.

8) Priority should be given to added slots for protective day care, prime time day care, infant care, and non-traditional hours for care.

B. Establish Child Care Programs at Schools Across North Dakota.

While schools must protect and pursue their main goal of education, children will be more ready to learn if they are healthy and safe.

Only 10% of schools provide before or after school child care according to school superintendents in a Department of Public Instruction survey. Yet at the same time that many children are staying at home alone, unsupervised while awaiting their parents return from work, many school buildings are empty.

Teens in middle schools and high schools could be employed for pay or could receive school credit to help with staffing school-based child care. Perhaps most importantly the experience would introduce them to the realities of child caring and the skills needed to do it well.

In some rural communities with declining school enrollment, use of school buildings for child care would ensure continued use of these child-oriented sites while assisting parents with easy access and continuity of child caring.

Once communities locate child care at schools, these sites then become a logical place to conduct parent support and education groups, hold health screening clinics and otherwise help parents get resources to handle problems at the earliest possible time.

1) **School-based child care, including before school and after school, should be developed in every school district in North Dakota.**

2) **Under the supervision of professional child care staff, middle and secondary school students, and elders, should be enlisted as child care workers at all schools.**

C. Expand Headstart.

Helping to make children ready for learning and helping to locate needed support services for families underlie the success of Head Start. Currently, Head Start is being expanded to include approximately 47% of the children eligible. As of October, 1993, 2473 children were being served in 32 counties and on four reservations.

Head Start also provides opportunities for parents to learn better parenting skills and even begin the road to employment as teacher aides. In all low-income communities, but especially on reservations, **these non-stigmatizing and culturally sensitive programs provide young families with support they may not find anywhere else**, including the early identification of children with developmental problems.

Several barriers hinder Head Start expansion:

- shortage of available space for classrooms
- little statewide planning and coordination among Head Start Directors, DHS Early Childhood Services, and the Department of Public Instruction
- insufficient funds to include eligible three year olds
- low salaries and few benefits for teachers and aides (at one site, teachers are paid $10,000 annually compared to the public school salary of $17,000)

Yet the latest research on the lasting effects of early childhood education shows that **$7.16 is the eventual savings to the public for every dollar invested in high-quality pre-school programs because of avoided costs in special education, juvenile crime, and adult underemployment.** To assist North Dakota take advantage of this investment strategy, the following recommendations are made:

1) **Head Start should be expanded, using General Fund as necessary, to include all eligible 3 and 4 year olds by the year 2000.**

2) **As part of the state's child care expansion efforts, DHS and DPI should create a Head Start Consortium (including Head Start Directors, DPI and DHS and Tribal agencies), to develop a statewide Head Start expansion plan. The plan should identify the resources needed to support program expansion, site acquisition, and increase employee salaries and benefits.**

3) **The Legislative Assembly should request that the North Dakota congressional delegation help secure federal funds in 1995 for a statewide Head Start Coordinator position. Federal regional authorities have rejected the state's application twice in favor of other states.**

	ESTIMATED COSTS 1995-97 BIENNIUM			
	GENERAL FUND	FEDERAL FUNDS	OTHER FUNDS	TOTAL FUNDS
SCHOOL-BASED BEFORE AND AFTER SCHOOL CHILD CARE	$9,280,800			$9,280,800
STATE LICENSING AUTHORITY FOR FOSTER CARE AND CHILD CARE	2,590,000	700,000		3,290,000