

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### HUMAN SERVICES COMMITTEE

Wednesday, July 18, 2007  
Pioneer Room, State Capitol  
Bismarck, North Dakota

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

**Members present:** Representatives Jeff Delzer, Curt Hofstad, Lee Kaldor, Gary Kreidt, Jon Nelson, Vonnie Pietsch, Chet Pollert, Clara Sue Price, Ken Svedjan, Robin Weisz; Senators JoNell A. Bakke, Dick Dever, Robert S. Erbele, Aaron Krauter, Jim Pomeroy, John M. Warner

**Members absent:** Representatives Patrick R. Hatlestad, James Kerzman; Senator Judy Lee

**Others present:** See attached [appendix](#)

Mr. Jim W. Smith, Legislative Budget Analyst and Auditor, reviewed the [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council](#).

Chairman Delzer commented on the committee's studies and announced that Senator Erbele would serve as vice chairman of the committee.

#### STUDY OF ECONOMIC ASSISTANCE PROGRAM RESPONSIBILITIES OF THE STATE AND COUNTIES

The Legislative Council staff reviewed a background memorandum entitled [Economic Assistance Program Responsibilities of the State and Counties - Background Memorandum](#). The Legislative Council staff said Section 18 of Senate Bill No. 2205, approved by the 2007 Legislative Assembly, provides for a Legislative Council study of the success and effects of the laws enacted by the 55<sup>th</sup> Legislative Assembly in 1997 House Bill No. 1041 and 1997 Senate Bill No. 2052, the "swap proposal," which required counties to pay the entire cost of the local administration of Medicaid, energy assistance, basic care assistance, child care assistance, and temporary assistance for needy families (TANF) in exchange for the state's assumption of the full responsibility for the grant costs associated with those programs. The study is to also include a review of North Dakota Century Code (NDCC) Sections 50-01.2-00.1, 50-01.2-03.1, 50-01.2-03.2, 50-01.2-06, 50-03-00.1, 50-03-08, 50-03-09, 50-03-10, 50-06-05.1(28), 50-06-20, 50-24.1-14, and 50-24.5-08 to determine if those provisions have created a more understandable and sustainable division of responsibility between the state and counties in the delivery and financing of these economic assistance programs.

The Legislative Council staff reviewed the statutory provisions identified in the study directives and reviewed previous legislative studies relating to the "swap" agreement. The Legislative Council staff said the 1995-96 interim Budget Committee on Human Services studied, pursuant to House Concurrent Resolution No. 3045, the responsibilities of county social service agencies, regional human service centers, and the Department of Human Services. The committee recommended House Bill No. 1041, approved by the 1997 Legislative Assembly, that required counties, effective January 1, 1998, to assume financial responsibility for the cost of administering selected economic assistance programs and, in return, the state to assume complete financial responsibilities for the grant costs of medical assistance and basic care assistance and to contribute additional support for the administrative costs of counties with Indian land. Provisions of the bill were referred to as the "swap" agreement.

The "swap" agreement proposal resulted from the Department of Human Services, North Dakota Association of Counties, and North Dakota Association of Social Service Board Directors meeting and discussing alternative methods of delivery and funding of the administrative costs of economic assistance programs. The following observations were reported:

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

Other testimony provided to the committee included:

1. County commissioners are required to levy property taxes to fund the county's share of between 30 and 40 separate federal, state, and local social service programs but have very little authority concerning who can receive services, the types of services and benefits delivered, program administration, or salary levels of county social service staff.
2. 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 being \$36.54 per year for Sheridan County.

As discussed earlier, House Bill No. 1041, approved by the 1997 Legislative Assembly, required counties, effective January 1, 1998, to assume the financial responsibility for the cost of administering the following economic assistance programs:

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

8. Refugee assistance.
9. Basic care assistance.

In return, the legislation required the state to assume complete financial responsibility for the grant costs of medical assistance and basic care assistance and to contribute additional support for the administrative costs of counties with Indian land. The bill was expected to result in additional general fund costs of \$2.2 million per year based on actual program costs for calendar year 1995. The estimated additional cost to the general fund for the 1997-99 biennium, based on the January 1, 1998, effective date, was \$3.3 million.

The 2001-02 interim Budget Committee on Human Services studied, pursuant to Section 14 of Senate Bill No. 2012, administrative costs of human services programs, including a review of the effects of the 1997 "swap" legislation on state and county human services program costs. The committee reviewed information on the grant costs of economic assistance programs included in the "swap" agreement by funding source for each biennium since 1995-97 and welfare reform-related computer systems costs paid by the Department of Human Services since the 1995-97 biennium. The following schedule, prepared by the Department of Human Services, summarized the effects of the "swap" agreement on the county and state share of funding for economic assistance programs:

	1999-2001 Biennium	2001-03 Biennium	Estimated 2003-05 Biennium
Grant costs in excess of administrative reimbursement	\$872,295	\$3,686,972	\$7,700,992
Additional costs of countywide cost allocation plan	232,880	71,828	
Additional computer costs in excess of fiscal year 1995 costs inflated at consumer price index	893,828	1,648,387	1,675,766
Additional Indian county funds provided in excess of \$440,000	1,336,421	2,040,976	2,309,176
Avoided county expenditures and corresponding additional state costs	\$3,335,424	\$7,448,163	\$11,685,934

The committee did not make any recommendations specific to its review of the "swap" agreement.

The Legislative Council staff presented the following schedule regarding legislative appropriations for grant costs of TANF, basic care assistance, child care assistance, medical assistance, and Indian county assistance since the 1997-99 biennium:

	1997-99	1999-2001	2001-03	2003-05	2005-07	2007-09
<b>TANF</b>						
General fund	\$5,700,000	\$5,500,000	\$3,950,382	\$3,950,382	\$3,938,442	\$4,314,942
Special funds	4,000,000	6,397,947	10,525,123	12,215,691	12,166,206	11,303,716
Federal funds	31,200,000	13,110,930	11,150,551	13,341,867	8,155,352	6,821,322
Total	\$40,900,000	\$25,008,877	\$25,626,056	\$29,507,940	\$24,260,000	\$22,439,980
<b>Child care assistance</b>						
General fund				\$5,726,109		
Special funds	\$3,528,016	\$3,675,262	\$4,013,314		\$4,226,895	\$5,225,819
Federal funds	14,749,420	12,832,634	17,233,719	21,335,096	17,736,229	17,401,999
Total	\$18,277,436	\$16,507,896	\$21,247,033	\$27,061,205	\$21,963,124	\$22,627,818
<b>Basic care assistance</b>						
General fund	\$1,654,727			\$747,857	\$5,374,918	\$6,097,305
Special funds	4,473,987	\$7,690,647	\$2,783,072	2,284,362	2,442,457	2,284,362
Federal funds			6,081,186	5,363,506	5,484,596	5,701,454
Total	\$6,128,714	\$7,690,647	\$8,864,258	\$8,395,725	\$13,301,971	\$14,083,121

	1997-99	1999-2001	2001-03	2003-05	2005-07	2007-09
<b>Medical assistance<sup>1</sup></b>						
General fund	\$180,467,562	\$195,469,683	\$217,096,629	\$259,872,239	\$305,282,957	\$367,900,585
Special funds	7,206,368	8,035,112	36,388,827 <sup>2</sup>	12,584,800	29,940,507	36,772,356
Federal funds	422,301,922	471,880,515	550,022,159	596,320,683	637,259,645	711,393,360
Total	\$609,975,852	\$675,385,310	\$803,507,615 <sup>2</sup>	\$868,777,722	\$972,483,109	\$1,116,066,301
<b>Grants to Indian counties</b>						
General fund		\$121,766	\$456,993	\$649,559	\$1,147,174	\$955,124
Special funds	\$1,059,000	1,654,654	2,068,007	1,964,607	1,964,607	1,964,607
Total	\$1,059,000	\$1,776,420	\$2,525,000	\$2,614,166	\$3,111,781	\$2,919,731
<b>Total</b>						
General fund	\$187,822,289	\$201,091,449	\$221,504,004	\$270,946,146	\$315,743,491	\$379,267,956
Special funds	20,267,371	27,453,622	55,778,343	29,049,460	50,740,672	57,550,860
Federal funds	468,251,342	497,824,079	584,487,615	636,361,152	668,635,822	741,318,135
Total	\$676,341,002	\$726,369,150	\$861,769,962	\$936,356,758	\$1,035,119,985	\$1,178,136,951

<sup>1</sup>Includes nursing facilities, intergovernmental transfer payments, developmental disabilities services grants, and Medicare Part D "clawback" payments but excludes Healthy Steps.

<sup>2</sup>Includes the \$16.3 million special funds deficiency appropriation from the health care trust fund and the permanent oil tax trust fund approved by the 2003 Legislative Assembly.

The Legislative Council staff presented the following proposed study plan:

1. Review statutory provisions relating to the division of responsibility between the state and counties in the delivery and financing of economic assistance programs.
2. Receive information from the Department of Human Services regarding grant cost changes and county administrative costs for economic assistance programs resulting from the "swap" agreement since 1997.
3. Receive information from the North Dakota County Social Service Directors Association regarding administrative costs of county social service agencies since 1997.
4. Receive information from the Department of Human Services and county social service agencies analyzing administrative cost increases incurred by county social service agencies for economic assistance programs since 1997-99 and grant cost increases paid by the state for economic assistance programs since 1997-99.
5. Receive testimony from other interested persons regarding responsibilities of the state and counties regarding economic assistance programs.
6. Develop recommendations and prepare any legislation necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Council.

Ms. Debra McDermott, Assistant Director, Fiscal Administration, Department of Human Services, commented on the committee's study of economic assistance program responsibilities of the state and counties. Ms. McDermott said it is difficult to prepare accurate cost comparisons of economic assistance program administration and grants since 1997 because:

1. Many program changes have occurred during the last 10 years, including the establishment of the state children's health insurance program (SCHIP) and the development of the personal care option for a portion of basic care assistance costs.
2. Computer system changes over the years have resulted in data being compiled differently. She said expenditures relating to medical assistance payments for American Indians are no longer being compiled separately.

Representative Delzer asked the department to provide the committee with a schedule identifying program or computer system changes that have occurred since the "swap" agreement.

Mr. Terry Traynor, Assistant Director, North Dakota Association of Counties, commented on the committee's study. Mr. Traynor said social services is the single largest property tax-funded cost of county government. Mr. Traynor said the "swap" agreement created a streamlined, uniform, and much more clearly understood funding structure for economic assistance programs. He said the agreement also resulted in individual county costs of economic assistance being more closely aligned with county caseload and county resources. He said the agreement has created an incentive for counties to combine and consolidate county social service functions. A copy of the report is on file in the Legislative Council office.

Representative Price suggested the committee include in its study:

1. Costs relating to SCHIP.
2. County caseload ratios and how they compare to the 65-to-1 caseload ratio included in NDCC Section 50-01.2-00.1.
3. A review of the reports submitted by counties by February 28 of each year, pursuant to NDCC Section 50-01.2-03.2, regarding the total amount of county funds expended in the

previous year to meet the cost of providing human services.

4. A summary of the identified reduction in county funding derived from the transfer of the administration of the child support enforcement program from the county social service boards to the Department of Human Services pursuant to NDCC Section 11-03-03(2) included in 2007 Senate Bill No. 2205.

Representative Delzer suggested the committee receive information comparing county costs in 1997 to 2007 relating to in-home services, staffing levels, and computer system costs.

Representative Delzer also suggested the committee receive information on state requirements for counties to replace computers and on department costs of developing software for economic assistance computer-related systems.

Senator Warner suggested that the committee's review of the statutory provisions identify legislative changes that have occurred since the "swap" agreement.

Senator Krauter suggested the committee receive information on Indian county payments, including county caseload percentages, statewide average costs, and counties receiving payments.

**It was moved by Representative Price, seconded by Representative Svedjan, and carried on a roll call vote that the committee approve the following study plan:**

1. **Review statutory provisions relating to the division of responsibility between the state and counties and the delivery and financing of economic assistance programs, including legislative changes since the "swap" agreement became effective.**
2. **Receive information from the Department of Human Services regarding grant cost changes and county administrative costs for economic assistance programs resulting from the "swap" agreement since 1997, including:**
  - a. **Programmatic or computer system changes.**
  - b. **Computer system costs.**
  - c. **To the extent appropriate, Indian county payments, county caseload percentages, and statewide average costs.**
3. **Receive information from the North Dakota County Social Service Directors Association regarding administrative costs of county social service agencies since 1997, including:**
  - a. **County costs of providing human services under NDCC Section 50-01.1-03.2(2).**
  - b. **A summary report of the reduction in county funding derived from the**

**transfer of the administration of the child support enforcement program from the counties to the state pursuant to NDCC Section 11-23-01(2).**

- c. **In-home services provided by counties in 1997 compared to 2007 and county human services staff levels in 1997 compared to 2007.**
- d. **County computer costs, including operational and replacement costs.**
- e. **The appropriateness of the 65-to-1 caseload ratio included in NDCC Section 50-01.2-00.1.**
4. **Receive information from the Department of Human Services and county social service agencies analyzing administrative cost increases incurred by county social service agencies for economic assistance programs since 1997-99 and grant cost increases paid by the state for economic assistance programs since 1997-99, including the effect of programmatic and computer system changes on the comparability of the information.**
5. **Receive testimony from other interested persons regarding the responsibilities of the state and counties regarding economic assistance programs.**
6. **Develop recommendations and prepare any legislation necessary to implement the recommendations.**
7. **Prepare a final report for submission to the Legislative Council.**

Representatives Delzer, Hofstad, Kaldor, Kreidt, Nelson, Pietsch, Pollert, Price, Svedjan, and Weisz and Senators Bakke, Dever, Erbele, Krauter, Pomeroy, and Warner vote "aye." No negative votes were cast.

### **TEMPORARY ASSISTANCE FOR NEEDY FAMILIES STUDY**

The Legislative Council staff reviewed a memorandum entitled [\*Temporary Assistance for Needy Families - Background Memorandum\*](#). The Legislative Council staff said Section 3 of Senate Bill No. 2186, approved by the 2007 Legislative Assembly, provides for a Legislative Council study of the TANF program administered by the Department of Human Services. The study may include the sustainability of the current programs and services being funded by TANF funds, a review of the potential programs and services that could be funded by the use of TANF funds, and a review of increased assistance to recipients who are attending a higher education institution.

The Legislative Council staff said the 1997-98 Welfare Reform Committee studied implementation of the TANF program. The TANF block grant replaced aid to families with dependent children, allowed the state to develop its own assistance program, and

provided North Dakota approximately \$26.4 million per year. The block grant:

1. Included a 15 percent cap on state administrative costs.
2. Required the Legislative Assembly to appropriate the state's block grant funds.
3. Required an 80 percent maintenance of effort based on state spending for fiscal year 1994 (approximately \$9.7 million per year).
4. Allowed transfers of block grant money of up to 10 percent to the social services block grant and up to 30 percent to the child care block grant.
5. Required client participation.
6. Provided for sanctions and penalties against states for failing to meet work participation rates.
7. Required states to implement child support enforcement requirements.
8. Limited an individual's receipt of welfare benefits to a five-year time period.

The Legislative Council staff said Congress reauthorized the TANF block grant in February 2006 as part of the Deficit Reduction Act of 2005. Major changes to the program include:

1. The federal TANF law, since federal fiscal year 2002, required that 50 percent of all TANF families be engaged in a qualified work activity for 30 hours or more per week (20 hours if the family includes a child who has not reached age 6). States get a caseload reduction credit for meeting the work participation requirement. Reauthorization changed the base year for calculating the caseload reduction credit from federal fiscal

year 1995 to federal fiscal year 2005. The effect on North Dakota of this change is to greatly decrease North Dakota's caseload reduction credits. Failure to achieve a 50 percent work participation rate can lead to severe fiscal penalties.

2. The federal TANF law originally defined the term "work activity" but allowed states to determine what activities were within the definition. Reauthorization gave federal officials authority to require nationally uniform definitions and require states to secure verification that work activity hours are accurately claimed. Federal officials proposed strict requirements for definitions and verifications with initial work verification plans due by September 30, 2006.

The Legislative Council staff said federal law provides that TANF funds may be used to:

1. Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
2. End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
3. Prevent and reduce the incidence of out-of-wedlock pregnancy and establish annual numerical goals for preventing and reducing the incidence of these pregnancies.
4. Encourage the formation and maintenance of two-parent families.

The following schedule provides the anticipated sources and uses of federal TANF block grant funds for the 2007-09 biennium:

<b>Projected TANF funds available - 2007-09 biennium</b>			
Estimated balance brought forward from 2005-07 biennium		\$14,900,000	
Federal fiscal year 2007 revenue allocation - July to September 2007		6,620,107	
Federal fiscal year 2008 revenue allocation - October 2007 to September 2008		26,399,809	
Federal fiscal year 2009 revenue allocation - October 2008 to June 2009		19,799,856	
<b>Total estimated revenue available - 2007-09 biennium</b>			<b>\$67,719,772</b>
<b>Projected uses of TANF funds - 2007-09 biennium</b>			
<b>Executive budget recommendation</b>			
Transfer to social services block grant		\$1,246,220	
<b>Assistance to needy families</b>			
TEEM benefit	\$6,851,322		
Child care	1,848,000	8,699,322	
<b>Job preparation</b>			
Work activity	\$445,098		
<b>JOBS</b>			
Transportation	3,050,000		
Client services	5,022,000		
Support services	1,344,000	9,861,098	
<b>Formation and maintenance of families</b>			
Wraparound case management	\$2,322,550		
Child abuse and neglect investigations	3,509,950		
Parent aide	1,083,350		
Intensive in-home services	801,342		
Foster care emergency assistance	19,649,148	27,366,340	

Other			
Systems maintenance and operations	\$1,382,436		
County emergency assistance - Case management	1,433,400		
County TANF assessments	835,088	3,650,924	
Administration			
JOBS contract administration	\$583,200		
State office administration	2,220,145		
County administration	2,734,416		
Human service center administration	769,063	6,306,824	
Total projected uses included in 2007-09 executive budget			\$57,130,728
Legislative changes			
SB 2012 - Increased county reimbursement for child abuse and neglect assessments by \$100 per assessment		\$770,800	
SB 2186 - Provided funding for child care transition assistance		1,491,210	
Provided funding to establish a statewide system of early childhood care workforce development		500,000	
SB 2312 - Provided funding for continuing the alternatives-to-abortion services program		400,000	
Total projected uses resulting from legislative changes			\$3,162,010
Total projected uses - 2007-09 biennium			\$60,292,738
Estimated balance to carry forward to 2009-11 biennium			\$7,427,034

The Legislative Council staff proposed the following study plan:

1. Receive information on the anticipated level of federal TANF block grant funds to be received by the state annually.
2. Receive information on the uses of federal TANF block grant funds each year, including a review of the programs and services being provided.
3. Receive information on the potential use of federal TANF block grant funds for other programs and services.
4. Review the level of benefits being provided for families receiving TEEM benefits payments and the need for increasing assistance to recipients attending a higher education institution.
5. Receive information on TANF caseloads and benefits payments compared to estimates made for the 2007-09 biennium.
6. Receive testimony from interested persons regarding the TANF study.
7. Develop recommendations and prepare any legislation necessary to implement the recommendations.
8. Prepare a final report for submission to the Legislative Council.

Ms. Carol Cartledge, Public Assistance Director, Department of Human Services, commented on the committee's study of TANF. Ms. Cartledge said as a result of the reauthorization of the TANF program, North Dakota will have a significant reduction in its caseload reduction credit. She said instead of the caseload reduction credit being based on a caseload of 5,012 in 1995, the state will receive a credit based on the 2005 caseload of 2,774. This change results in

North Dakota's credit decreasing from 44 percent in 2006 to 6.1 percent in 2007. Ms. Cartledge said reauthorization also eliminated TANF high performance bonuses. She said North Dakota usually received approximately \$1.3 million each year in high performance bonuses. Ms. Cartledge reviewed the following TANF program priorities:

1. Provide important financial assistance to low-income households with children and cover expenses to meet work participation requirements.
2. Continue to support child welfare services since TANF funds replaced prior funding authorized under Title IV-A or the former aid to families with dependent children program.
3. Meet other priorities, such as the TANF kinship care program, alternatives-to-abortion program, the parental responsibility initiative for the development of employment (PRIDE), and transitional assistance. A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Delzer, Ms. Cartledge said the TANF program was reauthorized by Congress for five years; therefore, it will be effective through federal fiscal year 2010.

Representative Delzer asked the Department of Human Services to provide a schedule comparing the original TANF program to the reauthorized TANF program.

Representative Price suggested the Department of Human Services provide information to the committee on the success of the TANF program including reasons families are no longer on the program and, to the extent available, the quality of the jobs being obtained.

Senator Dever asked for information on the number of TANF recipients who have left the program due to reaching the 60-month limit and on the number who no longer receive TANF benefits but continue to receive other benefits, such as food stamps, heating assistance, etc.

Representative Delzer asked the Department of Human Services to provide a history of actual TANF expenditures for each biennium.

Representative Pollert suggested the committee receive information on the employment rates by county. Senator Warner said unemployment rates are calculated differently on Indian reservations.

Senator Dever asked for the average length of time families are receiving TANF benefits.

Representative Weisz asked for the number of clients that are exempted from the work requirement.

**It was moved by Representative Weisz, seconded by Representative Nelson, and carried on a roll call vote that the committee approve the following study plan:**

1. Receive information on the anticipated level of federal TANF block grant funds to be received by the state annually.
2. Receive information on the uses of federal TANF funds each year, including a review of the programs and services being provided.
3. Receive statistical information regarding the TANF program, including:
  - a. State spending above the minimum maintenance of effort level.
  - b. The number of TANF recipients who are no longer on the program due to exceeding the 60-month maximum and those that have received an exemption from the 60-month maximum.
  - c. The number of TANF clients that are no longer receiving TANF benefits but continue to receive other assistance, including food stamps, heating assistance, etc.
  - d. Unemployment rates by county and the number of clients exempt from the work requirement.
  - e. Program results including reasons why individuals are no longer receiving TANF benefits and the quality of the jobs being obtained.
  - f. The average length of time families are receiving TANF benefits.
  - g. Actual TANF spending by biennium since the program began.
4. Receive information on the potential use of federal TANF block grant funds for other programs and services.
5. Review the level of benefits being provided to families receiving TEEM benefits payments and the need for increasing assistance for recipients attending a higher education institution.

6. Receive information on TANF caseloads and benefits payments compared to estimates made for the 2007-09 biennium.
7. Receive testimony from interested persons regarding the TANF study.
8. Develop recommendations and prepare any legislation necessary to implement the recommendations.
9. Prepare a final report for submission to the Legislative Council.

Representatives Delzer, Hofstad, Kaldor, Kreidt, Nelson, Pietsch, Pollert, Price, and Weisz and Senators Bakke, Dever, Erbele, Krauter, Pomeroy, and Warner voted "aye." No negative votes were cast.

The committee recessed for lunch at 11:50 a.m. and reconvened at 1:00 p.m.

## **INFANT DEVELOPMENT PROGRAM STUDY**

The Legislative Council staff presented a memorandum entitled [\*Infant Development Program - Background Memorandum\*](#). The Legislative Council staff said Section 9 of Senate Bill No. 2012, approved by the 2007 Legislative Assembly, provides for a Legislative Council study of infant development programs, including a review of the state's lead agency agreement, service coordination, staffing, and funding structure, including the adequacy of the funding and the equitable distribution of the funds to providers.

The Legislative Council staff said the infant development program of the Department of Human Services provides home-based, family-focused services to families with eligible children up to age 3. The program provides information, support, and training for families to assist them in meeting their child's needs.

Children are eligible for the infant development program if the child is developmentally delayed or at high risk of becoming developmentally delayed.

A child is considered developmentally delayed if the child is performing below age norms by 25 percent or more in two or more of the following areas:

- Cognitive development.
- Gross motor development.
- Fine motor development.
- Sensory processing.
- Communication development (receptive or expressive).
- Social or emotional development.
- Adaptive development.

A child is also considered developmentally delayed if the child is performing below age norms by 50 percent or more in one of the following areas:

- Cognitive development.
- Physical development (including vision and hearing).
- Communication development (including receptive and expressive).

- Social or emotional development.
- Adaptive development.

There are no financial eligibility criteria for receiving infant development services.

Infant development programs are not facility-based nor do they provide direct therapy for children. The infant development service delivery model provides support to the family of the eligible child and provides training to the family through natural learning opportunities that occur within home and community-based routines. Services are provided in the family's home, child care settings, or other community programs to support the family and child.

Developmental disabilities case managers, employed through the regional human service centers, authorize early intervention services, including infant development, family subsidy, and family support services depending on each family's needs and preferences. Other services a case manager will help families identify, access, and coordinate include physical, occupational or speech therapy, specialized medical care, child care, adaptive equipment, and other support services available within the community.

The Department of Human Services as the lead agency has entered agreements with other service agencies to identify and provide services to eligible children and their families, including special education in schools and the Department of Public Instruction, State Department of Health, Head Start, child care programs, medical services, child protective services, foster care, mental health services, tribal early childhood programs, and family support organizations.

As of July 1, 2007, 830 children were being served by the infant development program. The number of children enrolled in the program has been increasing. There were 757 children enrolled in December 2006 and 298 children in December 1998. Eligibility criteria for the program have not changed during this time period.

Funding for the program is provided from the state general fund and federal Medicaid and federal Part C funds.

Infant development providers in the state include:

1. Northwest Infant Development Program - Williston.
2. Minot Infant Development Program - Minot.
3. Lake Region Kids Program - Devils Lake.
4. Northeast Regional Kids Program - Grand Forks.
5. Southeast Regional Kids Program - Fargo.
6. South Central Regional Kids Program - Jamestown.
7. Bismarck Early Childhood Education Program - Bismarck.
8. Standing Rock Early Childhood Infant Development Program - Fort Yates.
9. KIDS Program - Dickinson.

Payment rates for infant development services are based on a retrospective ratesetting process. This process involves the department setting an interim

rate for the upcoming year. Each provider's rate is unique and is dependent on the provider's budgeted allowable costs. Providers submit a statement of budgeted costs to the department each year which is used to establish the interim rate. The final rate is determined at the close of the fiscal year after each provider reports actual costs for the previous fiscal year. The department reviews the reports to determine whether the reported costs are allowable, reasonable, and client-related. Actual costs are compared to the reimbursements the provider received for the year based on the interim rate. Settlement is then made at the end of the year through either a refund paid to the department by the provider if overpayment occurred, or an additional payment to the provider is made by the department if the provider was underpaid for the year. Current interim rates paid to providers for infant development services range from \$17.25 to \$29.25 per day.

The following schedule compares funding for infant development program grants for the 2005-07 and 2007-09 bienniums:

	2005-07 Biennium	2007-09 Biennium
General fund	\$1,485,226	\$3,892,327
Federal funds	2,871,601	6,992,802
<b>Total</b>	<b>\$4,356,827</b>	<b>\$10,885,129</b>

The increase is due primarily to paying private organizations for these services in all human service regions. Previously, four human service centers--Northwest, Northeast, Southeast, and South Central--provided these services directly.

The Legislative Council staff proposed the following study plan:

1. Review the state's lead agency agreements with other entities relating to infant development services.
2. Receive information from the Department of Human Services regarding infant development program services, including the coordination of services for children receiving the services.
3. Receive information from the Department of Human Services on the structure and process involved in contracting for and providing infant development services and the funding structure and payment process of the program.
4. Receive information from providers of infant development services on service coordination, caseloads, and on the adequacy of funding and the equitable distribution of funds to providers.
5. Receive testimony from other interested persons regarding the infant development program.
6. Develop committee recommendations and prepare any legislation necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Council.

Representative Delzer asked that the funding comparison for the 2005-07 biennium include costs incurred at the human service centers for infant development programs. Representative Delzer suggested the committee receive outcome information relating to the infant development program.

Representative Price suggested the committee receive information on cost per client, the locations of clients across the state, and on the specific services provided by the infant development service providers.

Representative Delzer asked for the number of infant development clients that receive developmental disabilities services after reaching age 3.

Ms. JoAnne Hoesel, Program and Policy Cabinet Lead, Department of Human Services, commented on the committee's study. Ms. Hoesel said the number of families receiving infant development services has been increasing. Although criteria for eligibility has not changed, she said, increased child find activities, new federal requirements regarding children under age 3 involved in a protective services investigation, and medical advances have affected the number of children needing services. Ms. Hoesel suggested consideration be given to studying the percentage of children being served. Although the criteria is the same across the state, she said, the percentage served by region varies from approximately 2 percent to over 6 percent.

Ms. Hoesel said the department has received federal approval to spend \$30,000 of federal Part C funding to hire a consultant to review Part C fiscal management procedures and recommend refinements.

Ms. Hoesel said in order for early intervention services to meet the needs of families, the department must work collaboratively with a number of other agencies. She said the Governor appointed an advisory committee for early intervention (the North Dakota Interagency Coordinating Council). She said the council recently reviewed the department's memorandums of understanding and asked the Department of Human Services and the Department of Public Instruction to meet with potential partners for an expanded memorandum of understanding and present a workplan to the advisory committee at its September 2007 meeting. A copy of the report is on file in the Legislative Council office.

Ms. Roxane Romanick commented on the study of infant development services. Ms. Romanick said because of the scope of work that needs to be accomplished in infant development services, she suggested the following critical components be fiscally supported:

1. An experienced and highly qualified workforce with knowledge in infant and toddler development, family systems, and assistive technology.
2. Adequate supervision and technical assistance for staff.
3. A professional development system, both preservice and continuing skill development.

4. Mechanisms to ensure that all children in all parts of the state have access to equal services.

5. A comprehensive quality assurance system.

Ms. Romanick said the study was initiated primarily from service providers and families to determine if the state is adequately meeting the needs of families with infants and toddlers with special needs.

Ms. Romanick suggested that as the committee conducts the study, it consider the following:

1. What general fund appropriation is needed to ensure that experienced and professional staff can be hired and retained, and what amount is needed to be competitive with the current market?
2. What is needed to make sure that ratesetting is equitable and adequate across the state?
3. Is the current payment strategy meeting the needs of this program in the most responsive manner?
4. How does being included under the mental retardation and developmental disabilities home and community-based waiver enhance or detract from the program?
5. Would creation of a state statute provide guarantees for families with infants and toddlers with special needs that presently do not exist?
6. Does the current lead agency agreement promote the best practices needed to ensure inclusion and collaboration with other early childhood partners in our state?
7. Does collaboration lead to improved opportunities for young children in their families and in their communities?
8. Can entry and participation in the program be simplified by streamlining service coordination or case management and infant development services?
9. How can families be assured their infant development providers are highly qualified to provide services to their infant or toddler?

A copy of the testimony is on file in the Legislative Council office.

**It was moved by Senator Erbele, seconded by Senator Krauter, and carried on a roll call vote that the committee approve the following study plan:**

1. **Review the state's lead agency agreements with other entities relating to infant development services.**
2. **Receive information from the Department of Human Services regarding infant development services, including the coordination of services for children receiving the services and the number of infant development clients that receive developmental disabilities services after reaching age 3.**
3. **Receive information comparing funding for infant development programs for the 2005-07 and 2007-09 bienniums.**

4. **Receive information from the Department of Human Services on the structure and process involved in contracting for and providing infant development services and the funding structure and payment process of the program and on program statistics, including cost per client, the locations of clients across the state, services provided by providers across the state, and outcome measures and results.**
5. **Receive information from providers of infant development services on service coordination, caseloads, and on the adequacy of funding and the equitable distribution of funds to providers and on outcome measures.**
6. **Receive testimony from other interested persons regarding the infant development program.**
7. **Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.**
8. **Prepare a final report for submission to the Legislative Council.**

Representatives Delzer, Hofstad, Kaldor, Kreidt, Nelson, Pietsch, Pollert, Price, Svedjan, and Weisz and Senators Bakke, Dever, Erbele, Krauter, Pomeroy, and Warner voted "aye." No negative votes were cast.

### **OTHER COMMITTEE RESPONSIBILITIES**

The Legislative Council staff presented a background memorandum entitled [Other Duties of the Human Services Committee - Background Memorandum](#). The Legislative Council staff said in addition to the study responsibilities assigned to the Human Services Committee for the 2007-08 interim, the committee has also been assigned to:

- Receive annual reports from the Department of Human Services regarding SCHIP statistics;
- Contract with a private entity for a cost-benefit analysis of health insurance mandate legislation;
- Receive a report from the Department of Human Services regarding Medicaid dental services;
- Receive periodic reports from the State Department of Health's Immunization Task Force regarding the immunization program transition and from the State Health Officer regarding the fiscal impact of the transition;
- Receive a report from the Department of Human Services regarding transition assistance for the child care program;
- Receive annual reports from the Department of Human Services regarding the alternatives-to-abortion services program;

- Receive a report from the University of North Dakota College of Nursing regarding the Nursing Education Consortium; and
- Receive semiannual reports from the Drug Utilization Review Board regarding utilization, cost, and effectiveness of certain drugs.

### **State Children's Health Insurance Program Statistics**

The Legislative Council staff said NDCC Section 50-29-02 provides that the Legislative Council receive annual reports from the Department of Human Services describing enrollment statistics and costs associated with SCHIP. The Legislative Council assigned this responsibility to the Human Services Committee. The 2007 Legislative Assembly appropriated \$20,204,746, of which \$4,649,132 is from the general fund and \$15,555,614 is from federal funds for Healthy Steps (North Dakota's children's health insurance program). The amount is \$514,441 more than recommended in the 2007-09 executive budget. The general fund amount was reduced by \$316,423 and federal funds increased by \$830,864. Compared to the 2005-07 legislative appropriation, the funding provided is an \$8,129,204 increase, \$1,753,899 of which is from the general fund and \$6,375,305 of federal funds. The 2007 Legislative Assembly made a number of adjustments to the funding for Healthy Steps, including adding funding to allow income eligibility disregards similar to the Medicaid program and reducing funding to reflect an anticipated reduction in the cost and caseload/utilization of the program from the amounts included in the executive budget. In addition, in House Bill No. 1463, the Legislative Assembly increased Medicaid eligibility for children under age 19 from 100 percent to 133 percent of poverty and the SCHIP net income eligibility from 140 percent to 150 percent of poverty. The Medicaid eligibility change is contingent on approval by the federal government. If the federal government does not approve the change, the SCHIP eligibility change is contingent on the federal government providing additional SCHIP funding to provide the additional federal matching funds needed to allow for this change.

The department contracts with Blue Cross Blue Shield of North Dakota for the health insurance coverage for the children in the program. The premium rate for the 2007-09 biennium is anticipated to be \$207.31 per child per month, an increase of 14 percent compared to the 2005-07 biennium premium rate of \$181.90.

### **Health Insurance Coverage Mandates**

The Legislative Council staff said NDCC Section 54-03-28 provides that a legislative measure mandating health insurance coverage may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit

analysis. The Human Services Committee has been assigned the responsibility of recommending a private entity, after receiving recommendations from the Insurance Commissioner, for the Legislative Council to contract with to perform the cost-benefit analysis for the 2009 Legislative Assembly. The Insurance Commissioner is to pay the costs of the contracted services, and each cost-benefit analysis must include:

1. The extent to which the proposed mandate would increase or decrease the cost of services.
2. The extent to which the proposed mandate would increase the use of services.
3. The extent to which the proposed mandate would increase or decrease the administrative expenses of insurers and the premium and administrative expenses of the insured.
4. The impact of the proposed mandate on the total cost of health care.

The section also requires a legislative measure mandating the health insurance coverage to provide that:

1. The measure is effective only for the next biennium.
2. The application of the mandate is limited to the public employees health insurance program and the public employees retiree health insurance program.
3. For the next Legislative Assembly, the Public Employees Retirement System prepare and request introduction of a bill to repeal the expiration date and extend the mandated coverage to apply to all accident and health insurance policies.

The Public Employees Retirement System Board is also required to prepare a report which is attached to the bill regarding the effect of the mandated coverage or payment on the system's health insurance program. The board must include information on the utilization and costs relating to the mandated coverage and a recommendation on whether the coverage should continue.

A majority of the members of the standing committee to which the legislative measure is referred during a legislative session, acting through the chairman, determines whether a legislative measure mandates coverage of services. Any amendment to the legislative measure that mandates health insurance coverage may not be acted on by a committee of the Legislative Assembly unless the amendment has had a cost-benefit analysis prepared and attached.

The Insurance Department has categorized and defined mandated health insurance benefits as follows:

1. Service mandates - Benefit or treatment mandates that require insurers to cover certain treatments, illnesses, services, or procedures. Examples include child immunization, well-child visits, and mammography.

2. Beneficiary mandates - Mandates or defines the categories of individuals to receive benefits. Examples include newborns from birth, adopted children from the time of adoption, and handicapped dependents.
3. Provider mandates - Mandates that require insurers to pay for services provided by specific providers. Examples include nurse practitioners, optometrists, and psychologists.
4. Administrative mandates - Mandates that relate to certain insurance reform efforts that increase the administrative expenses of a specific health care plan. Examples include information disclosures, precluding companies from basing policy rates on gender, and precluding insurers from denying coverage for preauthorized services.

The 2003-04 and 2005-06 interim Budget Committees on Health Care both recommended that the Insurance Department contract with Milliman USA for cost-benefit analysis services on health insurance mandates during the 2005 and the 2007 legislative sessions. During the 2005 legislative session, two bills were referred for cost-benefit analysis at a total cost of \$8,323. In addition, the Insurance Department paid \$5,606 to Milliman USA for general project work during the 2005 legislative session for total payments during the 2005 legislative session of \$13,929. During the 2007 legislative session there were no health insurance mandates referred for cost-benefit analysis.

### **Medicaid Dental Services Report**

The Legislative Council staff said the 2007 Legislative Assembly approved House Bill No. 1246 providing an appropriation of \$444,198, of which \$160,000 is from the general fund, to the Department of Human Services for increasing funding for children's dental services under the Medicaid program for the 2007-09 biennium. The bill also requires the department to report to the Legislative Council before August 1, 2008, on the status of medical assistance recipients' access to dental services. The Human Services Committee has been assigned the responsibility to receive this report.

For the 2007-09 biennium, the legislative appropriation for Medicaid dental services, including the \$444,198 referred to above, totals \$13 million, of which \$4.7 million is from the general fund. For the 2005-07 biennium, the Legislative Assembly appropriated \$13.3 million, of which \$4.7 million was from the general fund for dental services under the Medicaid program. Although \$13.3 million was appropriated for the 2005-07 biennium, during the 2007 legislative session the department projected dental-related expenditures would total only \$12.3 million for the 2005-07 biennium.

### Immunization Program Transition Reports

The Legislative Council staff said Subsection 3 of Section 2 of House Bill No. 1435 (2007) provides that during the 2007-08 interim, the State Department of Health's Immunization Task Force report periodically to the Legislative Council regarding the impact of the immunization program transition on local public health units and that the State Health Officer provide periodic reports to the Legislative Council regarding the fiscal impact of the transition.

Pursuant to Section 2 of the bill, the task force consists of at least seven members--at least three representing local public health districts, at least three representing private health care providers, and representatives of the State Department of Health.

House Bill No. 1435 provides that the state transition from a universal-select immunization program to a Provider Choice immunization program. In 2005, due to increasing costs of vaccinating children, North Dakota moved from a universal state in which all vaccines are provided to all children, even those insured, to a universal-select state in which all vaccines are provided to all children eligible for a federal program called Vaccines for Children, which generally includes children that are uninsured, underinsured, Medicaid-eligible, or American Indian, and most vaccines are provided to most insured children.

The Provider Choice program, which will be implemented during the 2007-08 interim, is a program to manage and cost effectively pay for all recommended vaccines for all children. Since 2005 significant changes have occurred in childhood immunization programs, including a possible decline in federal funding for immunizations and the introduction of several very expensive, newly recommended vaccines. The Provider Choice program continues the provision of federal vaccines to providers for eligible children and gives providers the choice of purchasing all other vaccines through the State Department of Health where they can achieve lower vaccine costs through multistate, large-volume purchasing agreements. Vaccines for all children will be covered either through the federal Vaccines for Children program or through an individual's health insurance. Some copayments may apply.

House Bill No. 1004 (2007) includes \$227,000 from the general fund for two full-time equivalent positions to manage the issues related to the Provider Choice program and special funds from providers of \$19.4 million to purchase the vaccines on behalf of providers. House Bill No. 1435 delays the implementation of the Provider Choice program until December 31, 2007, and provides a \$2 million general fund appropriation to pay for the nonfederal vaccine costs until the program is implemented and paid through private insurance companies. Of the \$2 million appropriation, \$500,000 is available only if the department determines it necessary to continue to purchase vaccines after December 31, 2007.

### Transition Assistance for Child Care Report

The Legislative Council staff said Section 5 of Senate Bill No. 2186 (2007) provides that the Department of Human Services report to the Legislative Council regarding the transition assistance for the child care program implemented pursuant to provisions of Section 1 of the bill. The Human Services Committee has been assigned to receive this report.

The transition assistance for child care program established pursuant to provisions of Section 1 of Senate Bill No. 2186 is to pay for a portion of the child care expenses for a period of up to six months for families no longer eligible for TANF benefits because of employment earnings. Section 6 of the bill appropriates \$1,491,210 of federal TANF funds for this child care assistance for the 2007-09 biennium.

### Alternatives-To-Abortion Services Program Reports

The Legislative Council staff said the 2007 Legislative Assembly approved Senate Bill No. 2312 which continues the alternatives-to-abortion services program. The program began in 2005 and provides funds to organizations that provide alternatives-to-abortion services and to educate the public about the program. The schedule below presents the appropriations provided by the Legislative Assembly for the 2005-07 and 2007-09 bienniums:

Biennium	Appropriations From Federal Funds
2005-07	\$500,000
2007-09	\$400,000

The 2005-06 interim Judiciary Committee received the alternatives-to-abortion services report from the Department of Human Services for the 2005-07 biennium. The report indicated that the Department of Human Services was unable to obtain funding from the federal Office of Faith-Based and Community Initiatives during the 2005-07 biennium for the project. Funds from this office were available only for abstinence programs or grants to agencies that would provide technical assistance to faith-based or community-based programs interested in applying for federal funds. Because funds were not available from that source, the department is using federal TANF funds for the program. The department is providing alternatives-to-abortion services by making vouchers available to individuals needing the service. Those individuals use the vouchers to access the services, and the service providers use the vouchers to bill the department. This method allows the department to pay all interested providers for these services. The department contacted all agencies that had been providing alternatives-to-abortion services before implementation of the program. These agencies became partners in developing the program and are receiving payments through the program for their services. Nine agencies were providing services during the 2005-07 biennium, including BirthRight,

Catholic Charities of North Dakota, Christian Family Life Services, First Choice Clinic, the Perry Center, the St. Gianna Maternity Home, the Village Family Service Center, the Women's Pregnancy Center, and the YFC Teen Moms. The Mental Health Association of North Dakota is also a partner by allowing use of its 211 hotline to direct referrals to the alternatives-to-abortion services program. The department has developed a script for the Mental Health Association staff to use when a 211 call is received regarding an unplanned pregnancy. The program became operational shortly before the beginning of 2006. Through May 2007, nine service providers have submitted 12,111 claims for services. Through May 2007 a total of 1,470 clients have been served at a total cost of \$150,200.

#### **Nursing Education Consortium Report**

The Legislative Council staff said the 2007 Legislative Assembly approved Senate Bill No. 2379 providing for the establishment of a Nursing Education Consortium to establish a mobile clinical nursing simulation laboratory. The bill appropriates \$200,000 from the general fund for defraying a portion of the cost of the simulation laboratory. The consortium may receive and spend other funds for the purpose of establishing the simulation laboratory program and other activities of the consortium. The bill requires the Dean of the University of North Dakota College of Nursing to report to the Legislative Council during the 2007-09 biennium on the activities of the consortium. The Human Services Committee has been assigned the responsibility to receive this report.

#### **Drug Utilization Review Board Report**

The Legislative Council staff said the 2007 Legislative Assembly approved House Bill No. 1422. Section 2 of the bill provides that during the 2007-08 interim, the Drug Utilization Review Board review the utilization, cost, and effectiveness of the drugs identified in NDCC Section 50-24.6-04(3) relating to mental illness, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV), and cancer-related drugs exempt from the prior authorization process. The Drug Utilization Review Board is to make recommendations for managing the utilization of these drugs and report semiannually to the Legislative Council regarding its progress and provide a final report by October 1, 2008, of its findings and recommendations for legislative changes. The Human Services Committee has been assigned the responsibility to receive these reports.

Chairman Delzer said he will schedule these reports and other duties as directed by law or as meeting agendas permit.

Chairman Delzer announced the next committee meeting will be scheduled for late October or early November 2007, as he plans to have two-day meetings and have them less frequently.

The committee adjourned subject to the call of the chair at 2:30 p.m.

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Jim W. Smith  
Legislative Budget Analyst and Auditor

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Allen H. Knudson  
Assistant Legislative Budget Analyst and Auditor

ATTACH:1