Senator Jim Yockim, Chairman, called the
meeting to order at 9:00 a.m.

Members present: Senators Jim Yockim,
Judy L. DeMers, Tom Fischer, Judy Lee, Donna L.
Nalewaja, Russell T. Thane; Representatives Jack
Dalrymple, Connie Johnsen, Ralph L. Kilzer,
Carol A. Niemeier, Clara Sue Price, Robin Weisz

Members absent: Senator Bob Stenehjem;
Representatives LeRoy G. Bernstein, Linda
Christenson

Others present: See Appendix A

It was moved by Senator DeMers, seconded
by Representative Dalrymple, and carried on a
voice vote that the minutes of the September
4-5, 1997, meeting be approved as mailed.

WELFARE REFORM STUDY

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

Chairman Yockim invited Mr. Kevin Iverson,
Director, Training, Education, Employment, and
Management (TEEM) Division, Department of
Human Services, to provide an update regarding
the state’s implementation of the temporary
assistance for needy families (TANF) program. A
copy of his testimony is on file in the Legislative
Council office. Mr. Iverson discussed the major
changes implemented as part of the TANF
program, including the 60-month lifetime limit
requirement on benefits and increased work
requirements; the TEEM project status; proposed
benefit rules that limit additional assistance
payments for children born to an existing TANF
household; the status of the formation of the
Welfare Reform Task Force; federal waivers that
the department may request permission from the
Legislative Council to terminate; information
regarding TANF caseloads and projected TANF
expenditures; unemployment rates in North
Dakota; availability of employment opportunities
in North Dakota; client educational opportunities
and life skills training; projected work participa-
tion rates for the TANF program; the availability
and affordability of child care in North Dakota; the
evaluation of welfare reform efforts in North
Dakota; and the impact on welfare reform of
spring 1997 floods.

Mr. Iverson said the TANF caseload has
decreased from 5,640 families in 1994 to 3,684
in September 1997, the lowest caseload since
3,629 in 1971. He said based on projected
caseloads, TANF benefit expenditures for the
1997-99 biennium will be $31.5 million compared
to the appropriation of $40.9 million, a
22.9 percent reduction. Regarding unemploy-
ment rates, Mr. Iverson said, based on Bureau of
Indian Affairs statistics, unemployment rates at
the four major Indian reservations in North
Dakota range from 43 percent at Three Affiliated
Tribes to 76 percent at Standing Rock
Reservation. Regarding work participation, Mr.
Iverson said 30 percent of adults receiving TANF
assistance are required to participate an average
of 20 hours per week in work or eligible educa-
tional or training activities. He said based on
current caseloads, 560 adults must meet the work
requirements and 586 adults are currently partici-
pating in eligible work activities. He said the
department has allocated additional moneys for
child care services for the federal fiscal year
ending September 30, 1997. He said a total of
$1.8 million was allocated, including $500,000
for community child care centers, $500,000 for
Head Start centers, $600,000 for contracted child
care needs for tribal programs and the United
Tribes Technical College, and $200,000 for areas
with the greatest need. He said the department is
conducting a market rate survey, to be completed
by January 1998, of child care providers to deter-
mine the availability of child care as well as
adequate payment levels. He said regarding the
welfare reform evaluation efforts, the department
has received a one-year grant of approximately
$103,000 from the United States Department of
Health and Human Services for an evaluation of
TANF and the TEEM project.
In response to questions from committee members, Mr. Iverson said the 1997 TANF program revisions provide that if an Indian tribe has an unemployment rate in excess of 50 percent, clients receiving assistance are not subject to the 60-month lifetime limit for the period of time the unemployment rate exceeds 50 percent. He said recipients would still be subject to the TANF work requirements.

Senator Nalewaja asked that the Department of Human Services provide information at a future meeting regarding the success in recruiting new child care providers and regarding changes to child care reimbursement.

In response to a question from Senator DeMers regarding evaluation of the TANF program, Mr. Iverson said the portion of the grant request for a State Auditor review was not funded. He said the evaluation will include a review of TANF clients of the state’s TANF implementation.

Chairman Yockim asked that the Department of Human Services provide reports at future meetings regarding the TEEM program efforts in tracking clients in the early months after they exit the TANF program.

Senator Lee said she had some concerns with a governmental agency tracking clients on an extended basis after they leave the assistance program.

In response to questions from Representative Dalrymple, Mr. Iverson said the financial impact to the state for failing to meet the TANF work requirements is a penalty of five percent of the total state TANF block grant the first year, increased by two percentage points for each subsequent year the state fails to meet the requirements, up to a total of 21 percent. He said the five percent penalty would cost the state $1.3 million per year. He said if a tribe operates its own TANF program, tribal clients can be excluded from the state work participation requirement.

The committee members had questions of Mr. Iverson regarding the benefit cap provisions included in Attachment A of his presentation. Mr. Iverson said the benefit cap rules are under consideration and the department would like committee input regarding the provisions. He said the department plans to implement the benefit cap provisions by July 1998 and updated information will be provided at future meetings.

Mr. Iverson presented testimony regarding the department’s role in the welfare-to-work grant program, a copy of which is on file in the Legislative Council office. Mr. Iverson provided the committee staff a copy of a document prepared by the United States Department of Labor providing guidance and instructions for submission of state plans for welfare-to-work grants, a copy of which is on file in the Legislative Council office. He said the welfare-to-work grant program would provide funding for the state of North Dakota of approximately $2.7 million for 1998 and $2.5 million for 1999. He said the state is required to provide matching funds of $1 for each $2 of welfare-to-work block grant funds, or $1.35 million for fiscal year 1998 and $1.25 million for fiscal year 1999. He said the grant allows the state to provide up to one-half of its match from in-kind contributions. He said the grant funds should be available to the state as early as January 1998.

Mr. Iverson said to receive the welfare-to-work grant, the state must submit an amendment to its TANF plan and the program must be administered by a Private Industry Council in coordination with the state’s TANF agency. He said approximately one percent of the total federal program funding of $3 billion is available to Indian tribes for tribal welfare-to-work training programs.

Mr. Ray Gudajtes, Chief, Job Training Program, Job Service North Dakota, provided testimony regarding the welfare-to-work grant program, a copy of which is on file in the Legislative Council office. He said the Department of Labor regulations regarding the implementation of the welfare-to-work grant program are expected to be issued on October 31, 1997. He said the services that could be provided include work readiness activities, assessment and career counseling, individual service strategy plan, job search skills training, work maturity skills training, job search assistance, placement activities, unsubsidized employment, community service or work experience, job creation through wage subsidies, on-the-job training, job retention/postemployment activities, worksite monitoring, follow up on individual progress, basic skills and vocational training, services to employers, and support service activities. He said the welfare-to-work grant program requires a full integration of all work force training programs and resources available to the state, including Work Force 2000, the JOBS training program, the TANF program, and Job Training Partnership Act employment training.

Mr. Iverson distributed a fact sheet summarizing the welfare-to-work grant program, which is attached as Appendix B.

Mr. Fraine Zeitler, Director, North Dakota Workforce Development Council, testified regarding the Private Industry Council and its role in the welfare-to-work program. A copy of his testimony is on file in the Legislative Council office. Mr. Zeitler discussed the membership of
Dr. Donna Thigpen, President, Bismarck State College, discussed higher education’s role in welfare reform and child care needs. A copy of the information she distributed is on file in the Legislative Council office. Dr. Thigpen said the North Dakota University System has a role in welfare reform that is being developed in the draft of the system’s six-year plan. She said a higher education welfare task force has been formed consisting of higher education, tribal, vocational and technical education, Department of Human Services, and Job Service representatives. Dr. Thigpen also discussed the Bismarck State College Phoenix program, a program of training to provide higher wage technical careers for women.

Ms. Allison Johnson, Mayville State University, discussed the child development center and Head Start program at Mayville State University. A copy of a fact sheet she distributed is on file in the Legislative Council office. Ms. Johnson said the programs provide dual benefits to the university students—student training and allowing students to attend the university. She said the child care facility has a budget of approximately $125,000 per year and is self-supporting, requiring no state-appropriated funds. She said the Head Start program operates on a budget of approximately $400,000 per year of federal funds.

Ms. Sara Fritzell Hanhan, Associate Professor of Early Childhood Education, University of North Dakota, provided testimony regarding the university’s children’s center at the university. A copy of her testimony is on file in the Legislative Council office. She said the center serves 110 children on a part-time basis with a maximum number of children at one time of 72. She said approximately 50 percent of the parents are university students, 22 percent are staff or faculty, and the remainder or 28 percent are parents from the Grand Forks community. She said the children’s center serves as an important training site for university students in early childhood education majors. She said the center is open Monday through Friday from 7:30 a.m. until 5:30 p.m., year round, excluding holidays and staff orientation days.

In response to questions from committee members, Ms. Gayle Nelson, Director, University Children’s Center, University of North Dakota, said the teachers at the university children’s center are paid between $8 to $9.50 per hour and work on a temporary basis.

Senator Lee provided a status report as a member of the nominating committee for the Welfare Reform Task Force created pursuant to 1997 House Bill No. 1226. She said the nominating committee has suggested a 21-member committee representing various constituencies. Senator Nalewaja, as a member of the Child Support Committee, discussed the committee’s study responsibilities relating to child support services and child care licensing.

Mr. Dave Zentner, Director, Medical Services Division, Department of Human Services, discussed the child health insurance program (CHIP) created in Title XXI of the Social Security Act. A summary of the CHIP program was distributed by Mr. Zentner and is attached as Appendix D.
remain regarding the implementation of the CHIP program, but the North Dakota allotment for 1998 is approximately $5 million. He said the federal allotment can be carried over for an additional two years if the state has an approved plan by September 30, 1998. He said the program requires state matching but provides an enhanced federal match of approximately 79 percent. He said North Dakota would need to spend approximately $1.3 million as matching funds and could use only 10 percent of the allotment for outreach and administration. He said funds can be used to provide health insurance coverage for children by either expanding the current Medicaid package or by providing insurance coverage comparable to that provided federal or state employees.

In response to questions from committee members, Mr. Zentner said the state should submit a plan to implement a CHIP program to the federal government by April 1998. He said the 1999 Legislative Assembly should address the issue but early submission of a plan will allow the state to carry the funds into subsequent federal fiscal years. He said based on a 1994 study approximately 5,700 children in North Dakota lack health insurance coverage.

Senator Yockim asked that representatives of the Department of Human Services provide updates regarding the CHIP program at future committee meetings.

Mr. Ron Lawler, Tike Town Day Care Home, Fargo, representing child care providers, provided testimony. He said the state needs to monitor the quality of child care being provided in North Dakota, and he is concerned that the additional child care funds made available by the Department of Human Services were made available only to child care centers and not home child care providers. He said as a provider of child care to special needs children, he is aware that the Americans with Disabilities Act does not allow charging more for special needs child care. He said he supports licensing of all child care providers but if that is not feasible, providers should at least be required to be registered and background checks conducted.

Ms. Ione Swenson, Little Hoop Community College, Fort Totten, testified regarding tribal welfare reform efforts. She said a committee has been formed which is reviewing the Little Hoop Community College’s role in welfare reform. She said the 12-month allowance for postsecondary education is insufficient for tribal members. She said she also has concerns regarding transportation and the availability of child care.

Ms. Marion Schatz, representing the American Association of Retired Persons, Beach, said her experience has been that many assistance recipients could be successful in work situations if adequate job training was provided to them.

Mr. Leo Cummings, Three Affiliated Tribes, New Town, provided his concerns regarding welfare reform efforts. He suggested Job Service North Dakota have a more active role in job training efforts. He said the Three Affiliated Tribes plans to submit a plan for a tribal welfare-to-work program within the next month. He said the state needs to step up as a partner in the welfare-to-work program.

In response to a question from Senator DeMers, Mr. Cummings said one percent of the $3 billion appropriation for welfare-to-work has been set aside nationally for Indian tribes. He said all four tribes in the state are eligible for the welfare-to-work funding.

Senator Nalewaja asked that the Department of Human Services, as it conducts its survey of child care in North Dakota, consider special needs children and report to the committee at a future meeting regarding efforts in recruiting infant and special needs child care. She said to the extent available the department should also provide information regarding tribal child care needs. She said the department should also discuss the ability to provide enhanced child care payments for children with special needs.

Senator DeMers asked that the committee continue to receive progress reports from the Higher Education Welfare Task Force and reports on the welfare-to-work program, including the tribes and the state’s Private Industry Council and the CHIP program. Chairman Yockim said that status reports would be provided at future meetings.

In response to a question from Representative Johnsen, Mr. Iverson said recipients can attend higher education, but it may not meet TANF work requirements, resulting in clients working a minimum of 20 hours in addition to attending classes. Senator Nalewaja suggested that the department, in reviewing the benefit cap for TANF recipients, consider changes made by the 1997 Legislative Assembly regarding definitions of crimes relating to gross sexual imposition and corruption or solicitation of minors.

Representative Dalrymple asked that the department provide updates at future committee meetings regarding the current work participation rates as compared to the requirements of the TANF legislation.

Representative Dalrymple said the department’s expectation should be to meet the targets required under the TANF legislation to qualify for the entire federal TANF block grant. He said he
expects that programs will be consistent from county to county, with each county having the same targets for work participation rates and other TANF requirements.

Chairman Yockim said the next meeting of the committee will be in Fargo on December 2 and Grand Forks on December 3, 1997.

The committee recessed at 3:45 p.m. and reconvened at 9:00 a.m. for a joint meeting in the Senate chamber with the Budget Committee on Human Services and the Budget Committee on Long-Term Care regarding state/tribal issues.


Members of the Budget Committee on Long-Term Care in attendance included Representatives Bill Oban, Grant C. Brown, Ron Carlisle, James O. Coats, Jeff W. Delzer, Gereld F. Gentholtz, Shirley Meyer, and Lynn J. Thompson and Senators Bill L. Bowman, Aaron Krauter, Evan E. Lips, Harvey Sand, and Russell T. Thane.

WELFARE REFORM TRIBAL/STATE ISSUES

Senator Jim Yockim, Chairman, Welfare Reform Committee, Representative Bill Oban, Chairman, Budget Committee on Long-Term Care, and Senator Tim Mathern, Chairman, Budget Committee on Human Services, made opening remarks regarding the significance of the three committees meeting with representatives of the North Dakota Indian tribes to receive information regarding state/tribal issues regarding welfare reform, long-term care, and the Department of Human Services.

Chairman Yockim invited Ms. Deborah Painte, Executive Director, Department of Indian Affairs, to make introductory comments regarding the committee’s studies. Ms. Painte discussed several areas, including the welfare-to-work grant program, the tribes’ obstacles to operating their own TANF programs and the related effect on the state/tribal relationship, the need for coordination between the state and the tribes in the operation of welfare programs, that legislation may be necessary to facilitate the tribal welfare reform process, and the impact of a large percentage of the state’s TANF recipients residing on Indian reservations in North Dakota. She said the infrastructure on Indian reservations needs to be developed to provide jobs. She said the change in tribal leadership at the Standing Rock Reservation has put on hold the reservation’s plans for operating its own TANF program. She said the opportunity for tribes to contract with the state for the implementation of welfare reform needs to be explored. She said other impacts on the reservations include the 1997 spring floods and blizzards.

Mr. John Opp, Department of Human Services, testified regarding tribal welfare reform issues. A copy of his testimony is on file in the Legislative Council office. Mr. Opp discussed the welfare-to-work grant program included in the Balanced Budget Reconciliation Act of 1997, which includes funding for Indian tribes nationally of one percent of the total program of $3 billion. He said up to 30 percent of the state’s welfare-to-work grant funds may be spent on individuals who are recent recipients of TANF assistance or noncustodial parents and at least 70 percent of the grant funds must be spent on individuals who are long-term welfare recipients or who face termination from TANF assistance within 12 months. He said states will need to measure program outcomes to demonstrate success in serving eligible individuals. He said welfare-to-work grant funds are available for a two-year period with approximately $2.7 million available to North Dakota for federal fiscal year 1998 and $2.5 million for federal fiscal year 1997.

Mr. Opp said statewide there are 601 TANF recipients that have been on the program 30 or more months and do not have a high school or GED diploma, including recipients in Rolette County (228), Benson County (72), Ward County (44), Cass County (30), Burleigh County (28), and Sioux County (28).

Mr. Opp said the TANF program allows Indian tribes to submit three-year plans for operation of tribal TANF programs. He said based on federal fiscal year 1994 caseloads a total of $4.8 million of federal TANF funds would be available to the four tribes in North Dakota for operation of tribal TANF programs, including $3,358,289 for the Turtle Mountain Band of Chippewa, $501,970 for Spirit Lake, $498,527 for Three Affiliated Tribes, and $446,502 for Standing Rock. He said in addition the federal administrative reimbursement funds totaling $107,326 would also be available. Mr. Opp said there are currently five tribes in other states that have submitted plans for a tribal TANF program, with additional tribes considering the program.

Mr. Opp said recent TANF technical amendments provide that if an Indian reservation’s unemployment rate exceeds 50 percent of the adult population for any month, that month will...
not count against a client’s 60-month time limit for benefits. He said the state has the option of not counting any TANF recipient participating in a tribal native employment works (NEW) program in the calculation of the state’s work participation rate. He said tribes have the right to define their service area and population to be served. He said tribal/state planning sessions have been conducted between the tribes, the Department of Human Services, and other state agencies to assist in the development of the state’s TANF plan and to share information with the tribes.

In response to questions from Senator Krauter, Mr. Opp said the tribes can submit a plan to operate their own TANF program at any time but the plan must be for a three-year period.

Mr. John Bushman, Director, Division of Tribal Services, Administration for Children and Families, United States Department of Health and Human Services, presented via teleconference information regarding the implementation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 in Indian country. A copy of his remarks is attached as Appendix E. Mr. Bushman said:

- The new welfare reform legislation provides enormous opportunities and challenges directly related to the policy of tribal self-determination and the overall process of tribes assuming more responsibility for programs created for their benefit.
- As tribes assume responsibility for running TANF programs interesting and challenging transition issues must be addressed.
- States and tribes should have a common interest and challenge to see that no one who is eligible and in need of services “falls through the cracks.”
- A renewed spirit of cooperation and coordination is necessary for the sake of children and families in need of services.
- Intergovernmental cooperation and coordination is necessary whether tribes opt to administer their TANF program or not.
- A myth surrounds the issue of gaming, as of the 567 federally recognized tribal governments as few as a dozen are doing financially well as a result of gaming.
- An issue that needs to be addressed is the states continuing to provide the approximate 30 percent share that was previously contributed under the AFDC program to tribes when the tribes assume responsibility for TANF operations.
- Tribal programs will suffer as a result of the economies of scale because of certain minimum costs of bureaucratic infrastructure including staff and programming.
- An additional issue is one of standards and definitions which must be coordinated with the state. A model that may be appropriate for the enforcement of standards is cross-deputization which allows, once the standards have been established, both governments to work cooperatively to help enforce standards.
- Another issue is accountability which can be accomplished by agreement between tribal and state governments and adjusted as necessary.
- Another issue involves economic development, job creation, and job training on the reservations. There are very few private sector jobs on most reservations and very limited funding for public sector employment. Money spent for economic development on reservations should not be considered as permanently lost to the state’s economy.
- In discussing and negotiating, discussions should be limited to welfare reform and related matters and should begin with informal discussions.
- The state should consider the possibility of continuing to make available the state funding to residents of reservations through agreements with tribal governments to deliver TANF services. This is an investment the state can make and any concerns regarding program accountability can be addressed in agreements between the state and tribes.

In response to a question from Senator Mathern, Mr. Bushman said the federal government is committed to assisting the state and tribes in making TANF successful. He said all federal funds have been made available through the TANF program and he is aware of very little other federal funds available to assist in the process.

In response to a question from Senator Yockim, Mr. Bushman said programs should assure that the most vulnerable are cared for and that people are accounted for so that they cannot move from system to system to extend assistance benefits.

In response to a question from Representative Price, Mr. Bushman said Indian parents share a common interest in the welfare of children and the federal Office of Child Support Enforcement will work closely with the states and the tribes to ensure child support enforcement is a part of the welfare reform effort.
Mr. Bushman said he would like to come to North Dakota to attend a future meeting of the Welfare Reform Committee.

Ms. Rose Lebeau, Tribal NEW Program Director, Spirit Lake Tribe, provided testimony regarding the welfare-to-work grant. A copy of her testimony is on file in the Legislative Council office. She said the Spirit Lake Tribe does not plan to operate its own TANF program but intends to apply for Project TEEMWORK which will assist recipients in finding employment and help the Department of Human Services meet the work participation rate. She said the tribe’s employment and training department has recently completed a “train the trainers” effort to help TANF clients and is in the process of setting up a management information system to track TANF clients. She said the tribe is going to submit a welfare-to-work grant proposal. She said two of her concerns are the lack of available child care and the need for additional higher education opportunities. She said the tribe would like to be represented on the Welfare Reform Task Force and asked that an American Indian liaison be appointed to work on welfare reform issues with the tribes.

Mr. Leo Cummings, Administrator, Employment Training Department, Three Affiliated Tribes, New Town, provided testimony regarding welfare reform. He said the Three Affiliated Tribes will not implement TANF this year because of an increasing caseload and because available federal funds are based on fiscal year 1994 cases. He said approximately $500,000 of federal funds, available for 150 cases in 1994, would now be available to serve in excess of 200 cases on the reservation. He said approximately $1 million would be needed to provide assistance to these cases. He said Indian reservations currently have approximately 53 percent of the TANF caseloads compared to 40 percent one year ago. He said some of the reduction in caseloads is due to client sanctions, in part because clients are unaware of TANF requirements. He said it is important to develop memorandums of understanding between the tribes, the Department of Human Services, and county social services. He said the Three Affiliated Tribes plan to submit an application for welfare-to-work grant funds. He said a total of $15 million is available nationally for Indian tribes and all four tribes in North Dakota are eligible for the funding.

In response to a question from Senator Bowman, Mr. Cummings said tribal members are in need of both vocational education and higher education. In response to a question from Representative Meyer, Mr. Cummings said the reservation’s current unemployment rate is 30 percent.

Mr. Ed Lone Fight, Manager, Tribal Programs, Three Affiliated Tribes, New Town, testified regarding welfare reform. He said Chairman Mason was in Washington, D.C., on Garrison Diversion issues and was unable to attend this meeting. He said Indians generally are skeptical of welfare reform because of the history between Indian tribes and the federal government. He said the focus should be on the tribes and the state working together. He said only five of 558 tribes nationally have implemented a tribal TANF program.

In response to a question from Senator Nalewaja, Mr. Lone Fight said teen pregnancy is a problem on the reservation and the current high school dropout rate is 13 percent, which compares favorably to the national rate.

The committee recessed at 12:00 noon for lunch and reconvened at 1:15 p.m.

The joint meeting received testimony on long-term care and Department of Human Services issues. Please refer to the minutes of the Budget Committee on Long-Term Care and Budget Committee on Human Services for summary information regarding these issues.

The committee adjourned at 4:10 p.m.

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Jim W. Smith
Assistant Legislative Budget Analyst and Auditor

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

ATTACH:5