



North Dakota Legislative Council

Prepared for the Human Services Committee

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STUDY OF EMPLOYMENT RESTRICTIONS IN PUBLIC ASSISTANCE PROGRAMS - BACKGROUND MEMORANDUM

The Legislative Assembly approved House Concurrent Resolution No. [3013](#) (2021) which provides the Legislative Management study issues relating to employment restrictions in public assistance programs. Provisions of the resolution indicate that because workforce shortage issues are a major challenge for business development in the state, the study should determine a means to allow employees to work additional hours without losing public assistance benefits.

PREVIOUS STUDIES

2007-08 Human Services Committee

The 2007-08 interim Human Services Committee, pursuant to Section 3 of Senate Bill No. 2186 (2007), studied the temporary assistance for needy families (TANF) program administered by the Department of Human Services. The study reviewed sustainability of current services and programs funded by TANF funds, potential programs that could be funded with TANF funds, and the need of increased assistance to TANF recipients who are attending a postsecondary institution of learning. The committee received information regarding federal qualified work activity required for TANF, TANF funding, program recipients, various benefit components, a history of TANF benefits, program sanctions, and TANF cases closed due to reaching the maximum number of benefit months. The committee learned North Dakota's work participation rate in August 2007 was 50.64 percent. The committee reviewed contracts for employment and training services and learned participants may use education as an allowable activity for a period of time.

The committee learned the TANF program may be used to address areas of worker shortage in North Dakota. Successful welfare-to-work programs emphasize employment and provide a wide range of services that include an education and training component. The job opportunities and basic skills (JOBS) program is the education and training component of the state's TANF program which helps TANF recipients become economically self-sufficient. Through the JOBS program, the Department of Human Services has the ability to match TANF clients with various career options. The committee received information regarding other states' TANF initiatives. The committee learned:

- New Mexico "Education Works" program is used as an educational option for recipients of TANF.
- Arkansas "Work Pays" program provides assistance to prior TANF recipients in an effort to increase the percentage of recipients that are self-sufficient after leaving the TANF program.

The committee received information regarding strategies to maintain state flexibility despite federal TANF work participation rules. The committee learned strategies include:

- Work engagement strategies involve becoming more aggressive in engaging clients more quickly in work activities. An example of this type of strategy is the diversion assistance program that assists individuals to become employed before needing TANF benefits.
- Targeting or "take-out" strategies involve programs that focus efforts on increasing the effective engagement of those TANF recipients most likely to benefit. These programs provide assistance and services to families unlikely to meet work participation requirements or recipients that engage in activities that do not meet federal definitions. Because these individuals are receiving services and benefits under a separate program, they are not included in the TANF caseload.
- Post-employment strategies that allow TANF recipients that are working to be included in the TANF caseload.

The 2007-08 interim Human Services Committee made no recommendations regarding the TANF program study.

2015-16 Health Services Committee

The 2015-16 interim Health Services Committee, pursuant to House Concurrent Resolution No. 3049 (2015), studied issues relating to employment restrictions in public assistance programs.

The committee received information regarding income eligibility limits for public assistance programs such as the child care assistance program and low-income home energy assistance program. The committee also reviewed work requirements for programs such as the TANF program which requires recipients to participate in the JOBS program.

The committee reviewed national research regarding the "cliff effect" that occurs when a program participant has a net pay and benefits decrease as a result of accepting additional work hours or a wage increase. The committee reviewed a National Conference of State Legislatures (NCSL) report regarding state policies to counteract the "cliff effect" which included the following recommendations:

- **Review eligibility levels and include phase-outs** - The National Conference of State Legislatures' research indicated that in order to lessen the effects of a sudden loss of benefits, some states have increased the eligibility limit so that it is more closely tied to the amount needed to meet self-sufficiency guidelines; phased out benefits by establishing sliding scales and gradually lowering benefit amounts; or aligned eligibility across programs so that families do not lose all benefits at once. States have also revised asset tests and exemptions for vehicles and child support.
- **Define financial self-sufficiency** - Financial self-sufficiency, the income level a family requires to meet their basic needs without public assistance, puts the "cliff effect" in context. Some states use 200 percent of the federal poverty guideline, while other states factor in the varying costs of living by geography, household size, and ages of children. The Center for Women's Welfare at the School of Social Work, University of Washington, has created a self-sufficiency standard, defined as the income needed for a family to meet its basic needs without any public or private assistance. The standard takes into account the age and composition of the family and includes the costs of all major budget items.
- **Provide work supports that bridge the gap** - Work supports refer to those policies and programs that families can receive while working and serve as a supplement to their wage earnings. According to NCSL, the most common include child care assistance; supplemental nutrition assistance program (SNAP); tax credits; and other housing, transportation, and health care programs. The programs are effective at helping families meet their basic needs; however, eligibility can be lost before a family is able to meet those needs on wages alone. Providing work supports and aligning eligibility with self-sufficiency goals can help bridge the gap between earnings and self-sufficiency. While worker supplement programs usually include cash assistance to former or current TANF recipients, earnings disregards do not necessarily provide any additional cash support, but allow for a certain amount of increased earnings before they lose eligibility. In the TANF program, earnings disregards may be used to incentivize work. In addition to incentivizing work, policy changes in some states have allowed the states to count participants toward their work participation rate. According to a May 2010 United States Government Accountability Office report, 49 states reported that they have earned income disregards, and 10 of those states made changes to their policies since fiscal year 2006. Specifically, nine states increased the amount of income disregarded, and one began indexing the amount disregarded on an annual basis. No states reported that they had decreased or eliminated their earned income disregards since fiscal year 2006.

The 2015-16 interim Health Services Committee made no recommendations regarding its study relating to employment restrictions in public assistance programs.

NATIONAL CONFERENCE OF STATE LEGISLATURES RESEARCH

Assistance programs such as SNAP, TANF, child care assistance, and some tax credits do not necessarily restrict work, but when income increases beyond the eligibility threshold, participants are no longer eligible for assistance. In some cases, the additional income does not offset the loss of benefits. For example, if a TANF cash grant, lost due to increased hours or income, exceeds the additional earnings, the participant has a decrease in net pay and benefits for the month as a result of accepting additional work hours or a wage increase. This drop off in benefits that occurs when a person exceeds the income threshold is often referred to as the "cliff effect."

The National Conference of State Legislatures has conducted research on the "cliff effect" and outlined strategies states use to address this issue. The focus of the research was on the income eligibility thresholds for various programs, how to define or establish those thresholds based on cost of living and a state definition of "self-sufficiency," and tax credits and other work supports. The research used a regional approach and reviewed state policies in the northeast part of the United States. State policies to counteract the "cliff effect" in public programs prepared by NCSL in 2019 is attached as [Appendix A](#) and summarized below.

Mapping Benefit Cliffs

The National Conference of State Legislatures' research suggested self-sufficiency should be defined and benefit calculators should be used. Financial self-sufficiency, the income level a family requires to meet their basic needs without public assistance, puts the "cliff effect" in context. Some states use 200 percent of the federal poverty guideline, while other states factor in the varying costs of living by geography, household size, and ages of children. The Center for Women's Welfare at the School of Social Work, University of Washington, has created a self-sufficiency standard, defined as the income needed for a family to meet its basic needs without any public or private assistance. The standard considers the age and composition of the family and includes the costs of all major budget items. Developing a benefits calculator assists caseworkers and families to identify cliffs on an individual or family level and how increases in income could affect benefits.

Aligning Eligibility Levels

Most states have asset limits for programs which cap the total value of assets an individual or family may have and still participate in the program. Forty-seven states have assets limits for TANF ranging from \$1,000 to \$10,000. Some states provide exemptions for assets such as vehicles, savings accounts, and other restricted asset accounts to allow for transportation to work and for saving for education and other purposes.

Income disregards may also be used to lessen the cliff effect. Excluding earned income from benefit limits for a period of time can ease the transition into employment.

Regardless of program limits, aligning rules and eligibility criteria across programs can reduce complexity and mitigate benefit cliffs. Forty-one states have adopted broad-based categorical eligibility with TANF and 34 states have aligned asset limits with SNAP.

Making Work Pay

Work supports refer to those policies and programs that families can receive while working and serve as a supplement to their wage earnings. According to NCSL, the most common include child care assistance; SNAP; tax credits; and other housing, transportation, and health care programs. The programs are effective at helping families meet their basic needs; however, eligibility can be lost before a family is able to meet those needs on wages alone. Providing work supports and aligning eligibility with self-sufficiency goals can help bridge the gap between earnings and self-sufficiency.

Federal and state tax credits can be used to offset declines in public benefits. Twenty-nine state have state earned income tax credits to provide an additional benefit to the federal credit.

States can also help workers move to higher-wage jobs by identifying high-growth occupations and opportunities for wage progression. Strategies may also be used to smooth wage transitions. Many states have mapped career pathways to allow students to see a step-by-step progression to higher wage jobs.

Increasing Family Economic Security Through Asset Development

Many adults do not have adequate savings to cover unexpected expenses. As a result, some states are developing methods for families to build financial assets. Escrow accounts accumulate funds as a participant's income increases without affecting benefits or services. Individual development accounts allow low-income individuals to save money for education, to start a business, to buy a home, or other authorized uses. Deposits in individual development accounts are matched with grant funding from community-based or other organizations.

Fostering Culture and System Changes in the Public and Private Sectors

Employers are affected by benefit cliffs that may limit employment and career advancement for workers which can affect business growth. Engaging employers who are affected by the benefit cliff in policy discussions can build consensus for solutions and allow employers to calibrate wage and benefit packages to accommodate benefit cliffs. The fiscal impact of benefit cliff reforms can be reviewed to determine if the cost of reform is offset by new workers entering the labor market and reduced reliance on assistance programs.

Changes in how case managers and other staff interact with families can also be used for better results. Using personal and professional goal setting and career counseling can be used to focus on maximizing opportunities rather than maximizing benefits.

JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM

The job opportunities and basic skills program is the education and training component of the state's TANF program. Unless determined to be exempt, individuals who receive a TANF cash grant are required to participate

in the JOBS program. Exceptions to this requirement include a caretaker age 65 or older, a caretaker or parent of a child younger than 2 months of age, an individual receiving supplemental security or social security disability income, and a parent providing care for a disabled family member.

The job opportunities and basic skills program participants are required to complete a minimum number of hours each week in one or more of the approved work activities, including job readiness, job search, paid employment, high school, GED, education directly related to employment, job skills directly related to employment, on-the-job training, vocational training, unpaid work experience, community service, or child care for another participant involved in community service. Involvement in education and training is limited and must be approved by a JOBS program coordinator.

Unless responsible for the care of a child who is younger than 6 years of age, participants must complete a minimum average of 30 hours per week in one or more approved work activities. If caring for a child under age 6, an individual must complete a minimum average of 20 hours per week in an approved work activity.

The job opportunities and basic skills program offers some supportive services to help participants become self-sufficient. Supportive services include transportation, child care, job readiness, relocation, and tuition assistance; money for license, certification and examination fees; tools for employment; and care of incapacitated household members. Some of these supportive services can be provided to former TANF participants after their TANF case closes in order to help them succeed in the workforce.

Individuals who fail or refuse to participate in the JOBS program without a good reason can be sanctioned. A sanction takes the sanctioned individual's financial needs out of the TANF grant for 1 month. If the sanctioned individual fails to demonstrate cooperation with JOBS program requirements in the penalty month, the entire case will be closed and the sanctioned individual and their household will be ineligible for TANF for 1 additional month. After reapplying for TANF, no individual in the household will be eligible for a TANF benefit until the sanctioned individual cooperates with JOBS program requirements.

NORTH DAKOTA LABOR FORCE

Job Service North Dakota's annual [North Dakota Workforce Review](#) examines population trends, labor force statistics, occupational group changes, and industry changes for either 10-year or 20-year (or both) time periods. The publication also presents individual industry breakouts to examine employment, wages, establishments, and demographic changes in more detail. Information is presented by region to provide a perspective of statewide trends and their base in various parts of the state. For purposes of the report, the labor force comprises all individuals ages 16 and over who are either employed or unemployed and actively seeking employment. The data does not account for other factors such as those that are underemployed, students, family caregivers, and the unemployed not seeking work. Other common economic measures include the labor force participation rate and the unemployment rate. The labor force participation rate refers to the proportion of people included in the labor force as a proportion of the entire population ages 16 and over. The unemployment rate refers to the unemployed portion of the labor force as a percentage of the total labor force.

In 2019, the state's labor force included 394,024 employed and 9,575 unemployed individuals. North Dakota has historically had a higher labor force participation rate than the national average, with the gap between the two increasing since the early 2000s. After the Great Recession in the late 2000s, North Dakota experienced a small dip from a high of 74.4 percent in 2008 down to 72.6 percent in 2010. During the same time period, the national labor force participation rate fell from 66.0 percent in 2008 to 64.7 percent in 2010. During much of the oil boom, the rate remained at approximately 72 percent and has since declined to 69.3 percent in 2019 compared to the national rate of 63.1 percent. In 2019, North Dakota ranked 4th in the nation for labor force participation with an adjusted rate of 69.3 percent, while West Virginia ranked 50th with a rate of 55.1 percent.

North Dakota has maintained a very low unemployment rate in recent years. Much like the state's labor force participation, North Dakota's unemployment has historically outperformed the national average. North Dakota's unemployment rate reached a high in 2009 of 4.1 percent and dropped to 2.7 percent in 2014 and in 2019 was 2.4 percent. The national unemployment rate reached a high in 2010 of 9.6 percent and has since dropped to 3.7 percent in 2019. In 2019, Alaska had the highest unemployment rate of any state at 6.1 percent. According to the Job Service North Dakota report, the top five industries by highest average employment in the state in 2019 were office and administrative support, transportation and material moving, sales and related, construction and extraction, and food preparation and serving. A copy of the county unemployment rate map for April 2021 is attached as [Appendix B](#).

STUDY PLAN

The committee may wish to proceed with this study as follows:

1. Gather and review information regarding public assistance programs that limit hours worked or income, including limitations, whether the limitations are imposed by the state or federal government, and benefit levels.
2. Gather and review information regarding jobs available in the state, including monthly wage and whether the jobs require specific skills, education, or training.
3. Gather and review information regarding employed participants enrolled in assistance programs, including the state's work participation rate, a comparison of number of participants by county-to-county unemployment rates, and the number of employed participants sorted by earnings range.
4. Gather and review information regarding an update on the JOBS program, including number of participants, number of hours logged for various types of work activities, cost, and average number of months individuals participate in the program.
5. Gather and review information regarding possible public assistance program modifications that would allow recipients to increase employment hours without dramatic benefit reductions or that would incentivize recipients to accept increases in the number of hours worked, when available, including information regarding the feasibility of adopting variances to federal limitations, and the cost of modifications and variances to the state.
6. Develop committee recommendations and prepare any legislation necessary to implement the committee recommendations.
7. Prepare a final report for submission to the Legislative Management.

ATTACH:2