

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1041

Introduced by

Legislative Council

(Budget Committee on Human Services)

(Representatives Boucher, Sandvig, Svedjan)
(Senators Kelsh, O'Connell, Lips)

1 A BILL for an Act to create and enact four new sections to chapter 50-01.2, three new sections
2 to chapter 50-03, a new section to chapter 50-06, a new section to chapter 50-24.1, and a new
3 section to chapter 50-24.5 of the North Dakota Century Code, relating to the administration and
4 financing of human services programs; to repeal sections 50-03-07, 50-09-16, 50-09-17,
5 50-09-18, 50-09-20, 50-09-20.1, 50-09-21, 50-24.1-03, and 50-24.5-06 of the North Dakota
6 Century Code, relating to the administration and financing of human service programs; to
7 require a legislative council study; to provide an appropriation; and to provide an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

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

- 12 1. "Department" means the department of human services.
- 13 2. "Local expenses of administration" includes costs for personnel, space, equipment,
14 materials, travel, utilities, and related costs, and the indirect costs properly
15 allocated to those costs. The term does not include computer programs, software
16 development, computer operations undertaken at the direction of the department,
17 and computer processing costs to the extent those costs exceed, in any calendar
18 year, that county's costs of operation of the technical eligibility computer system in
19 calendar year 1995 increased by the increase in the consumer price index for all
20 urban consumers (all items, United States city average) after January 1, 1996, or,
21 unless agreed to by the county social service board, any costs related to pilot
22 programs before the programs are implemented on a statewide basis.

3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
- a. Aid to families with dependent children;
 - b. Aid to families with dependent children - unemployed parent;
 - c. Programs established under section 50-06-01.8;
 - d. Job opportunities and basic skills program;
 - e. Transitional child care;
 - f. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - g. Food stamp programs, including employment and training programs;
 - h. Refugee assistance programs;
 - i. Basic care services;
 - j. Energy assistance programs; and
 - k. Information and referral.

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

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

1. The department shall adopt standards for administration for locally administered economic assistance programs and shall provide training for the implementation of those standards. Each county social service board shall provide for administration of locally administered economic assistance programs that meet those standards.
2. If a county social service board fails to provide for administration of locally administered economic assistance programs that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the county social service board to prepare and implement a corrective action plan.
 - c. Appoint a receiver to act in place of the county social service board.

- 1 3. At least thirty days before taking any action under subsection 2, the department
2 shall provide notice of its proposed action to the county social service board and
3 the board of county commissioners of the affected county. The notice must
4 describe the proposed action and the reasons therefor.
- 5 4. If the county disputes a notice of proposed action, the board of county
6 commissioners, before the effective date of the action, shall:
 - 7 a. Request reconsideration by the department;
 - 8 b. Propose an alternative action under subsection 2;
 - 9 c. Request a peer review; or
 - 10 d. Make any combination of these responses.
- 11 5. If the county's response includes a request for reconsideration or proposed
12 alternative action under subsection 2, the department promptly shall consider that
13 request or proposal and notify the county of its determination.
- 14 6. If the county's response includes a request for a peer review, the board of county
15 commissioners shall name two members of a peer review committee, the
16 department shall name two members of the peer review committee, and those four
17 committee members shall name a fifth member of the peer review committee. At
18 least one member of the peer review committee must be a member of a board of
19 county commissioners and at least two members of the peer review committee
20 must be county social service board directors or former county social service board
21 directors. No member of the peer review committee may hold or have held office
22 as county social service board director, or as a member of the county social
23 service board or board of county commissioners, or be a resident of the county
24 requesting the peer review.
- 25 7. A peer review must be based upon written submissions made by the department
26 and the county requesting the peer review. The county submission must be made
27 within fifteen days after the county requests peer review, and the department's
28 submission must be made within fifteen days after receipt of a copy of the county's
29 submission. The peer review committee may direct written questions to the
30 parties, and the parties shall respond in writing within fifteen days.

- 1 8. A committee member designated by the department shall chair the peer review
2 committee. The committee shall meet at the call of the presiding officer, and may
3 meet by teleconference. Any committee action must be by motion. A decision on
4 the county's request must be made within sixty days after receipt of the county's
5 request, and subject to subsection 9, is binding on both parties.
- 6 9. The decision of the peer review committee is a final administrative decision. That
7 decision may be appealed to the district court, and for that purpose, the decision
8 must be treated as a decision on a request for rehearing made pursuant to section
9 28-32-14. Appeal to the district court must be taken in the manner required by
10 section 28-32-15. The department shall submit a record consisting of:
 - 11 a. Submissions made, and questions asked and answered, under subsection 7;
12 and
 - 13 b. The motion and vote upon which the peer review committee acted to decide
14 the matter.
- 15 10. A timely dispute of a notice to appoint a receiver under subsection 2 stays that
16 action until thirty days after issuance of a decision by a peer review committee.
- 17 11. A timely appeal of a decision by a peer review committee stays that decision until
18 determination of that appeal.
- 19 12. A receiver appointed under this section may take any action that may lawfully be
20 taken by the county social service board and may draw upon the human services
21 fund and any other county fund otherwise at the disposal of the board of county
22 commissioners.
- 23 13. Members of a peer review committee are entitled to receive compensation by the
24 department in the same amounts as members of the legislative council. The
25 county requesting the review shall reimburse the department for one-half of that
26 cost.

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

29 **Board may contract.** In addition to actions a county social service board may take
30 under chapter 54-40, a board may contract with another county social service board, the
31 receiver of a county social service board appointed under section 2 of this Act, the department,

or any other public or private person to discharge any of its duties or exercise any of its powers to administer economic assistance programs.

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

County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:
 - a. Locally administered economic assistance programs;
 - b. Replacement programs with substantially similar goals, benefits, or objectives; and
 - c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.
2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:
 - a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;
 - b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;
 - c. Totaling the amounts determined under subdivision b for all counties entitled to a distribution;
 - d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and
 - e. Multiplying that decimal fraction times one-half of the biennial appropriation.

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

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

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

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

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

- 15 1. The local expenses of administration of locally administered economic assistance
16 programs;
17 2. The local expenses of administration and provision of human services required by
18 federal law or regulation as a condition for the receipt of federal funds for programs
19 administered by county social service boards under section 4 of this Act; and
20 3. That county's share of twenty-five percent of the amount expended in this state, in
21 excess of the amount provided by the federal government, for aid to dependent
22 children.

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

25 **Department to develop formula.** The department, with the cooperation of the boards
26 of county commissioners, shall develop a formula to be used to determine the appropriate
27 amount of each county's share under subsection 3 of section 6 of this Act.

28 **SECTION 8.** A new section to chapter 50-06 of the North Dakota Century Code is
29 created and enacted as follows:

30 **Programs funded at state expense - Interpretation.**

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

- 3 a. Services provided under chapter 50-24.1;
4 b. Benefits provided under subsection 19 of section 50-06-05.1;
5 c. Supplements provided under chapter 50-24.5 as basic care services;
6 d. Services provided under section 50-06-06.8 and chapter 50-09 as child care
7 assistance;
8 e. Services provided under chapter 50-09 as job opportunities and basic skills
9 program; and
10 f. Welfare fraud detection programs.

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

14 **SECTION 9.** A new section to chapter 50-24.1 of the North Dakota Century Code is
15 created and enacted as follows:

16 **Responsibility for expenditures.** Except as otherwise specifically provided in
17 section 6 of this Act, expenditures required under this chapter are the responsibility of the
18 federal government or the state of North Dakota.

19 **SECTION 10.** A new section to chapter 50-24.5 of the North Dakota Century Code is
20 created and enacted as follows:

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

24 **SECTION 11. REPEAL.** Sections 50-09-16, 50-09-17, 50-09-18, 50-09-20, 50-09-21,
25 and 50-24.1-03 of the North Dakota Century Code and sections 50-03-07, 50-09-20.1, and
26 50-24.5-06 of the 1995 Supplement to the North Dakota Century Code are repealed.

27 **SECTION 12. LEGISLATIVE COUNCIL STUDY OF CHILD SUPPORT SERVICES**
28 **AND CHILD CARE LICENSING.** The legislative council shall study the provision of child
29 support services and child care licensing in this state during the 1997-98 interim. The study
30 must consider whether child support services and child care licensing can be more efficiently
31 and effectively provided and, if so, by which agency or unit of government. The legislative

1 council shall report its findings, together with any legislation required to implement the
2 recommendations, to the fifty-sixth legislative assembly.

3 **SECTION 13. APPROPRIATION.** There is appropriated out of any moneys in the
4 general fund in the state treasury, not otherwise appropriated, the sum of \$1,220,000, or so
5 much of the sum as may be necessary, to the department of human services for the purposes
6 described in subsection 3 of section 4 of this Act with respect to the counties of Benson, Dunn,
7 Eddy, McKenzie, McLean, Mercer, Mountrail, Ramsey, Richland, Rolette, Sargent, and
8 Williams, for the biennium beginning July 1, 1997, and ending June 30, 1999.

9 **SECTION 14. EFFECTIVE DATE.** Sections 1 through 11 of this Act become effective
10 January 1, 1998.