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

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

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

   a. Temporary assistance for need families;

   b. Child support enforcement programs;

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

   d. Employment and training programs;

   e. Child care assistance programs;

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

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

h. Refugee assistance programs;

i. Basic care services;

j. Energy assistance programs; and

k. Information and referral.

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

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

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

2. If a county social service board fails to provide for administration of locally administered economic assistance programs that meet the standards adopted under subsection 1, the department may take any of the following actions:

   a. Provide training to the persons responsible for administration.

   b. Require the county social service board to prepare and implement a corrective action plan.

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

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

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

   a. Request reconsideration by the department;

   b. Propose an alternative action under subsection 2;

   c. Request a peer review; or

   d. Make any combination of these responses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

County duties - Financing in exceptional circumstances.

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

   a. Locally administered economic assistance programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
   a. Except as provided in section 11 of this Act, services provided under chapter 50-24.1;
   b. Benefits provided under subsection 19 of section 50-06-05.1;
   c. Supplements provided under chapter 50-24.5 as basic care services;
   d. Services provided under section 50-06-06.8 and chapter 50-09 as child care assistance;
   e. Services provided under chapter 50-09 as employment and training programs;
   f. Welfare fraud detection programs;
   g. Temporary assistance for needy families; and
   h. Special projects approved by the department and agreed to by any affected county social service board.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

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

Responsibility for expenditures - Exceptions.

1. Except as otherwise specifically provided in subsection 2 and section 6 of this Act, expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.
2. Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 6 of this Act.

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

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1041.

House Vote:	Yeas	93	Nays	0	Absent	4
Senate Vote:	Yeas	46	Nays	0	Absent	3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State