

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### WELFARE REFORM COMMITTEE

Thursday, June 19, 1997  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Jim Yockim, Chairman, called the organizational meeting of the Welfare Reform Committee to order at 10:00 a.m.

**Members present:** Senators Jim Yockim, Judy L. DeMers, Tom Fischer, Judy Lee, Donna L. Nalewaja, Bob Stenehjem, Russell T. Thane and Representatives LeRoy G. Bernstein, Linda Christenson, Connie Johnsen, Ralph L. Kilzer, Carol A. Niemeier, Clara Sue Price, Robin Weisz

**Member absent:** Representative Jack Dalrymple

**Others present:** See Appendix "A"

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, discussed the rules of operation and procedure for Legislative Council committees. Chairman Yockim discussed the studies assigned to the committee, including the monitoring and study of North Dakota's welfare reform implementation efforts and the study of welfare reform issues related to the state and Indian tribes. Chairman Yockim encouraged input from committee members as the study proceeds and said the committee is studying one of the more significant issues during the interim, welfare reform. Chairman Yockim announced that Representative Clara Sue Price would be the vice chairman of the committee. Vice chairman Price made brief comments regarding the committee's study.

#### WELFARE REFORM STUDY

The Legislative Council staff presented a background memorandum regarding the committee's study of monitoring North Dakota's welfare reform implementation, including the implementation of the temporary assistance for needy families (TANF) program. The study responsibilities include the following:

- **Welfare Reform Monitoring - Evaluation** - Section 31 of 1997 House Bill No. 1012 provides for a Legislative Council study of the monitoring of North Dakota's welfare reform implementation efforts to determine the effectiveness of welfare reform, including periodic reports from a Department of Human Services' consultant regarding the evaluation of welfare reform.
- **Implementation of TANF** - Section 82 of 1997 House Bill No. 1226 provides for a Legislative

Council study of the implementation of the TANF program including addressing the following issues:

1. Simplifying all public work programs into a single system;
  2. Providing a work force preparation and placement program;
  3. Establishing performance-based outcome measures for all contractors;
  4. Establishing caseload ratio in North Dakota Century Code (NDCC) Section 50-09-02.1 (65 cases to one worker);
  5. Training and expertise of the managers administering the training, education, employment, and management (TEEM) program; and
  6. Developing a tiered system of benefit support and incentives.
- **Federal Waiver Terminations** - 1997 House Bill No. 1226 provides that subject to the approval of the Legislative Council the Department of Human Services may terminate any federal waiver secured if necessary or desirable for the statewide implementation of the TEEM program.
  - **Responsibilities Relating to the Revised Administration of the TANF Program** - Section 76 of House Bill No. 1226 provides the requirements for the Department of Human Services administration of the TANF program and provides the following exceptions to the administrative requirements:
    1. If the secretary of the United States Department of Health and Human Services determines that funds otherwise available for the TANF program would be reduced or eliminated if the department administered the program as provided for in NDCC Section 50-09-29(1), the department is to administer the program in a manner that avoids a reduction or loss (subsection 2);
    2. If the caseload of households provided assistance exceeds projections provided to the 55th Legislative Assembly, the department, subject to the approval of the Legislative Council, is to administer the TANF

program in a manner that avoids spending or committing all funds appropriated prior to June 30, 1999 (subsection 3);

3. If the Department of Human Services determines that an insufficient worker opportunity exists, due to increases in the unemployment rate, to participate in work activities, the department may administer the TANF program in a different manner, subject to the approval of the Legislative Council (subsection 5);
4. If the department determines that administration of the TANF program causes otherwise eligible individuals to become charges of the counties under NDCC Chapter 50-01, the department may administer the program in a manner that avoids that result, subject to the approval of the Legislative Council (subsection 6); and
5. If projected rates of expenditures for operation of the TANF program indicate the appropriations will be expended or committed prior to June 30, 1999, the department shall administer the TANF program in a manner that avoids that result, subject to the approval of the Legislative Council.

The background memorandum also discusses and summarizes House Bill No. 1226 passed by the 1997 Legislative Assembly and previous Legislative Council studies.

**It was moved by Senator Thane, seconded by Senator DeMers, and carried that the committee approve the following study plan regarding the welfare reform study:**

- 1. Receive periodic reports from the Department of Human Services regarding the implementation of 1997 House Bill No. 1226 regarding the state's welfare reform effort and the administration of the TANF program, including information on caseloads, unemployment rates and other relevant statistics, TANF and child care assistance expenditure status, the availability of client employment opportunities and child care, and any revisions necessary to the administration of the TANF program.**
- 2. Receive periodic reports from the Department of Human Services and the consultant selected to conduct a review of the state's implementation of its welfare reform efforts.**
- 3. Receive reports by the Department of Human Services on the need for federal waiver terminations that may be necessary for the statewide implementation of the TEEM program.**
- 4. Receive testimony from interested persons, including representatives of the county social**

**service boards and the private sector, regarding the implementation of the TANF program and the effectiveness of the state welfare reform efforts.**

- 5. Receive periodic updates regarding federal changes to the TANF program and relating to welfare reform.**
- 6. Develop recommendations and any related legislation considered necessary to implement the recommendations.**
- 7. Prepare a final report for submission to the Legislative Council.**

Senators Yockim, DeMers, Fischer, Lee, Nalewaja, Stenehjem, and Thane and Representatives Bernstein, Christenson, Johnsen, Kilzer, Niemeier, Price, and Weisz voted "aye." There were no "nay" votes.

Mr. Kevin Iverson, director of the Training, Education, Employment, and Management (TEEM) Division, Department of Human Services, provided testimony regarding the committee's study of welfare reform. A copy of Mr. Iverson's testimony and a copy of the North Dakota Temporary Assistance for Needy Families plan, dated May 1, 1997, submitted to the federal government, are on file in the Legislative Council office.

Mr. Iverson said regarding the selection of an evaluation contractor the state has received an initial grant of \$25,000 from the Department of Health and Human Services for the planning phase of the evaluation of the welfare reform initiative. He said the development of the evaluation design is to be completed by July 15, 1997, and additional funding for the evaluation is available on a competitive basis if the project is selected by the Department of Health and Human Services. Mr. Iverson said that as part of the state TANF plan additional federal funds were requested for a performance audit by the State Auditor's office as provided in 1997 House Bill No. 1015. He said the secretary of the Department of Health and Human Services has indicated that additional federal funds are not available for the performance audit.

Regarding the termination of federal waivers, Mr. Iverson said the approved waivers will continue until the state is able to convert the existing AFDC program to the TEEM program, at which time a request will be made of the Legislative Council to terminate TEEM waivers and revise the state's TANF plan to identify TEEM as the statewide assistance program. He said, regarding the food stamp program, the approved waivers will also be terminated upon approval by the Legislative Council when the statewide conversion to TEEM is implemented. He said the state proposes to use the simplified food stamp option provided under the federal law to standardize the rules for both food stamps and TANF. He said a simplified food stamp program is being

developed and will be submitted to the United States Department of Agriculture by the end of June 1997 and when approved the necessary changes will be incorporated into the TEEM project. He said the program has been designed to standardize rules between the two programs.

Mr. Iverson also discussed 1997 House Bill No. 1226. Mr. Iverson said the federal law limits TANF assistance to 60 months and allows states to extend benefits to families under a hardship exception which is limited to 20 percent of the caseload each month. He said the 60-month limitation will not be a factor until July 2002. Mr. Iverson said the TANF work requirements will be a challenge as the required work participation rates begin at 25 percent of the caseload and increase to 50 percent by federal fiscal year 2002. He said the challenge will be the large number of participants for assessment and job readiness activities as well as finding adequate training and employment opportunities.

Mr. Iverson said the TANF implementation is scheduled to begin July 1, 1997. By January 1998 a conversion process will begin for counties that are currently operating the aid to families with dependent children (AFDC) program, and all cases should be converted to TEEM by July 1, 1998, or soon thereafter. Mr. Iverson said the state TANF plan was submitted to the federal agencies on May 1, 1997, and although formal federal approval has not been received the plan is in the last stages of review.

Regarding TANF implementation information, Mr. Iverson said the AFDC caseload for May 1997 is 4,116 households which is the lowest since October 1984 when the caseload was 4,101. He said caseload projections were for 4,380 households for July 1997. He said two factors will affect AFDC caseloads--the TEEM project will allow families to retain more earnings and assets and remain eligible longer and the effect of the flood disaster in the Red River Valley on the AFDC caseload.

Mr. Iverson said, regarding employment opportunities, the largest numeric increase in the number of jobs in North Dakota occurred in the services industry. Mr. Iverson said total TANF program funds appropriated for the 1997-99 biennium are \$69.7 million, of which \$52.8 million is federal funds. He said the required annual state maintenance of effort is \$9.7 million, with \$8.5 million of the TANF block grant to be used for foster care and foster care case management. He said the projected rate of expenditures for TANF benefits is \$1.6 million per month beginning July 1997 and increasing to \$1,775,000 per month in November 1998. He said job opportunities and basic skills (JOBS) expenditures are projected to average \$145,000 in July 1997 and increase to \$186,000 by October 1998 while child care funded by the child care development block

grant is projected to cost \$202,000 in July 1997 and increase to \$516,000 by October 1998.

In response to a question from Senator DeMers regarding TANF changes since the 1997 Legislative Assembly, Mr. Iverson said changes have been made for a simplified food stamp program and to base medical assistance eligibility on the AFDC eligibility criteria of July 1996.

In response to a question from Senator Nalewaja, Mr. Iverson said the department's 45-day required comment period on the TANF plan has closed but the department continues to receive comments regarding the TANF plan and its implementation.

In response to a question from Representative Price regarding federal funding of a consultant's welfare reform evaluation, Mr. Iverson said the state has received a \$25,000 planning grant during the 1995-97 biennium, and if selected to receive additional federal funds for a consultant will have sufficient appropriation authority for the 1997-99 biennium. He said a total of approximately \$425,000 of federal funds was appropriated for this purpose.

Senator Thane asked that the Department of Human Services testify at a future meeting regarding the availability and affordability of child care in North Dakota.

In response to a question from Representative Christenson, Mr. Iverson said the 60-month limitation on benefits begins July 1, 1997, and will potentially impact the first clients in July 2002.

Senator DeMers said the child care availability in Grand Forks has been devastated because of the flood. She asked if the Department of Human Services has made any accommodations to restore child care assistance in Grand Forks. Mr. Iverson said the department has allowed waivers of child care rules to assist in provision of child care. Mr. Wayne Anderson, Acting Director, Department of Human Services, said the department has earmarked \$150,000 of the child care block grant for emergency child care services in the Red River Valley. Mr. Anderson said the department is working with a foundation for a major financial investment to assist child care providers in Grand Forks in purchasing replacement equipment and supplies to increase the availability of child care.

Mr. Anderson discussed the department's response to conditions in the Grand Forks area. He said additional funding was requested from the Department of Health and Human Services which may be contained in the disaster relief legislation. He said, in addition, funding has been received from the Federal Emergency Management Association (FEMA) for emergency crisis counseling, with 30 entities under contract providing these counseling services statewide. Mr. Anderson said he could provide the

committee a report on the funding requested from the federal government related to the 1997 flood.

In response to a question from Senator Yockim, Mr. Anderson said the Grand Forks area has experienced significant outmigration, and it is estimated that as many as 15,000 individuals may have relocated to Rolette County from the Grand Forks-East Grand Forks area. He said he does not anticipate that the flooding will keep Grand Forks County from implementing the TANF program. He said Grand Forks County social services lost all of its equipment in the flood and the department has made funding available to replace the equipment which includes computers.

In response to a request from Chairman Yockim, Mr. Iverson said the 20 percent caseload waiver for hardship purposes will not be necessary until July 2002. He said, however, House Bill No. 1226 does provide hardship exemptions for the disability of the caretaker or a family member. He said the state plan also provides an exemption if the age of the primary caretaker is 60 years or older. He said a legislative change may be required to amend the provisions of House Bill No. 1226 to allow for the exemption for aged caretakers.

Senator Thane said he is concerned with the level of private sector involvement in welfare reform and suggested that the committee hear testimony at a future meeting from the Department of Human Services and the Greater North Dakota Association regarding the involvement of the private sector in welfare reform.

Senator Lee said the jobs being developed in the Fargo area are not all minimum wage jobs and that many pay between \$18,000 to \$20,000 per year. She said the job skills and training center, a partnership development between North Dakota State University and the State College of Science, will assist persons in developing the skills necessary to compete for better jobs.

Representative Johnsen said Job Service North Dakota should work with the Greater North Dakota Association as a public/private partnership to assist clients in job placement.

Mr. Anderson said the cooperation must occur at the local level between representatives of Job Service, county social service boards, work force development and local economic development agencies, colleges and universities, and local employers. He said a model program has been developed in southeast North Dakota which could be replicated in other parts of the state. He said 87 percent of North Dakota's AFDC caseload have at least a high school education. He said recipients do have some independence barriers which include child care and health care availability. He said 50 percent of the AFDC caseload has been on assistance seven months or less and the

TEEM program will allow for continued Medicaid coverage after assistance benefits are terminated for a period of 12 months. He said, in addition, medically needy children will be covered under the state's medical assistance program at the poverty level for those children 18 years of age and less and for children below the age of six at 133 percent of the poverty level. He said a potential problem is the lack of health coverage for low-income parents no longer on the TEEM program.

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

Ms. Kathy Hogan, Director, Cass County Social Services, Fargo, testified on the committee's study of welfare reform. She said employers have a responsibility to develop family-friendly employment policies. Ms. Hogan discussed a recent conference in Fargo with representatives of the business community which discussed efforts that could be undertaken to develop family-friendly leave and employment policies.

In response to questions from committee members, Ms. Hogan said the availability of onsite child care is a significant issue in the Fargo area. She said Meritcare has been providing onsite child care since the 1980s.

In response to a question from Senator DeMers, Mr. Iverson said food stamp benefits will be provided through an electronic benefits transfer rather than by a cash payment of benefits. He said as a result there will not be a bundling of benefits providing a single cash payment for assistance and food stamps. He said there will be some duplication in the assistance applications because of the separate rules for food stamps.

Mr. Anderson said federal welfare reform allows states to develop their own TANF program without requiring states to submit waivers. However, he said the separating of the linkage between AFDC and medical assistance eligibility and the prohibition of demonstration projects for the cashout of food stamp benefits are negative aspects of the federal welfare reform. He said the TEEM-Release 3 computer development will be adjusted to include the food stamp simplification automation. He said a computer linkage between the TANF program and medical assistance eligibility will also be developed with approximately \$3 million of additional federal funds. He said the department is aware that counties and clients are upset with the required changes but the department had no choice but to separate the benefit determination for a period of time and then combine the benefit determination when the state implements the TEEM program statewide.

Representative Bernstein said the process will create confusion among all parties, including legislators, county social services, and clients.

Ms. Chelsea Smith, Fargo, representing the People Escaping Poverty Project and an assistance recipient, discussed her family's needs. She said a problem she encounters is the lack of affordable housing and available child care in the Fargo area.

Ms. Krysta Jackson, 11 years old, Fargo, discussed her family's needs for adequate housing.

Ms. Theodora Menge, People Escaping Poverty Project, Fargo, said the main problem with welfare reform is it does not deal with realities. She said employers are not "in tune" with the needs and requirements of a single working parent. She said in Fargo many employers have job opportunities during the second and third shift of the day but day care is lacking at those times. She said single parents need the flexibility in their job to allow them to take their children to medical appointments. She said the problems she encounters are the availability of jobs, transportation, and affordable housing.

Ms. Kris Bjelde, Fargo-Moorhead YWCA, Fargo, discussed how she assists single women in developing employment skills.

Ms. Caryl Penner, People Escaping Poverty Project, Fargo, discussed the child care needs.

Chairman Yockim asked that the committee study plan include the adequacy and availability of child care assistance, the implementation of the TANF program and its effectiveness perspective of the county social service agencies, and the role of the private sector in welfare reform.

Representative Price asked Mr. Iverson if it would be possible for the department to monitor clients that have exited the assistance program. Mr. Iverson said this could be discussed with the evaluation contractor to determine if the evaluation design could include the monitoring of clients on a voluntary basis and the reasons for any client recidivism.

## **STUDY OF INDIAN TRIBAL WELFARE REFORM ISSUES**

The Legislative Council staff presented a background memorandum regarding the committee's study of Indian tribal welfare reform issues directed by Senate Concurrent Resolution No. 4030. The study resolution directs the Legislative Council to study the issues of welfare reform relating to the relationship between the state and the federally recognized Indian tribes. The committee is to solicit input from tribal members, tribal leaders, and tribal government officials interested in state and tribal welfare reform issues.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 allows Indian tribes with an approved tribal family assistance plan to directly receive and administer the TANF block grant funds beginning in fiscal year 1997. The state's

TANF block grant would be reduced by any amount provided directly to a tribe, and in structuring the welfare program, a tribe has the flexibility to establish its own work participation rates and time limits, subject to federal approval. The state, including tribal members, or excluding tribal members if a separate tribal welfare program is approved, is required to meet the federal work participation rates and time limits. One consideration for the state is the state's role in the development, funding, and administration of any tribally administered welfare program. The Act does not require a state to provide financial support for tribal financial assistance plans. Absent any state assistance, tribes would receive their share of the TANF block grant based on the number of eligible recipients. Issues the state and tribal governments need to consider include program coordination, duplication of services, automation and data collection, nontribal members on tribal land, quality control, and tribal contracts with the state for the operation of the programs.

The first tribal TANF plan was approved on May 15, 1997, for the Klamath Tribes in Oregon. Mr. John Bushman, Acting Director of the Division of Tribal Services, United States Department of Health and Human Services, has stressed that intergovernmental cooperation and coordination is essential to welfare reform in Indian country and has encouraged tribes to contact states if they are considering administering a separate tribal TANF program. Federal law requires the federal agency to notify states 90 days prior to the commencement of tribal TANF programs within their jurisdiction. Mr. Bushman said tribes will have a difficult time successfully implementing separate TANF programs without maintaining the state match and a policy has been implemented that will allow states which continue to contribute their historical match for tribal TANF programs to count that expenditure in their TANF maintenance of effort calculation. States are required to continue to spend at least 80 percent of the state's fiscal year 1994 spending on a TANF program.

**It was moved by Senator Fischer, seconded by Representative Christenson, and carried that the committee implement the following study plan:**

- 1. Receive testimony from the Department of Human Services and affected county social service agencies regarding the impact of the tribal members on the state's TANF block grant, including information on the number of recipients on reservations, related potential impact to the state in meeting work participation requirements, program coordination, duplication of services, automation and data collection, nontribal members on tribal land, quality control, and the feasibility of tribal**

- contracts with the state for operation of tribal programs.**
- 2. Receive testimony from tribal governments regarding plans for administration of welfare programs, including the issues of work participation requirements, program coordination, duplication of services, automation and data collection, services to nontribal members on tribal land, and the potential for contracts with the state for operation of tribal programs.**
  - 3. Receive information regarding any changes to the federal requirements for administration of the TANF block grant relating to Indian tribal welfare programs.**
  - 4. Consider inviting Mr. John Bushman, Acting Director, Division of Tribal Services, United States Department of Health and Human Services, to a committee meeting for comments and input regarding the provision of Indian tribal welfare services.**
  - 5. Comments from interested persons regarding the committee's study.**
  - 6. Develop recommendations and any necessary legislation to implement the recommendations.**
  - 7. Prepare a final report for submission to the Legislative Council.**

Senators Yockim, DeMers, Fischer, Stenehjem, and Thane and Representatives Bernstein, Christenson, Johnsen, Kilzer, Niemeier, Price, and Weisz voted "aye." There were no "nay" votes.

In response to questions from committee members, Mr. Anderson said the responsibility for any federal sanctions under a state and tribal administrative contract would be dependent upon the contract but in most cases a tribally administered program would place responsibility for any federal sanctions for failure to meet employment requirements on the tribes. He said states would assume the tribal caseloads in the event that a tribe chose to discontinue its tribal program, but tribes are required to administer programs for a three-year period.

Ms. Deborah Painte, Director, Indian Affairs Commission, testified regarding the committee's study of Indian welfare reform issues. She thanked the committee for the opportunity to comment and provided a brief update regarding the likelihood of tribal governments developing their own assistance programs. She said at this time it is not viable for the Three Affiliated Tribes to develop their own program because of the federal funding being limited to 1994 caseloads and the lack of state matching. She said the Three Affiliated Tribes caseload has increased by 150 households since 1994. She said the Standing Rock Reservation is pursuing the development of its own assistance program, as it has tribal members in

both South Dakota and North Dakota. Ms. Painte said approximately 48 percent of the AFDC caseloads for reservation-based counties are Indian. She said one option would be for a tribal program to be operated by contract with the state which could reduce the risk of penalty or sanction to the state. She urged the committee to support the state funding of the historical state match for assistance programs for tribes to encourage them to operate their own assistance program.

Ms. Painte provided a list of tribal jobs program directors, a copy of which is on file in the Legislative Council office. She suggested these people be invited to future committee meetings for input regarding tribal perspectives. She said a related concern is that county administered programs may not appropriately treat Indian clients or provide adequate geographical access. She said tribal unemployment rates range from 40 to 85 percent and training opportunities are limited as tribal community colleges have limited available federal funds. She said an additional consideration is the affect on surrounding counties if tribal governments run their own assistance program. She said this would result in fewer clients for those counties, increasing the per client administrative cost.

Mr. John Opp, Director, Public Assistance Division, Department of Human Services, provided testimony regarding the committee's study. A copy of his testimony is on file in the Legislative Council office. He said Section 412 of Public Law 104-193 provides for direct funding and allows tribes to administer a family assistance grant program. He said the amount of the federal block grant to be made available to a tribe is based on federal expenditures for fiscal year 1994 for Indian families residing in the service area identified by the tribe. He said if states contribute funds directly to a tribe and the tribe has a broader definition of assistance, the tribe would have to track those funds to assure the funds are spent on tribal families that meet the state's income and resource standards. He said a state may contribute to a tribal plan by making a contribution a part of the state TANF plan which would require tribal families to assign child support rights to the state, cooperate with the state's child support enforcement efforts, and meet the state work requirements. He said the Standing Rock Sioux Tribe has passed a resolution requesting its staff to develop a tribal family assistance plan and the Department of Human Services has agreed to assist the tribal staff in the plan development. He said at this time the other tribes are not interested in developing their own program. He said the department and the tribes have been meeting to develop employment and training programs for tribal recipients which will result in the development of a

memorandum of understanding between the tribes and the department regarding client responsibilities.

In response to a question from Representative Kilzer, Mr. Opp said the tribes can determine at any time to begin their own assistance program, the plan must be operational for three years, and the tribe can then decide to discontinue its program.

In response to questions from committee members, Mr. Opp said the department will provide the committee, at its next meeting, information regarding states that provide state matching for tribal welfare programs. He said the state of South Dakota wants the state matching portion to be paid through federal funding.

The committee discussed the potential for its next meeting which is tentatively set for Thursday and Friday, September 4-5, 1997, in Bismarck with an additional meeting tentatively scheduled in November. Chairman Yockim asked Legislative Council staff to contact Mr. John Bushman to discuss the possibility of his attending a committee meeting in either September or November.

In response to a question from Senator DeMers regarding the change in the food stamp program, a

copy of a letter received from the United States Department of Agriculture denying the use of a waiver for transition to a simplified food stamp program is attached as Appendix "B". Also attached as Appendix "C" is a copy of a Department of Human Services letter regarding the United States Department of Agriculture's denial of food stamp related waivers.

The committee adjourned at 3:26 p.m. subject to the call of the chair.

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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:3