

**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.

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

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

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

- 20           1. The department shall adopt standards for administration for locally administered  
21           economic assistance programs and shall provide training for the implementation of  
22           those standards. Each county social service board shall provide for administration  
23           of locally administered economic assistance programs that meet those standards.  
24           2. If a county social service board fails to provide for administration of locally  
25           administered economic assistance programs that meet the standards adopted  
26           under subsection 1, the department may take any of the following actions:  
27           a. Provide training to the persons responsible for administration.  
28           b. Require the county social service board to prepare and implement a  
29           corrective action plan.  
30           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,

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

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

5 **County duties - Financing in exceptional circumstances.**

- 6 1. Each county social service board shall administer, under the direction and  
7 supervision of the department:
- 8 a. Locally administered economic assistance programs;
  - 9 b. Replacement programs with substantially similar goals, benefits, or objectives;
  - 10 and
  - 11 c. When necessary, experimental, pilot, or transitional programs with
  - 12 substantially similar goals, benefits, or objectives.
- 13 2. On or before February twenty-eighth of each year, each county shall report to the  
14 department the total amount of county funds expended in the previous year to  
15 meet the cost of providing human services required under this title and the number  
16 of mills that must have been levied by that county in the prior year to raise that total  
17 amount. Upon receipt of reports from all counties, the department shall determine  
18 the statewide average of the mill levies and identify each county that levied ten  
19 mills more than that average. Each identified county is entitled to a share of funds  
20 appropriated for distribution under this subsection. Each identified county's share  
21 is determined by:
- 22 a. Reducing its mill levy necessary to meet the costs of providing human  
23 services required under this title by the statewide average mill levy  
24 determined under this subsection plus ten mills;
  - 25 b. Determining the amount that could have been raised in that county and year  
26 through a mill levy in the amount calculated under subdivision a;
  - 27 c. Totaling the amounts determined under subdivision b for all counties entitled  
28 to a distribution;
  - 29 d. Calculating a decimal fraction equal to each identified county's proportionate  
30 share of the total determined under subdivision c; and
  - 31 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.