

2009 HOUSE HUMAN SERVICES

HB 1094

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **1094**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6827 15 min. 4 sec.

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz:** The hearing on HB 1094 will come to order:

**Julie Hoffman, Administrator of Adoption Services for ND Department of Human**

**Services:** Read testimony in support of bill. **See attachment #1.**

**Representative Damschen:** Why was the decision to have the custodian or parents instead of the department .. (inaudible)?

**Julie Hoffman:** They would be the one to have the information. They are asking that a representative of the department have custody of the child.

**Representative Hofstad:** Is it not the practice now of the department to place siblings in the same home? What is your practice?

**Julie Hoffman:** It is our policy to encourage placement of siblings together. Often doesn't happen. May not be a home available for the size of the family.

**Representative Potter:** The legal custody is not the foster parent?

**Julie Hoffman:** County social services places that child into the foster home and then give them the responsibility to care for the child and the county social services are the custodian and foster parent is the caretaker.

**Representative Conrad:** Is additional funds provided to the counties to (in audible).

**Julie Hoffman:** Currently the county social services are providing case management and getting reimbursement for that through Title IV E. No addition costs on social services. The functions are already occurring. The bill is to clarify when notice is to be given and to whom.

**Representative Frantsvog:** Did I hear anything in your testimony about grant funds?

**Julie Hoffman:** There is an opportunity to apply for a federal grant that is specifically called, "Family Connections Grant.

**Representative Fransvog:** If we approve this bill, would we be provided the authority to apply for these grants?

**Julie Hoffman:** No. We felt we need statutory authority to change in order to fully implement in ND, but there are no other provisions in this federal law that we have not address in this bill.

**Representative Hofstad:** In the testimony, you talked about assistance to age 21. Is that a departure from the law right now?

**Julie Hoffman:** Actually, the department does provide foster care for children in after care to age 21 if they opt to. Those are state funds. This bill provides an option for the state to draw down federal funds for ages 18-21 for children who remain in foster care and in adoption assistance if we choose to do that.

**Representative Hofstad:** Why would it not be a benefit to the state if you chose to use federal funds?

**Julie Hoffman:** One position is, if we do draw down federal funds then we do have to apply all of the protection to that age group that the federal government requires and it may increase the numbers that would be still in foster care. It looks like it would be a benefit to the state.

**Chairman Weisz:** Who determines from a federal standpoint if you have done your job in trying to place children? What is going to be the criteria and what happens if the feds say you haven't done enough?

**Julie Hoffman:** The courts would make the determination.

**Chairman Weisz:** Any further questions from the committee. If not, thank you very much. Is anyone else here in support of HB 1094? Any opposition to HB 1094? If not, we will close the hearing on HB 1094.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1094

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6829 1 min. 10 sec.

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz:** Let's take up HB 1094. Maybe you would like to get more information and research something.

**Representative Conrad:** Don't know how I'd like this handled. Don't know how many FTE's.

**Chairman Weisz:** What we will do, I will talk to the county and we won't act on it know. I will talk to Terry and Mark and have them look at it and see if they have any numbers .

We will recess until 9:55 a.m.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HB 1094**

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 7029 15 min. 13 sec.

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz:** Let's take up HB 1094. We don't have an official fiscal note, but have one from the county and they are obviously showing a substantial cost. I had hoped we could have dealt with that bill. We will have to ask for a fiscal note from the department and will probably have to bring the counties in to talk about that issue in further detail. They are showing a substantial impact. For your information on 1094 I feel we can't do anything on that until I get a true fiscal note.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1094

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7492 8 min. 58 sec.

Committee Clerk Signature

*Ticky Crabtree*

Minutes:

**Chairman Weisz:** On HB 1094 you should have a new fiscal note. The county has signed off on the FN and accept that this notification is actually part of the case manager's responsibilities. Already part of and has been their responsibility. While arguing they will be doing extra work, they were suppose to have already been doing it, so they can't argue about the fiscal effect to the counties.

**Rep. Nathe:** They are already being compensated for those (inaudible) correct?

**Chairman Weisz:** We compensate the case management , but they think these are new duties and should get compensated, but has conceded.

**Rep. Conrad:** I asked the question of the department and they didn't think (inaudible) till later (inaudible).

**Chairman Weisz:** No doubt there will be discussion on the floor.

**Rep. Porter** motioned for a DO PASS.

**Rep. Conrad** seconded.

**Roll Call Vote:** 12 yes, 0 no, 1 absent **Rep. Holman**

**Bill Carrier:** **Rep. Damschen**

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/15/2009

Bill/Resolution No.: HB 1094

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This Bill relates to the placement of siblings in foster care and a guardian's duty to exercise due diligence.

The Bill has no fiscal impact.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This Bill brings two new provisions to the counties: the timeline for notification is compressed in accordance with new federal requirements (30 day provision for notification) and the requirement that proof be offered to the court in regard to sibling placement (also a federal requirement). This proof would be offered as additional facts in the legal process that the county participates in as a regular case management activity. Notification of parents and grandparents is already a required case management activity in policy. Thus, these items should not result in additional costs.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

No fiscal impact.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

HB1012 already includes an appropriation to compensate counties for case management activities.

<b>Name:</b>	Debra A. McDermott	<b>Agency:</b>	Human Services
<b>Phone Number:</b>	328-3695	<b>Date Prepared:</b>	01/19/2009



Date: 1-21-09  
Roll Call Vote #:

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1094**

House HUMAN SERVICES Committee

☐ Check here for Conference Committee /

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep Porter Seconded By Rep Conrad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 12 No 0

Absent 1

Bill Carrier Rep. Damschen

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 22, 2009 2:05 p.m.

**Module No: HR-12-0760**  
**Carrier: Damschen**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1094: Human Services Committee (Rep. Welsz, Chairman)** recommends **DO PASS**  
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1094 was placed on the  
Eleventh order on the calendar.

2009 SENATE HUMAN SERVICES

HB 1094

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1094

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 03/09/2009

Recorder Job Number: 10472, 10514

Committee Clerk Signature

*Mary K. Monson*

Minutes:

**Senator Erbele** Opened the hearing on HB 1094.

**Julia Hoffman** Administrator of Adoption Services of the Children and Family Services

Division for the DHS. Introduced HB 1094. See attachment #1.

**Senator Dever** What are the interstate implications of this bill?

**Hoffman** Could you restate that?

**Senator Dever** This has interstate implications because of foster care across state lines.

**Hoffman** The issue here is that the federal government has long supported these policies but they are now putting that in law rather than in policy. This will now be in statute so it will require all states to comply.

**Senator Lee** Sect. 2 in the attachment deals with transitional support, do we have things in current legislation in ND related to that process?

**Hoffman** My understanding is that currently we do have requirements for children transition out. This legislation will add further requirements to that process.

**Senator Lee** My concern is if there is anything we need to do legislatively to help move this forward.

**Hoffman** The few provisions that we have included in the bill are the ones that we identified after reviewing the federal law that we needed to make statutory changes so that we could immediately implement the requirements. There are a couple of options that might require rule or statutory changes that we are still reviewing.

**There was no opposition or neutral testimony given.**

**Chairman J. Lee** Closed the hearing on HB 1094

**Job #10514**

**Senator Erbele** I move **Do Pass**

**Senator Heckaman** Second

The Clerk called the role on the motion to **Do Pass. Yes: 5, No: 0, Absent: 1 (Senator Marcellais)**

**Senator Erbele** will carry the bill.

Date: 3/9/09

Roll Call Vote #: \_\_\_\_\_

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** HB 1094

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Rerefer to Appropriations  
☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Erbele Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Erbele

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
March 10, 2009 8:10 a.m.

**Module No: SR-43-4405**  
**Carrier: Erbele**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1094: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS**  
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1094 was placed on the  
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1094



**HB 1094 – Department of Human Services  
House Human Services Committee  
January 12, 2009**

Chairman Weisz and members of the House Human Services Committee, I am Julie Hoffman, Administrator of Adoption Services for the ND Department of Human Services. Thank you for the opportunity to provide testimony for HB 1094. The Department supports a do pass on HB 1094.

This bill is being introduced at the request of the Department in order to comply with a new federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351) signed into law by President Bush on October 7, 2008. This new piece of federal legislation has been described by national child welfare advocates as being the most significant piece of child welfare legislation in ten years, or since the Adoption and Safe Families Act was passed in 1997. I am attaching a summary of this legislation that will provide a broad overview of the provisions of this law.

In general, this law will help children and youth in foster care by promoting permanent families for them through relative guardianship, adoption and by improving education and health care. It provides an opportunity for Indian Tribes to directly access Title IV-E funding and provides additional supports to older youth by extending federal support for youth in foster care and adoption assistance to age 21.

Some of the provisions of the new federal law are options that the state may or may not implement, some are requirements, and one is a grant opportunity. PL 110-351 provides for varying implementation dates, however, most of the requirements in the law had an immediate implementation date (the date of the President's signature) unless statutory

changes were required. The bill that you have before you addresses a number of requirements in this new legislation that the Department believes require statutory changes in order to fully implement.

Sections One and Two of HB 1094 address the issue of sibling placement in foster care and adoption. By policy, the Department has long supported that siblings should, whenever possible, be placed together when they are removed from their parental home. These sections would amend NDCC 27-20 to require a finding by the court of reasonable efforts to place siblings together, both at the point of a dispositional hearing and at the yearly permanency hearing. This finding would require the custodian to make reasonable efforts to place siblings removed from their parental home in the same foster care, relative, guardianship or adoptive home unless it was determined that it is contrary to their safety or well-being. It would also require the court to find, for those siblings not able to be placed together with their siblings, that reasonable efforts had been made to provide for frequent visitation and other ongoing interaction between the siblings. The emphasis is on maintaining connections between siblings who have been removed from the care of their birth families and placed into foster and/or adoptive care.

Section Three is a notice provision. This section requires the legal custodian of a child removed from his or her parents, to provide notice to certain parties within 30 days of the child's removal. Specifically, it requires notice to all parents and grandparents, and any other relative the parents or grandparents identify. An exception is made for documented family or domestic violence. The notice requirement also specifies what information must be provided in the notice and includes:

- That the child has been removed from the custody of the parent;

- What options the relative has under federal, state and local law to participate in the care and placement of the child, and what options may be lost by not responding;
- Describes the requirements to become licensed to provide foster care, and what supports are available for children placed in the home; and
- Describes how the relative may enter into an agreement to receive a subsidized guardianship payment.

The federal law does not define a relative for the purposes of this notice provision, but left that to the states. In this bill, we drafted the definition of relative for the purpose of notice narrowly so as to make this doable for the legal custodian, while still maintaining the intent of the law. The federal law did specify the contents of the notice as detailed in this bill.

Section Four of the bill will allow the Department to approve the placement of a sibling group of more than four children to be placed together into one foster home, even when there are other foster children placed in that home. Currently, a custodial agency could not place a sibling group into a foster home that already had a child or children in placement, if the total number of children were more than four. This would allow the Department to make an exception in that rare circumstance and positively impact our ability to place siblings together in the same home.

The Department supports a do pass on HB 1094. Thank you for your time today and I would be happy to try to answer any questions you might have.

## **Fostering Connections to Success and Increasing Adoptions Act (PL 110-351) Summary**

The Fostering Connections to Success and Increasing Adoptions Act (originated as H.R. 6893 and is now PL 110-351) will help hundreds of thousands of children and youth in foster care by promoting permanent families for them through relative guardianship and adoption and improving education and health care. In addition, the bill provides, for the first time, many American Indian children access to important federal protections and support. The bill also provides additional supports to older youth who reach the age of majority without a permanent family by extending federal support for youth to age 21.

H.R. 6893 was approved by the U.S. House of Representatives on September 17, the Senate on September 22, 2008 and was signed by the President on October 7, 2008.

- 1. Connecting and Supporting Relative Caregivers – H.R. 6893 will help more vulnerable children who are in foster care or at risk of entering foster care stay connected with relatives through the following supports:**
  - Federal subsidized guardianship program - offers federal support to children who leave foster care to live permanently with relative guardians. In order to be eligible, the child must be in the care of the relative caregiver who is a licensed foster parent for a period of at least six months, and the state must document why adoption or reunification is not appropriate for the child. Children fourteen and older must be consulted about the kinship guardianship arrangement and siblings may be placed in the same home and receive support even if some of them are not otherwise eligible. Kinship guardianship payments cannot exceed foster care maintenance payments. In addition, the state must provide post permanency supports including medical care for the child, and payment of nonrecurring expenses related to obtaining legal guardianship. Payments may continue, at state option, until age 21 (or age 19 or 20) if the guardianship agreement was entered into when the child was age 16 or older;
  - Notice Requirement – states must provide relatives notice when children are removed from their parents' homes, giving them an early opportunity to be involved in caring for the children. States must "exercise due diligence" to identify and provide notice to all adult grandparents and other relatives within 30 days after the removal of a child from the parent's custody (subject to exceptions for family or domestic violence);
  - Kinship Navigator programs to help relatives connect the children with the services and supports they need. H.R. 6893 provides \$15 million for each fiscal year (2009-2013) for a competitive grant program for "family connection grants" that can be used for any of four purposes including a kinship navigator program – of which \$5 million is reserved for such purposes. The remaining \$10 million can be used for navigators, intensive family finding, FGDM, or residential family treatment programs.

- Separate Licensing Standards - takes steps to address non-safety licensing requirements that create barriers to children living with relatives in foster care. H.R. 6893 codifies existing HHS guidance allowing states to waive certain non-safety related licensing standards on a case-by-case basis. These standards include things like square footage requirements and minimum numbers of bedrooms or bathrooms per person. It also requires the Department of Health and Human Services (HHS) to submit a report to Congress within two years that examines state licensing standards, states' use of case-by-case waivers, and the effect of the waivers on children in foster care, reviews the reasons relative foster family homes may not be able to be licensed, and recommends administrative or legislative actions to allow more children to be safely placed in foster care and be eligible for federal support.

2. **Provides Additional Support to Older Youth and Increase Their Opportunities for Success by:**

- Continuing federal support for children in foster care after age 18 H.R. 6893 allows states, at their option, to provide care and support to youth in foster care until the age of 19, 20, or 21, provided that the youth is 1) completing high school or an equivalency program; 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity designed to promote, or remove barriers to, employment; 4) employed for at least 80 hours per month; or 5) incapable of doing any of these activities due to a medical condition. The protections and requirements currently in place for younger children in foster care would continue to apply for youth ages 18-21. These youth could be placed in a supervised setting in which they are living independently, as well as in a foster family home or group home. States could also extend adoption assistance and/or guardianship payments on behalf of youth ages 19, 20, or 21.
- Helping older youth successfully transition from foster care to independence H.R. 6893 requires child welfare agencies to help youth make this transition to adulthood by requiring, during the 90-day period immediately before a youth exits from care at 18, 19, 20, or 21, the development of a personalized transition plan that identifies options for housing, health insurance, education, local opportunities for mentoring, continuing support services, work force supports and employment services.

3. **Grants Tribes Direct IV-E Access** - The bill ensures that Indian tribes have direct access to IV-E funded programs, including the foster care and adoption program as well as the newly proposed Child and Family Services Program, Subsidized Guardianship Program and Permanency Incentive Program. The bill also provides financial resources directly to Indian tribes to provide technical assistance and start up costs associated with implementation. G

4. **Improves Education Outcomes for Children Who Live in Out-Of-Home Care** - by I

improving educational stability and ensuring seamless educational transitions for children and youth when school changes do occur through the following:

- Improves educational stability for children and youth in foster care by requiring states to - ensure that placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement. H.R. 6893 also requires that the state child welfare agency coordinate with schools to ensure that child remains in the school in which the child is enrolled at the time of placement as long as it is in the child's best interest. In addition, the bill increases the amount of federal funding that may be used to cover education-related transportation costs for children in foster care.
  - Promotes seamless educational transitions for children and youth when school changes do occur by requiring states to - ensure that, in cases where remaining in the child's school is not in his or her best interest, the child is immediately enrolled in a new school and that the child's educational records are provided to the new school.
  - Provides for required educational attendance by requiring the state to ensure that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled as a full-time elementary or secondary school student or has completed secondary school.
5. **Promotes Coordinated Health Care for Children in Out-of-Home Care** - requires that states develop a plan for the oversight and coordination of health, mental health, and dental services for children in foster care. The plan must include an outline of how the state will schedule and conduct health screenings, how health needs identified through such screenings will be treated, how medical information will be updated and appropriately shared, ensure continuity of services, and provide oversight of prescription medications.
6. **Expands and Improves Adoption Assistance Programs –**
- De-links a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements. The expansion of children eligible for federal adoption assistance payments will be phased in over nine years, with older children and those who have spent at least 60 consecutive months in care, and their siblings, being eligible first. As children are phased-in, those children with special needs who are involuntarily or voluntarily placed with or relinquished to the care of a licensed private child placement agency or Indian tribal organization, as well as those in the care of public state or local agencies, will also be eligible for adoption assistance. Children who are eligible for SSI, based solely on the medical and disability requirements, would automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. *Requires that savings resulting from these new Title IV-E eligibility rules must be re-*

*invested in services (including post-adoption services) provided under Parts B and E of Title IV of the Social Security Act.*

- Expands the Adoption Incentives Program - to promote the adoption of children from foster care. It renews the Adoption Incentive Grant Program for an additional five years, updates to FY 2007 the adoption baseline above which incentive payments are made, doubles the incentive payments for adoptions of children with special needs and older children adoptions, and gives states 24 months to use the adoption incentive payments. H.R. 6893 also permits states to receive an additional payment if the state's adoption rate exceeds its highest recorded foster child adoption rate since 2002.
  - Makes older children adopted from foster care eligible for additional supports. Children 16 and older adopted (or who leave to legal guardianship with a relative) from foster care eligible for independent living services and for education and training vouchers.
  - Improves Outreach About the Adoption Tax Credit. The Act helps to ensure that children in foster care benefit from the adoption tax credit. Research shows that the majority of taxpayers taking advantage of the federal adoption tax credit had not adopted through public child welfare agencies but, rather, through private agencies or attorneys. H.R. 6893 requires states to inform all people who are adopting or are known to be considering adopting a child in the custody of the state that they are potentially eligible for the adoption tax credit.
7. **Improves the Child Welfare Workforce** – H.R. 6893 allows states to be reimbursed for training provided to an expanded group of individuals and organizations including kinship caregivers, court personnel, CASA's, and non-agency workers providing child welfare services. States will be reimbursed for providing such training at 55% for FY09, 60% for FY10, 70% for FY11 and 75% for expenditures thereafter.

**TESTIMONY**  
**House Bill 1094 – Department of Human Services**  
**Senate Human Services Committee**  
**March 9, 2009**

Senator Lee, Chairman and members of the Senate Human Services Committee, I am Julie Hoffman, Administrator of Adoption Services of the Children and Family Services Division for the Department of Human Services. Thank you for the opportunity to provide testimony for HB 1094.

This bill is being introduced at the request of the Department in order to comply with a new federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351), signed into law by President Bush on October 7, 2008. This new piece of federal legislation has been described by national child welfare advocates as being the most significant piece of child welfare legislation in ten years, or since the Adoption and Safe Families Act was passed in 1997. I am attaching a summary of this legislation that will provide a broad overview of the provisions of this law.

In general, this law will help children and youth in foster care by promoting permanent families for them through relative guardianship, adoption, and by improving education and health care. It provides an opportunity for Indian tribes to directly access Title IV-E funding, and provides additional supports to older youth by extending federal support for youth in foster care and adoption assistance to age 21.

Some of the provisions of the new federal law are options that the state may or may not implement, some are requirements, and one is a grant opportunity. Public Law 110-351 provides for varying implementation



dates; however, most of the requirements in the law had an immediate implementation date (the date of the President's signature) unless statutory changes were required. The bill that you have before you addresses a number of requirements in this new legislation that the Department believes require statutory changes in order to fully implement.

Sections 1 and 2 of HB 1094 address the issue of sibling placement in foster care and adoption. By policy, the Department has long supported that siblings should, whenever possible, be placed together when they are removed from their parental home. These sections would amend N.D.C.C. Ch. 27-20 to require a finding by the court of reasonable efforts to place siblings together, both at the point of a dispositional hearing and at the yearly permanency hearing. This finding would require the custodian to make reasonable efforts to place siblings removed from their parental home in the same foster care, relative, guardianship, or adoptive home unless it was determined that it is contrary to their safety or well-being. It would also require the court to find, for those siblings not able to be placed together with their siblings, that reasonable efforts had been made to provide for frequent visitation and other ongoing interaction between the siblings. The emphasis is on maintaining connections between siblings who have been removed from the care of their birth families and placed into foster or adoptive care.

Section 3 is a notice provision. This section requires the legal custodian of a child removed from his or her parents to provide notice to certain parties within thirty days of the child's removal. Specifically, it requires notice to all parents and grandparents, and any other relative the parents or grandparents identify. An exception is made for documented family or

domestic violence. The notice requirement also specifies what information must be provided in the notice and includes:

- That the child has been removed from the custody of the parent;
- What options the relative has under federal, state, and local law to participate in the care and placement of the child, and what options may be lost by not responding;
- Describes the requirements to become licensed to provide foster care, and what supports are available for children placed in the home; and
- Describes how the relative may enter into an agreement to receive a subsidized guardianship payment.

The federal law does not define a relative for the purposes of this notice provision but left that to the states. In this bill, we drafted the definition of relative for the purpose of notice narrowly so as to make this doable for the legal custodian, while still maintaining the intent of the law. The federal law did specify the contents of the notice as detailed in this bill.

Section 4 of the bill will allow the Department to approve the placement of a sibling group or more than four children to be placed together into one foster home, even when there are other foster children placed in that home. Currently a custodial agency could not place a sibling group into a foster home that already had a child or children in placement, if the total number of children was more than four. This would allow the Department to make an exception in the rare circumstance and positively impact our ability to place siblings together in the same home.

The Department supports a do pass on HB 1094. Thank you for your time today and I would be happy to try to answer any questions you have.

## **Fostering Connections to Success and Increasing Adoptions Act (H.R.6893)**

### **Summary**

The Fostering Connections to Success and Increasing Adoptions Act (H.R. 6893) will help hundreds of thousands of children and youth in foster care by promoting permanent families for them through relative guardianship and adoption and improving education and health care. In addition, the bill provides, for the first time, many American Indian children access to important federal protections and support. The bill also provides additional supports to older youth who reach the age of majority without a permanent family by extending federal support for youth to age 21.

H.R. 6893 was approved by the U.S. House of Representatives on September 17, the Senate on September 22, 2008 and now awaits the President's signature.

#### **1. Connecting and Supporting Relative Caregivers – H.R. 6893 will help more vulnerable children who are in foster care or at risk of entering foster care stay connected with relatives through the following supports:**

- Federal subsidized guardianship program - offers federal support to children who leave foster care to live permanently with relative guardians. In order to be eligible, the child must be in the care of the relative caregiver who is a licensed foster parent for a period of at least six months, and the state must document why adoption or reunification is not appropriate for the child. Children fourteen and older must be consulted about the kinship guardianship arrangement and siblings may be placed in the same home and receive support even if some of them are not otherwise eligible. Kinship guardianship payments cannot exceed foster care maintenance payments. In addition, the state must provide post permanency supports including medical care for the child, and payment of nonrecurring expenses related to obtaining legal guardianship. Payments may continue, at state option, until age 21 (or age 19 or 20) if the guardianship agreement was entered into when the child was age 16 or older;
- Notice Requirement – states must provide relatives notice when children are removed from their parents' homes, giving them an early opportunity to be involved in caring for the children. States must "exercise due diligence" to identify and provide notice to all adult grandparents and other relatives within 30 days after the removal of a child from the parent's custody (subject to exceptions for family or domestic violence);
- Kinship Navigator programs to help relatives connect the children with the services and supports they need. H.R. 6893 provides \$15 million for each fiscal year (2009-2013) for a competitive grant program for "family connection grants" that can be used for any of four purposes including a kinship navigator program – of which \$5 million is reserved for such purposes. The remaining \$10 million can be used for navigators, intensive family finding, FGDM, or residential family treatment programs.
- Separate Licensing Standards - takes steps to address non-safety licensing requirements that create barriers to children living with relatives in foster care. H.R. 6893 codifies existing HHS guidance allowing states to waive certain non-safety

related licensing standards on a case-by-case basis. These standards include things like square footage requirements and minimum numbers of bedrooms or bathrooms per person. It also requires the Department of Health and Human Services (HHS) to submit a report to Congress within two years that examines state licensing standards, states' use of case-by-case waivers, and the effect of the waivers on children in foster care, reviews the reasons relative foster family homes may not be able to be licensed, and recommends administrative or legislative actions to allow more children to be safely placed in foster care and be eligible for federal support.

**2. Provides Additional Support to Older Youth and Increase Their Opportunities for Success by:**

- Continuing federal support for children in foster care after age 18 H.R. 6893 allows states, at their option, to provide care and support to youth in foster care until the age of 19, 20, or 21, provided that the youth is 1) completing high school or an equivalency program; 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity designed to promote, or remove barriers to, employment; 4) employed for at least 80 hours per month; or 5) incapable of doing any of these activities due to a medical condition. The protections and requirements currently in place for younger children in foster care would continue to apply for youth ages 18-21. These youth could be placed in a supervised setting in which they are living independently, as well as in a foster family home or group home. States could also extend adoption assistance and/or guardianship payments on behalf of youth ages 19, 20, or 21.
- Helping older youth successfully transition from foster care to independence H.R. 6893 requires child welfare agencies to help youth make this transition to adulthood by requiring, during the 90-day period immediately before a youth exits from care at 18, 19, 20, or 21, the development of a personalized transition plan that identifies options for housing, health insurance, education, local opportunities for mentoring, continuing support services, work force supports and employment services.

**3. Grants Tribes Direct IV-E Access** - The bill ensures that Indian tribes have direct access to IV-E funded programs, including the foster care and adoption program as well as the newly proposed Child and Family Services Program, Subsidized Guardianship Program and Permanency Incentive Program. The bill also provides financial resources directly to Indian tribes to provide technical assistance and start up costs associated with implementation.

**4. Improves Education Outcomes for Children Who Live in Out-Of-Home Care** - by improving educational stability and ensuring seamless educational transitions for children and youth when school changes do occur through the following:

- Improves educational stability for children and youth in foster care by requiring states to - ensure that placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in

which the child is enrolled at the time of placement. H.R. 6893 also requires that the state child welfare agency coordinate with schools to ensure that child remains in the school in which the child is enrolled at the time of placement as long as it is in the child's best interest. In addition, the bill increases the amount of federal funding that may be used to cover education-related transportation costs for children in foster care.

- Promotes seamless educational transitions for children and youth when school changes do occur by requiring states to - ensure that, in cases where remaining in the child's school is not in his or her best interest, the child is immediately enrolled in a new school and that the child's educational records are provided to the new school.
  - Provides for required educational attendance by requiring the state to ensure that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled as a full-time elementary or secondary school student or has completed secondary school.
5. **Promotes Coordinated Health Care for Children in Out-of-Home Care** - requires that states develop a plan for the oversight and coordination of health, mental health, and dental services for children in foster care. The plan must include an outline of how the state will schedule and conduct health screenings, how health needs identified through such screenings will be treated, how medical information will be updated and appropriately shared, ensure continuity of services, and provide oversight of prescription medications.
6. **Expands and Improves Adoption Assistance Programs** --
- De-links a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements. The expansion of children eligible for federal adoption assistance payments will be phased in over nine years, with older children and those who have spent at least 60 consecutive months in care, and their siblings, being eligible first. As children are phased-in, those children with special needs who are involuntarily or voluntarily placed with or relinquished to the care of a licensed private child placement agency or Indian tribal organization, as well as those in the care of public state or local agencies, will also be eligible for adoption assistance. Children who are eligible for SSI, based solely on the medical and disability requirements, would automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. *Requires that savings resulting from these new Title IV-E eligibility rules must be re-invested in services (including post-adoption services) provided under Parts B and E of Title IV of the Social Security Act.*
  - Expands the Adoption Incentives Program - to promote the adoption of children from foster care. It renews the Adoption Incentive Grant Program for an additional five years, updates to FY 2007 the adoption baseline above which incentive payments are made, doubles the incentive payments for adoptions of children with special needs and older children adoptions, and gives states 24 months to use the adoption incentive payments. H.R. 6893 also permits states to receive an additional payment if the

state's adoption rate exceeds its highest recorded foster child adoption rate since 2002.

- Makes older children adopted from foster care eligible for additional supports. Children 16 and older adopted (or who leave to legal guardianship with a relative) from foster care eligible for independent living services and for education and training vouchers.
- Improves Outreach About the Adoption Tax Credit. The Act helps to ensure that children in foster care benefit from the adoption tax credit. Research shows that the majority of taxpayers taking advantage of the federal adoption tax credit had not adopted through public child welfare agencies but, rather, through private agencies or attorneys. H.R. 6893 requires states to inform all people who are adopting or are known to be considering adopting a child in the custody of the state that they are potentially eligible for the adoption tax credit.

7. **Improves the Child Welfare Workforce** – H.R. 6893 allows states to be reimbursed for training provided to an expanded group of individuals and organizations including kinship caregivers, court personnel, CASA's, and non-agency workers providing child welfare services. States will be reimbursed for providing such training at 55% for FY09, 60% for FY10, 70% for FY11 and 75% for expenditures thereafter.