

## STUDY OF WELFARE REFORM ISSUES RELATED TO THE STATE AND INDIAN TRIBES

### STUDY DIRECTIVE

Senate Concurrent Resolution No. 4030 directs the Legislative Council to study the issues of welfare reform relating to the relationship between the state and the federally recognized Indian tribes within the state. The committee, in conducting its study, is to solicit input from tribal members, tribal leaders, and tribal government officials interested in state and tribal welfare reform issues.

The resolution states:

- The recently enacted Personal Responsibility and Work Opportunity Reconciliation Act of 1996 reforms the welfare system, provides block grants to the states that are available to federally recognized Indian tribes, at a tribe's option, and includes strict work requirements and time limits for assistance recipients;
- Although members of federally recognized Indian tribes represent less than six percent of the population of North Dakota, approximately 25 percent of the welfare caseload in the state is tribal members on reservations;
- Tribal economies have not been as strong as the economy of the rest of the state, which will make compliance with the work participation requirements more difficult to achieve on the reservations; and
- The federally recognized tribes in the state are undecided as to whether to apply for state and federal block grants to administer their own assistance program and are unsure of the role the state should play in the development, funding, and administration of a tribally administered welfare program.

Attached as an appendix is a copy of Senate Concurrent Resolution No. 4030.

### **Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193)**

As discussed in the background memorandum regarding the monitoring of welfare reform and the state's implementation of the temporary assistance for needy families (TANF) block grant, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 became law in August 1996. The Act provides for substantial welfare reform, including a TANF block grant. The Act allows Indian tribes with

an approved tribal family assistance plan to directly receive and administer the TANF block grant funds for a tribal welfare program beginning in fiscal year 1997. The state's TANF block grant would be reduced by any amount provided directly to a tribe. In structuring a 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.

The Act provides for the following work participation rates for families on assistance:

Fiscal year 1997	25 percent
Fiscal year 1998	30 percent
Fiscal year 1999	35 percent
Fiscal year 2000	40 percent
Fiscal year 2001	45 percent
Fiscal year 2002 and beyond	50 percent

The Act requires participants to work a minimum number of hours per week to count toward meeting the state's work participation rate. The minimum number of work hours required is 20 per week for fiscal years 1997 and 1998, 25 hours for fiscal year 1999, and 30 hours for fiscal year 2000 and beyond.

States will be sanctioned by a grant reduction of five percent the first year it fails to meet the work participation rates, and if the state continues to fail to meet the requirements, penalties increase by two percent each year to a maximum of 21 percent of the grant. Penalties can be reduced for good cause, such as a recession.

A consideration for the state is the state's role, if any, 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 family assistance plans. Absent any state assistance, tribes would receive their share of the TANF block grant based on the number of eligible recipients.

State and tribal governments will need to consider several related issues, including program coordination, duplication of services, automation and data collection, nontribal members on tribal land, quality control, and tribal contracts with the state for operation of tribal programs.

## **CURRENT DEVELOPMENTS REGARDING TRIBAL WELFARE PLANS**

The Department of Health and Human Services approved the first tribal TANF plan on May 15, 1997, for the Klamath Tribes family assistance plan in Oregon. At a recent National Conference of State Legislatures meeting, Mr. John Bushman, Acting Director of the Division of Tribal Services, United States Department of Health and Human Services, stressed that intergovernmental cooperation and coordination is essential to welfare reform in Indian country and encouraged tribes contact states if they are considering administering a separate tribal TANF program. Five tribes have submitted separate TANF plans (two in Oklahoma, two in Wisconsin, and one in Oregon). Federal law requires the Department of Health and Human Services 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 a state match. He said the Department of Health and Human Services is considering a policy 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 spend at least 80 percent of the state's fiscal year 1994 spending on aid to families with dependent children, job opportunities and basic skills, related child care, and emergency assistance.

Mr. Bushman said if tribes do not establish separate TANF programs, states will need to include tribal members on assistance in calculations for determining on a statewide basis work participation rates. As mentioned earlier, if tribes operate their own TANF program they have the potential opportunity to establish their own work participation rates, subject to approval of the Department of Health and Human Services, to meet tribal needs and economies.

## **PROPOSED STUDY PLAN**

The following is a proposed study plan the committee may want to consider in its study of

welfare reform issues related to the state and Indian tribes:

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.

ATTACH:1

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

**SENATE CONCURRENT RESOLUTION NO. 4030**  
(Senators DeMers, Kinnoin, Traynor)  
(Representatives Christopherson, D. Johnson, Kerzman)

A concurrent resolution directing the Legislative Council to study the issues of welfare reform as they relate to the relationship between the state and the federally recognized Indian tribes within the state.

**WHEREAS**, Congress has enacted Public Law 104-193, which substantially reforms the welfare system and which includes block grants to the states and to federally recognized Indian tribes, if the tribes so choose, along with strict work requirements for recipients of public assistance and time limits for recipients of public assistance; and

**WHEREAS**, members of federally recognized Indian tribes represent less than six percent of the population of the state; however, approximately 25 percent of the welfare caseload of the state is tribal members who live on reservations; and

**WHEREAS**, tribal economies have not been as strong as the economy of the remainder of the state which will make compliance with the work participation rate requirements of the welfare reform legislation more difficult to achieve on the reservations; and

**WHEREAS**, the federally recognized tribes in the state are undecided as to whether to apply for state and federal block grants that would allow the tribes to design and administer their own welfare system; and

**WHEREAS**, the federally recognized tribes in the state are unsure as to the role the state should play, if any, in the development, funding, and administration of a tribally administered welfare program; and

**WHEREAS**, the federally recognized tribes in the state desire to engage in constructive dialogue with the state regarding welfare reform issues of mutual concern;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

That the Legislative Council study the issues of welfare reform as they relate to the relationship between the state and the federally recognized Indian tribes within the state; and

**BE IT FURTHER RESOLVED**, that the Legislative Council, in conducting its study, shall solicit input from tribal members, tribal leaders, and tribal government officials interested in state and tribal welfare reform issues; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 20, 1997