

July 1999

STUDY OF WELFARE REFORM ISSUES

STUDY DIRECTIVES

Senate Concurrent Resolution No. 4036 directs the Legislative Council to study the operation of the temporary assistance for needy families (TANF) program in North Dakota as it relates to the relationship between the state and the federally recognized Indian tribes in the state. In addition, Sections 3 and 4 of Senate Bill No. 2114 require the Department of Human Services to report periodically to the Legislative Council regarding the progress of any negotiation with any tribal government to establish a pilot project for administration of a tribal family assistance grant and require a study of the implementation of the TANF program. In addition, the committee has been assigned:

- Responsibility to approve termination of any waiver obtained by the Department of Human Services for the training, education, employment, and management (TEEM) program (North Dakota Century Code (NDCC) Section 50-06-01.8).
- Responsibility regarding approval of revised administration of the TANF program (NDCC Section 50-09-29).
- Responsibility to receive periodic reports from the Department of Human Services on the progress in its efforts to determine the most reliable current data concerning the proportion of unemployed adults living in Indian country (Section 6 of Senate Bill No. 2114).
- Responsibility to receive in August 2000 a report from the Department of Human Services on the progress in implementing child support income withholding through the state disbursement unit (Section 4 of House Bill No. 1121).

Senate Concurrent Resolution No. 4036

This resolution, a copy of which is attached as Appendix A, provides for a Legislative Council study of the TANF program and its relationship between the state and the federally recognized Indian tribes. The resolution states as reasons for the study:

- Potential state flexibility in the design of a tribal TANF program.
- The TANF program requires recipients of assistance to meet work requirements and limits the number of months an adult may receive assistance.
- An increasing percentage of recipients of assistance under the TANF block grant in

North Dakota are members of a federally recognized Indian tribe.

- Indian reservations are located in rural areas of the state and are economically depressed, with unemployment rates approaching 60 percent.
- While federal law requires states to disregard months of assistance received by an adult while living on the Indian reservation with at least 50 percent unemployment, uncertainty exists relating to the determination of unemployment rate statistics.
- The effective coordination and cooperation between the state, tribes, and local governments are critical to the success of welfare, job and work force training, and economic development programs.

The study requires:

- An evaluation of the impact of the TANF program on federally recognized Indian tribes.
- An evaluation of the use of Bureau of Indian Affairs unemployment rate statistics as it relates to possible exemption from the state's lifetime limit under the TANF program.
- A review of the Department of Human Services process for receiving input from local governments and the Indian tribes.
- A study of state-sponsored economic development, job training, and work force training programs coordination between the state and the Indian tribes.
- Consideration of the impact of tribal sovereignty on economic development and the implementation of the TANF program in areas under the jurisdiction of Indian tribes.
- Input from members of the Indian tribes within the state and from officials of the government of those Indian tribes.

Senate Bill No. 2114

Senate Bill No. 2114, a copy of which is attached as Appendix B, provides for the following statutory changes, legislative intent, and study directives relating to the TANF program:

1. Section 1 removes the statutory reference to a 65 to 1 caseload ratio (NDCC Section 50-01.2-00.1).
2. Section 2 expands the 20 percent caseload exemption from the 60-month benefit limitation to include "other hardship" in addition to mental or physical disability, allows the department to consider exempting funds in individual development accounts, removes

the requirement that the department sanction parents who, without good cause, fail to ensure dependent minor children attend school, and allows the department to determine the unemployment rate of adults living on an Indian reservation by using the unemployment data provided by Job Service North Dakota (NDCC Section 50-09-29(1)).

3. Section 3 provides legislative intent that the Department of Human Services negotiate with a tribal government to establish a pilot project to begin operation no sooner than July 1, 2001, under which the tribal government will secure direct funding for the administration of the tribal family assistance grant from the United States Department of Health and Human Services, and the state will participate in cash or in-kind in the cost of providing services, provided:
 - a. All components of the program be administered by the Department of Human Services, county social service board, contracts with the Department of Human Services or any combination thereof;
 - b. Interagency agreements between the department and other state or federal agencies will be honored by the tribe to the extent the Department of Human Services requires county social service boards to honor those agreements;
 - c. Annual funding contributed by the state is limited to the fiscal year 1994 nonfederal cost per case for each tribal case (calculated by dividing the nonfederal share of state expenditures for the 12 months ending September 30, 1994, by the monthly average number of filing units receiving benefits during that period and multiplying the result times the number of filing units on April 1, 1999, for persons who are enrolled members of a tribe and live in Indian country within a North Dakota county that also includes Indian reservation lands);
 - d. The state's financial participation in the pilot project will be terminated upon breach of the negotiated agreement; and
 - e. The department shall report periodically on the progress of any negotiations.
4. Section 4 directs a Legislative Council study of the implementation of the TANF program, the effectiveness of that program in accomplishing welfare reform, and the need for continuing legislative monitoring. The study may address the proportion of adults living in Indian country who are employed and the efforts of the department to negotiate a pilot project under which the state would participate in the cost of providing services.

5. Section 5, also assigned to the committee, requires the department to report on the progress in its efforts to determine the most reliable current data concerning the proportion of adults living in Indian country who are unemployed.

1999 House Bill No. 1121

Section 4 of House Bill No. 1121 requires the Department of Human Services to report on the progress of the implementation of the Act to a designated Legislative Council interim committee between August 1, 2000, and August 31, 2000. Attached as Appendix C is a copy of House Bill No. 1121.

House Bill No. 1121 provides for the following statutory changes:

- Section 14-09-08.1 is amended to provide that effective July 1, 1999, the clerk of court rather than the state disbursement unit is to send notice of arrears whenever there is failure to make child support payments.
- Section 14-09-09.29 is amended to provide that the clerks of court shall maintain responsibility for the administration of income withholding for other than Title IV-D cases. This change is effective through January 15, 2001, and after that date, the state assumes responsibility for administration of income withholding for **all** child support cases.

Other Statutory Responsibilities

The committee also has the responsibility to consider requests by the Department of Human Services, subject to the approval of the Legislative Council, to:

- Terminate any waiver obtained by the department for the training, education, employment, and management (TEEM) program or the demonstration project to combine the benefits under the aid to families with dependent children (AFDC), TANF, fuel assistance, and food stamp programs (NDCC Section 50-06-01.8).
- Change the TANF program if there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in required work activities or if the administration of the program causes otherwise eligible individuals to become a charge upon the counties under Chapter 50-01. These provisions are in Section 50-09-29(5)(6).

The committee's responsibility related to any requests would be to make a recommendation to the Legislative Council. Attached as Appendix D is a copy of Sections 50-06-01.8 and 50-09-29(5)(6).

PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996 (PUBLIC LAW 104-193)

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 became law in August 1996. The Act provided for substantial welfare reform, including a TANF block grant.

TANF Block Grant

The TANF block grant replaces the AFDC program, allows the state to develop its assistance program, and provides North Dakota approximately \$26.4 million annually. The block grant:

- Includes a 15 percent cap on state administrative costs.
- Requires that the legislature appropriate the state's block grant funds.
- Requires an 80 percent maintenance of effort based on state spending for fiscal year 1994 (approximately \$9.7 million per year). (During the 1997-99 biennium, the state plans to spend \$47.2 million of federal TANF funds and \$19.3 million of state maintenance-of-effort funds, for a total of \$66.5 million.)
- Allows transfers of block grant moneys up to 30 percent to the social services block grant and up to 10 percent to the child care block grant.
- Requires client work participation.
- Provides for sanctions and penalties against states for failing to meet work participation rates.
- Requires states to implement child support enforcement requirements.
- Limits individual receipt of welfare benefits to a five-year time period.

Tribal TANF Considerations

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. Each tribe's share is based on the relative share of the state's TANF caseload to be served by the tribe. 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.

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 only their share of the TANF block grant based on the number of eligible recipients to be served by the tribal TANF program.

Several issues state and tribal governments will need to consider related to the establishment of a

tribal TANF program include program coordination, duplication of services, automation and data collection, services for nontribal members on tribal land, quality control, and tribal contracts with the state for operation of tribal programs.

Work Participation Requirements - Sanctions

The Act requires the state to meet the following work participation requirements for recipients 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 in meeting the state's work participation rate. The minimum number of work hours required is 20 hours per week for fiscal years 1997 and 1998, 25 hours per week for fiscal year 1999, and 30 hours per week for fiscal year 2000 and beyond. These work participation requirements can be reduced if the state experiences a significant caseload reduction.

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 an economic recession.

1997-98 WELFARE REFORM COMMITTEE STUDY

The 1997-98 Welfare Reform Committee monitored welfare reform implementation and tribal welfare reform issues. The following is a summary of information provided to the committee regarding the status of the TEEM project, economic assistance caseloads and expenditures, and maintenance of efforts requirements.

Welfare Reform Status Reports and Monitoring

TEEM Project

The TEEM project is a North Dakota welfare reform project funded by the TANF block grant program and is to emphasize employment as a means of attaining self-sufficiency, strengthen the family structure, and emphasize the responsibility of both parents by improving child support collections.

The committee learned:

- The TEEM project was approved as a waiver project by federal agencies on September 28, 1995. In May 1997 the department submitted the state's TANF plan to the United States

Department of Health and Human Services. The plan received federal approval on June 26, 1997, and program implementation began on July 1, 1997.

- As of July 1998, 53 percent of the cases in North Dakota were converted to the TEEM program with conversion of all cases expected by early 1999. The TEEM assessment process includes a basic screening for victims of domestic violence and the option of prepregnancy family planning services.
- Because of federal restrictions, the department is not planning to implement a simplified food stamp program but include the regular food stamp program in the TEEM system as soon as possible. The computer changes necessary to integrate the food stamp program into the TEEM assessment will most likely be addressed when the Medicaid-TANF computer project is completed, which was expected to be by June 2000.
- The state's welfare benefit cap was implemented July 1, 1998, and very few households were affected by the benefit cap during the first two months. The benefit cap in general does not allow an increase in benefits to a household on assistance which has additional children while on assistance.
- The state's work participation rate for June 1998 was 31.8 percent compared to the federal requirement of 30 percent. Beginning in October 1998, the work participation rate increased to 35 percent, and the required hours of participation increase from 20 hours per week to 25 hours.
- Households may be sanctioned for not participating in job search or work activities. A sanction results in a temporary loss of benefits. Households with a child under four months of age and those sanctioned for less than three months are excluded from the work participation rate calculation. If a household has been sanctioned more than three of the last 12 months, the household is counted in the total to which the work participation rate is applied. A large number of sanctioned households make it difficult for the state to meet required work participation rates.

TANF Caseloads

The committee received information on the status of caseloads for the TANF program as follows:

1. As of July 1998, the TANF caseload was 3,176 families compared to the estimate used in the 1997-99 appropriation of 4,380 in July 1997, which was estimated to increase to 4,449 by June 1999. This is the lowest caseload since December 1970.

2. Caseloads for 1999-2001 are estimated to be 2,778 families for fiscal year 2000 and 2,730 for fiscal year 2001.

Maintenance-of-Effort Requirements

The TANF block grant requires the state to spend at least 80 percent each year of state spending in federal fiscal year 1994 as its maintenance of effort. For North Dakota, this is \$19,372,652 for the 1997-99 biennium. The maintenance of effort is spent by the state for TANF grants, work activities, and administration. The state plans to spend at the maintenance-of-effort level for the biennium.

The following is a summary of information received by the 1997-98 Welfare Reform Committee regarding its study of tribal welfare reform issues:

1. The 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 for a tribal welfare program beginning in fiscal year 1997.
2. The tribe must receive approval from the United States Department of Health and Human Services for a tribal TANF program for a minimum of three years.
3. The state's TANF block grant would be reduced by any amount provided directly to a tribe.
4. In structuring a welfare program, a tribe has the flexibility to establish its own work participation rates and time limits, subject to federal approval.

Tribal TANF Issues

In response to the Welfare Reform Committee's request, representatives of the Department of Human Services provided the following list of issues for the tribes and the state to consider regarding tribal administration of a TANF program and regarding the state providing matching funds:

1. Issues a tribe may consider regarding TANF administration:
 - a. Pros:
 - (1) May reinforce tribal sovereignty.
 - (2) May enhance the integration of social services in the tribe, particularly if the tribe contracts with the Bureau of Indian Affairs social services.
 - (3) May allow tribal members to better understand the need for services if the services are provided by tribal members.
 - (4) May be able to establish work participation requirements lower than the state's requirements.
 - (5) May develop work activities to fit the unique circumstances of the tribe.

- (6) May create employment opportunities for the staff administering the program.
- b. Cons:
 - (1) State will continue to administer food stamps, Medicaid, and other programs; therefore, clients will need to apply and report to separate agencies which may involve additional travel.
 - (2) Could result in less coordination and less exchange of information between the tribes and the state for purposes of aiding in administration of other programs.
 - (3) Duplication of computer systems.
- 2. Issues regarding whether the state should provide matching funds:
 - a. Pros:
 - (1) May encourage a tribe to administer its own program.
 - (2) Tribal-administered TANF recipients would not be considered in the determination of the state's work participation rate.
 - (3) May engender good will between the tribes and the state, particularly since many prior government-to-government relationships were solely between the tribe and the federal government.
 - b. Cons:
 - (1) State must maintain offices and basically the same size staff to deliver services to individuals for food stamps and Medicaid and to nontribal individuals.
 - (2) Individuals need to apply and report to separate entities.
 - (3) Less coordination among agencies of information regarding program benefits.
 - (4) Unresolved child support issues including, but not limited to, establishing separate enforcement units and treatment of collections.
 - (5) Expense of computer programs.

Welfare Reform Committee Observations

The 1997-98 Welfare Reform Committee did not make any recommendations regarding its monitoring of welfare reform in tribal welfare reform issues but identified several issues that may need to be monitored as follows:

- The status of a federally funded evaluation of the state's welfare reform effort, the implementation of TEEM and client progress in meeting established goals, including obtaining and

sustaining employment and the possibility of a tracking component included in the evaluation.

- The impact on clients of the 60-month time limit on benefits which will end payments for some clients beginning in July 2002.
- The development of criteria for clients eligible for the 20 percent hardship exception allowance to the 60-month lifetime benefit limit.
- The actual work participation rates compared to rates required by federal legislation.
- The assistance caseload reductions and reasons for the changes.
- The need for adequate available child care, employment opportunities, transportation, and life skills and employment training for clients.
- The day care funding allocation made available through the North Dakota Association of Counties.
- The role of the private sector.
- The related changes to the TEEM computer system.
- The status of biennial expenditures as compared to appropriations for TANF and child care block grant programs.
- The potential need for administrative changes or federal waiver terminations, subject to approval by the Legislative Council.
- The client concerns with the work participation requirements that require a client to work once a client's child reaches four months of age.
- The staff-to-client caseload ratios.
- The potential federal changes that could allow clients to receive more than one year of post-secondary education and meet the work participation requirements.
- As the welfare caseloads are reduced, the "hard-to-employ" welfare recipients will remain and will need more training and assistance, particularly in the areas of interpersonal skills and job readiness.
- The development of tribal welfare programs including the continued cooperation of the Department of Human Services and the tribal representatives in the development of potential tribal TANF programs.
- The issues regarding tribal welfare reform including the tribal welfare area to be served and the potential for the tribes contracting with the Department of Human Services, county social services, or a third party for administration of the tribal TANF program.
- The non-TANF-related problems that must be addressed on the Indian reservations, including high alcoholism rates, the need for job creation, and transportation issues.
- The impact of changing tribal TANF caseloads, high reservation unemployment rates, and the need for client job skills.

- The impact of tribal job training efforts and job opportunities and basic skills (JOBS) employment training contracts.
- The need for child care, transportation, on-the-job training, development of self-esteem, understanding of TANF rules, and access to training/education programs for tribal assistance clients.
- The impact of the implementation of the children's health insurance program and the welfare-to-work block grant program.

ATTACH:4

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

SENATE CONCURRENT RESOLUTION NO. 4036
(Senators Bercier, T. Mathern, Mutzenberger, Thane, Thompson)
(Representative Boucher)

A concurrent resolution directing the Legislative Council to study the operation of the temporary assistance for needy families program in North Dakota as it relates to the relationship between the state and the federally recognized Indian tribes in the state.

WHEREAS, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 provides the state of North Dakota with an annual temporary assistance for needy families block grant to assist needy families so that children may be cared for in their own homes or in the homes of relatives; and

WHEREAS, the temporary assistance for needy families block grant allows states some flexibility in the design of the program; and

WHEREAS, the temporary assistance for needy families block grant requires recipients of assistance to meet certain work requirements and limits the number of months an adult may receive such assistance; and

WHEREAS, an increasing percent of the recipients of assistance under the temporary assistance for needy families block grant in North Dakota are members of a federally recognized Indian tribe; and

WHEREAS, a large portion of these individuals resides on Indian reservations within the state; and

WHEREAS, the Indian reservations are located in the rural areas of the state and are economically depressed with an unemployment rate approaching sixty percent according to the Bureau of Indian Affairs; and

WHEREAS, while federal law requires states to disregard the months of assistance received by an adult while living on an Indian reservation with at least fifty percent unemployment, a question has arisen as to the method to be used to determine unemployment rate statistics; and

WHEREAS, the effective coordination and cooperation between the state, tribes, and local governments are critical to the success of welfare, job and workforce training, and economic development programs;

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

That the Legislative Council study the operation of the temporary assistance for needy families program in North Dakota as it relates to the relationship between the state and the federally recognized Indian tribes in the state; and

BE IT FURTHER RESOLVED, that the Legislative Council, in conducting its study, evaluate the impact of the temporary assistance for needy families program on the federally recognized Indian tribes within the state; and

BE IT FURTHER RESOLVED, that the Legislative Council, in conducting its study, evaluate the use of the Bureau of Indian Affairs unemployment rate statistics to determine if adults within an Indian reservation are exempt from the state's lifetime limit under the temporary assistance for needy families program and evaluate and consider other methods of determining the unemployment rate specifically as it applies to those areas; and

BE IT FURTHER RESOLVED, that the Legislative Council review the process through which the Department of Human Services receives input from local governments and the federally recognized Indian tribes within the state; and

BE IT FURTHER RESOLVED, that the Legislative Council study how state-sponsored economic development, job training, and workforce training programs can be coordinated between the state and federally recognized Indian tribes within the state; and

BE IT FURTHER RESOLVED, that the Legislative Council consider the impact of tribal sovereignty on economic development and the implementation of the temporary assistance for needy families program in areas under the jurisdiction of federally recognized Indian tribes within the state; and

BE IT FURTHER RESOLVED, that the Legislative Council, in conducting its study, request input from members of the federally recognized Indian tribes within the state and from officials of the government of those tribes, especially tribal officials involved with human services and economic development programs; 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-seventh Legislative Assembly.

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

**SENATE BILL NO. 2114
(Human Services Committee)
(At the request of the Department of Human Services)**

AN ACT to amend and reenact subsection 2 of section 50-01.2-00.1 and subsection 1 of section 50-09-29 of the North Dakota Century Code, relating to local expenses of administration and requirements for temporary assistance for needy families; to authorize the department of human services to negotiate a pilot project for the state's participation in direct funding and administration of tribal temporary assistance to needy families; to provide for a legislative council study; and to provide for reports to the legislative council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 50-01.2-00.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 2. AMENDMENT. Subsection 1 of section 50-09-29 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2, 3, and 5 through 7, the department of human services, in its administration of temporary assistance for needy families in the form of the training, education, employment, and management program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt up to twenty percent of the caseload from the requirements of subdivision b due to mental or physical disability of a parent or child, ~~or~~ mental or physical incapacity of a parent, or other hardship;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Unless otherwise required by federal law, and except as provided in subdivision m, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996, for the first five years of residence in the United States, and after five years of residence, until the immigrant has ten years of work history, provide benefits only after considering the income and assets of the immigrant's sponsor;

- f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department not ~~exceeding to exceed~~ five thousand dollars for a one-person household and eight thousand dollars for a household of two or more;
- g. Seek approval of appropriate federal officials, and, if approved, use a simplified food stamp program to provide food stamp benefits to eligible households receiving temporary assistance for needy families;
- h. Exclude one motor vehicle of any value in determining eligibility;
- i. Require work activities as defined in section 14-08.1-05.1 for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child, or mental or physical incapacity of a parent;
- j. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
- k. Conduct a program, designed to reach state and local law enforcement officials, the education system, and relevant counseling services, which provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men;
- l. Afford otherwise eligible households that have resided in this state less than twelve months benefits subject to the lifetime limit of the household's immediately previous state of residence;
- m. Provide benefits to otherwise eligible noncitizens who are lawfully present in the United States as refugees, asylees, veterans, active duty military personnel, spouses and dependents of active duty military personnel, and Cuban-Haitian entrants;
- n. Establish and enforce standards against program fraud and abuse;
- o. Establish procedures to screen and identify victims of domestic violence for referral to appropriate services which are to be incorporated into the training, education, employment, and management program assessment effective June 30, 1998;
- p. Provide an employment placement program;
- q. Implement, as soon as practicable, an electronic fund transfer system;
- r. ~~Not exempt~~ Consider exempting funds in individual development accounts;
- s. ~~Sanction parents who, without good cause, fail to ensure dependent minor children attend school unless the child has received a high school diploma or equivalent~~
Determine the unemployment rate of adults living on an Indian reservation by using the unemployment data provided by job service North Dakota;
- t. When appropriate, require household members to complete high school;
- u. Exempt single parents from required work activities as defined in section 14-08.1-05.1 if the exempted parent has a child under four months of age;
- v. Count only approved work activities as defined in section 14-08.1-05.1 for the purpose of measuring work participation rates;
- w. Provide for progressive sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;

- x. Provide for progressive sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- y. Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- z. Require each household to participate in developing an individual responsibility plan and provide for progressive sanctions, including termination of assistance to the household, if adult ~~and~~ or minor household members age sixteen or older fail to cooperate in developing an individual responsibility plan;
- aa. Provide pre-pregnancy family planning services that are to be incorporated into the training, education, employment, and management program assessment effective June 30, 1998;
- bb. Seek federal funding to assist in the evaluation of the program;
- cc. Seek the approval of the secretary to develop and use a single application form for all economic assistance programs administered by the county social service boards;
- dd. After June 30, 1998, except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the month of the child's probable conception;
- ee. Disregard earned income as an incentive allowance for no more than twelve months; and
- ff. Except as otherwise may be permitted by federal law, not reduce or terminate benefits based on a refusal of an individual to work if the individual is a single custodial parent caring for a child who has not attained six years of age and the individual proves a demonstrated inability to obtain needed child care because of the:
 - (1) Unavailability of appropriate child care within a reasonable distance from the individual's home or work site;
 - (2) Unavailability or unsuitability of informal child care by a relative or under other arrangements; or
 - (3) Unavailability of appropriate and affordable formal child care arrangements.

SECTION 3. LEGISLATIVE INTENT - DEPARTMENT TO NEGOTIATE PILOT PROJECT - REPORTS TO LEGISLATIVE COUNCIL.

1. It is the legislative intent of the legislative assembly that the department of human services offer to negotiate with the tribal government of any Indian tribe in this state to establish a pilot project to begin operation no sooner than July 1, 2001, under which that tribal government will secure direct funding for the administration of a tribal family assistance grant under 42 U.S.C. 612 from the United States department of health and human services, and under which the state will participate, in cash or in kind, in the cost of providing services under the tribal family assistance grant, provided:
 - a. All components of the program are administered by the department of human services, one or more county social service boards, one or more contractors with the department of human services, or any combination thereof;
 - b. Interagency agreements entered into between the department of human services and other state or federal agencies, essential to the state's receipt of federal funds otherwise available under title IV-A, title IV-B, title IV-D, or title IV-E of the Social

Security Act, will be honored by the tribe to the extent the department of human services requires the county social service boards to honor those agreements;

- c. The annual funding contributed by the state may not exceed an amount calculated by dividing the nonfederal share of total state expenditures under title IV-A of the Social Security Act for the twelve-month period beginning October 1, 1993, and ending September 30, 1994, by the monthly average number of title IV-A filing units receiving title IV-A benefits in the state during that period, and multiplying the result times the number of IV-A filing units on April 1, 1999, with a primary information person who:
 - (1) Is an enrolled member of a tribe or is married to an enrolled member of a tribe who is also a member of that IV-A filing unit; and
 - (2) Lives in Indian country within a North Dakota county that also includes Indian reservation lands subject to the exclusive jurisdiction of the tribe;
 - d. The state's financial participation in the pilot project will be terminated upon breach of the negotiated agreement.
2. The department of human services shall periodically report to the legislative council, or to an interim study committee designated by the legislative council, on the progress of any negotiation conducted under subsection 1.
 3. An interim committee designated by the legislative council to receive reports under subsection 2 shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

SECTION 4. LEGISLATIVE COUNCIL STUDY. During the 1999-2000 interim, the legislative council shall consider studying the implementation of temporary assistance to needy families program in North Dakota, the effectiveness of that program to accomplish welfare reform, and the need for continuing legislative monitoring. The study may address the proportion of adults living in Indian country who are employed and the efforts of the department of human services to negotiate a pilot project under which the state would participate in the cost of providing services under a tribal family assistance grant.

SECTION 5. REPORTS TO LEGISLATIVE COUNCIL - UNEMPLOYMENT IN INDIAN COUNTRY. The department of human services shall periodically report to the legislative council, or an interim study committee designated by the legislative council, on the progress in its efforts to determine the most reliable current data concerning the proportion of adults living in Indian country who are unemployed.

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

HOUSE BILL NO. 1121
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 14-09-08.1, subsection 9 of section 14-09-09.16, and section 14-09-09.29 of the North Dakota Century Code, relating to notice procedures, procedures upon failure to pay child support, and coordination of income withholding services; to provide for a report to the legislative council; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.1 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.1. (Effective through June 30, 1999) Support payments - Payment to court or state disbursement unit - Transfer of proceedings for enforcement of decree - Procedures upon failure to pay.

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the clerk of court, as trustee, or to the public authority, for remittance to the obligee. The clerk shall maintain records listing the amount of the payments, the date when the payments must be made, the names and addresses of the parties subject to the order, and any other information necessary for the proper administration of the order in the statewide automated data processing system established under section 50-09-02.1. Before the system implementation date, upon notification that a party to the case is receiving services under title IV-D of the Social Security Act [42 U.S.C. 651 et seq.], or an assignment of support rights is in effect, the clerk of court must credit and transmit payments in conformity with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq., as amended].
2. a. Each party subject to the order shall immediately inform the clerk of court and the public authority of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number; and
 - (6) Change of any other condition which may affect the proper administration of this chapter.
- b. The requirements of subdivision a must be incorporated into each order for payment of child support.
- c. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, service may be effected by delivery of written notice to the most recent

residential or employer address provided by the noticed party pursuant to this subsection.

- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
3. Whenever there is failure to make the payments as required, the clerk shall send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a district judge of the judicial district, on a form provided by the judge, to issue a citation for contempt of court against the person who has failed to make the payments and the citation must be served on that person as provided by the North Dakota Rules of Civil Procedure.
4. The court of its own motion or on motion of a child support agency or the state's attorney of the county of venue, the county of the recipient's residence, or the county of the obligor's residence may cause a certified copy of any support order in the action to be transcribed and filed with the clerk of the district court of any county in this state in which the obligee or the obligor may reside from time to time. Thereafter, this section applies as if the support order were issued by the district court of the county to which the support order is transcribed. No fee may be charged for transcribing or filing a certified copy of any support order under this section.
5. The clerk of court, at the option of the clerk, may deposit payments received by the clerk under this section, and not required to be paid to the state disbursement unit, in a special trust account in either the Bank of North Dakota or in a banking institution of this state designated as a depository of public funds under chapter 21-04 and make payments from the trust account to the obligee or the clerk may deposit payments received by the clerk under this section with the county treasurer and direct their disbursement under chapter 11-14.

(Effective July 1, 1999) Support payments - Payment to state disbursement unit - Transfer of proceedings for enforcement of decree - Procedures upon failure to pay.

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the state disbursement unit for remittance to the obligee.
2.
 - a. Each party subject to the order shall immediately inform the state disbursement unit of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number; and
 - (6) Change of any other condition which may affect the proper administration of this chapter.
 - b. The requirements of subdivision a must be incorporated into each order for payment of child support.
 - c. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, service may be effected the court shall deem due process requirements for notice and service to have been met, with respect to the noticed party, by delivery of

written notice to the most recent residential or employer address provided by the noticed party pursuant to this subsection.

- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
3. Whenever there is failure to make the payments as required, the ~~state disbursement unit clerk of court~~ shall send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a district judge of the judicial district; ~~on a form provided by the judge,~~ to issue a citation for contempt of court against the person who has failed to make the payments and the citation must be served on that person as provided by the North Dakota Rules of Civil Procedure.
4. The court of its own motion or on motion of a child support agency or the state's attorney of the county of venue, the county of the recipient's residence, or the county of the obligor's residence may cause a certified copy of any support order in the action to be transcribed and filed with the clerk of the district court of any county in this state in which the obligee or the obligor may reside from time to time. Thereafter, this section applies as if the support order were issued by the district court of the county to which the support order is transcribed. No fee may be charged for transcribing or filing a certified copy of any support order under this section.

SECTION 2. AMENDMENT. If Senate Bill No. 2170 is approved by the fifty-sixth legislative assembly and becomes effective, subsection 9 of section 14-09-09.16 of the North Dakota Century Code as amended by section 8 of Senate Bill No. 2170 is amended and reenacted as follows:

9. The income payor shall notify the clerk of court or the public authority in writing of the termination of a duty to pay income to the obligor within seven business days of the termination. The notification must include the name and address of the obligor's subsequent income payor, if known.

SECTION 3. AMENDMENT. Section 14-09-09.29 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.29. (Effective July 1, 1999) Coordination of income withholding activities. The public authority shall assume responsibility for administration of income withholding orders relating to matters being enforced under title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651] and the receipt and disbursement of child support payments. The clerks of court shall otherwise maintain responsibility for administration of income withholding.

SECTION 4. REPORT TO LEGISLATIVE COUNCIL. The department of human services shall report on the progress of the implementation of this Act to a designated legislative council interim committee between August 1, 2000, and August 31, 2000.

SECTION 5. EFFECTIVE DATE. Sections 1 and 3 of this Act become effective on July 1, 1999.

SECTION 6. EXPIRATION DATE. Section 3 of this Act is effective through January 15, 2001, and after that date is ineffective. Section 14-09-09.29 as it existed on the day before the effective date of this Act becomes effective January 16, 2001.

SECTION 7. EMERGENCY. Sections 1 and 3 of this Act are declared to be an emergency measure.

50-06-01.8. Department to seek waiver to establish training, education, employment, and management program - Waiver may be terminated - Program characteristics - Cooperation with governmental bodies - Interim rulemaking.

1. The department of human services shall seek, from appropriate federal officials, authorization to establish a demonstration project to combine the benefits provided under the state's aid to families with dependent children, temporary assistance for needy families, fuel assistance, and food stamp programs, pursuant to title IV-A of the Social Security Act, as enacted before August 22, 1996 [42 U.S.C. 601 et seq.], title IV-A of the Social Security Act, as enacted August 22, 1996 [42 U.S.C. 601 et seq.], the low-income home energy assistance program [42 U.S.C. 8621-8629], and the Food Stamp Act [7 U.S.C. 2011-2027].
2. Subject to the approval of the legislative council, the department of human services may terminate any waiver secured under subsection 1, or the demonstration project described in subsection 1, if necessary or desirable for the statewide implementation of the training, education, employment, and management program, or otherwise.
3. The training, education, employment, and management program established under this section must provide for uniform and consistent treatment of income and assets in determining eligibility; provide for the creation of a uniform method of budgeting and computing benefits, a consistent certification period for the receipt of benefits, and uniform reporting requirements; provide for necessary child care to allow a participant to meet educational and employment goals; and provide for universal employment and training to assist individuals in becoming self-sufficient. The training, education, employment, and management program may be administered notwithstanding the requirements of section 50-01.2-03, subsections 17 and 19 of section 50-06-05.1, chapter 50-09, and section 50-11.1-11.1, relating to the administration of the temporary assistance for needy families, fuel assistance, and food stamp programs. The training, education, employment, and management program may require any participant to cooperate with child support enforcement efforts.
4. The department of economic development and finance, job service North Dakota, county social service boards, and any other state agency determined appropriate, shall cooperate with the department to ensure the success of the program. Local government agencies are encouraged to cooperate with the department.
5. Rules adopted to implement the demonstration project may be adopted as interim final rules without a finding that emergency rulemaking is necessary, and the interim final rules may take effect on a date no earlier than the date of filing with the legislative council of the notice of proposed adoption of a rule required by subsection 4 of section 28-32-02.

50-09-29. Requirements for administration of temporary assistance for needy families.

5. If the department of human services determines, subject to the approval of the legislative council, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities as defined by section 14-08.1-05.1, the department may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
6. If the department of human services determines, subject to the approval of the legislative council, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the counties under chapter 50-01, the department may administer the program in a manner that avoids that result.