

ECONOMIC ASSISTANCE PROGRAM RESPONSIBILITIES OF THE STATE AND COUNTIES - BACKGROUND MEMORANDUM

Section 18 of Senate Bill No. 2205, approved by the 2007 Legislative Assembly and attached as [Appendix A](#), provides for a Legislative Council study of the success and effects of the laws enacted by the 55th Legislative Assembly in 1997 House Bill No. 1041 ([Appendix B](#)) and 1997 Senate Bill No. 2052, the "swap proposal," which required counties to pay the entire cost of the local administration of Medicaid, energy assistance, basic care assistance, child care assistance, and temporary assistance for needy families (TANF) in exchange for the state's assumption of the full responsibility for the grant costs associated with those programs. The study is to also include a review of North Dakota Century Code (NDCC) Sections 50-01.2-00.1, 50-01.2-03.1, 50-01.2-03.2, 50-01.2-06 (these sections are included in [Appendix C](#)), 50-03-00.1, 50-03-08, 50-03-09, 50-03-10 (these sections are included in [Appendix D](#)), 50-06-05.1(28) ([Appendix E](#)), 50-06-20 ([Appendix F](#)), 50-24.1-14 ([Appendix G](#)), and 50-24.5-08 ([Appendix H](#)) to determine if those provisions have created a more understandable and sustainable division of responsibility between the state and counties in the delivery and financing of these economic assistance programs.

PREVIOUS STUDIES

The **2001-02 interim Budget Committee on Human Services** studied, pursuant to Section 14 of Senate Bill No. 2012, administrative costs of human services programs, including a review of the effects of the 1997 "swap" legislation on state and county human services program costs. The committee reviewed information on the grant costs of economic assistance programs included in the "swap" agreement by funding source for each biennium since 1995-97 and welfare reform-related computer systems costs paid by the Department of Human Services since the 1995-97 biennium. The following schedule, prepared by the Department of Human Services summarized the effects of the "swap" agreement on the county and state share of funding for economic assistance programs:

	1999-2001 Biennium	2001-03 Biennium	Estimated 2003-05 Biennium
Grant costs in excess of administrative reimbursement	\$872,295	\$3,686,972	\$7,700,992
Additional costs of countywide cost allocation plan	232,880	71,828	

Additional computer costs in excess of fiscal year 1995 costs inflated at consumer price index	893,828	1,648,387	1,675,766
Additional Indian county funds provided in excess of \$440,000	1,336,421	2,040,976	2,309,176
Avoided county expenditures and corresponding additional state costs	\$3,335,424	\$7,448,163	\$11,685,934

The committee did not make any recommendations specific to its review of the "swap" agreement.

The **1997-98 interim Welfare Reform Committee** studied, pursuant to Section 31 of House Bill No. 1012, North Dakota's welfare reform implementation efforts to determine the effectiveness of welfare reform and, pursuant to NDCC Section 50-09-29, monitor responsibilities relating to revised administration of the TANF program. The committee did not make any recommendations regarding its welfare reform studies and responsibilities.

The **1995-96 interim Budget Committee on Human Services** studied, pursuant to House Concurrent Resolution No. 3045, the responsibilities of county social service agencies, regional human service centers, and the Department of Human Services. The committee recommended House Bill No. 1041, approved by the 1997 Legislative Assembly, that required counties, effective January 1, 1998, to assume financial responsibility for the cost of administering selected economic assistance programs and in return, the state to assume complete financial responsibilities for the grant costs of medical assistance and basic care assistance and to contribute additional support for the administrative costs of counties with Indian land. Provisions of the bill were referred to as the "swap" agreement.

The "swap" agreement proposal resulted from the Department of Human Services, the North Dakota Association of Counties, and the North Dakota Association of Social Service Board Directors meeting and discussing alternative methods of delivery and funding of the administrative costs of economic assistance programs. The following observations were reported:

1. About 65 percent of the counties experienced costs in excess of the statewide weighted average for the administrative costs of economic assistance programs.

2. Nearly 86 percent of the eligible economic assistance recipients lived in 23 North Dakota counties.
3. The trade areas for North Dakota's 24 largest cities contained about 88 percent of the unduplicated economic assistance cases in 1994.
4. Any federal reform of economic assistance programs will likely require statewide application for uniform eligibility, benefits, and program operations.
5. Counties with large Indian populations will continue to require state financial assistance to defray a substantial portion of the local costs of administering assistance programs.

Other testimony provided to the committee included:

1. County commissioners are required to levy property taxes to fund the county's share of between 30 and 40 separate federal, state, and local social service programs but have very little authority concerning who can receive services, the types of services and benefits delivered, program administration, or salary levels of county social service staff.
2. Funding formulas for some economic assistance programs are based on a formula developed in 1983 allocating costs to individual counties, and subsequent population changes have resulted in a wide variation in the per capita county costs with the highest per capita cost of medical assistance being \$36.54 per year for Sheridan County.

"SWAP" LEGISLATION

As discussed above, House Bill No. 1041, approved by the 1997 Legislative Assembly, required counties, effective January 1, 1998, to assume the financial responsibility for the cost of administering the following economic assistance programs:

1. Aid to families with dependent children (AFDC).
2. Job opportunities and basic skills (JOBS) program.
3. Child care block grant.
4. IV-A at-risk child care.
5. Food stamps.
6. Medical assistance.
7. Low-income home energy assistance program (LIHEAP).
8. Refugee assistance.
9. Basic care assistance.

In return, the bill required the state to assume complete financial responsibility for the grant costs of medical assistance and basic care assistance and to contribute additional support for the administrative costs of counties with Indian land. The bill was expected to result in additional general fund costs of \$2.2 million per year based on actual program costs for calendar year 1995. The estimated additional cost to the general fund for 1997-99 biennium based on the January 1, 1998, effective date was \$3.3 million.

STATE APPROPRIATIONS FOR ECONOMIC ASSISTANCE PROGRAMS

The schedule below presents legislative appropriations for grant costs of TANF, basic care assistance, child care assistance, medical assistance, and Indian counties assistance since the 1997-99 biennium:

	1997-99	1999-2001	2001-03	2003-05	2005-07	2007-09
TANF						
General fund	\$5,700,000	\$5,500,000	\$3,950,382	\$3,950,382	\$3,938,442	\$4,314,942
Special funds	4,000,000	6,397,947	10,525,123	12,215,691	12,166,206	11,303,716
Federal funds	31,200,000	13,110,930	11,150,551	13,341,867	8,155,352	6,821,322
Total	\$40,900,000	\$25,008,877	\$25,626,056	\$29,507,940	\$24,260,000	\$22,439,980
Child care assistance						
General fund				\$5,726,109		
Special funds	\$3,528,016	\$3,675,262	\$4,013,314		\$4,226,895	\$5,225,819
Federal funds	14,749,420	12,832,634	17,233,719	21,335,096	17,736,229	17,401,999
Total	\$18,277,436	\$16,507,896	\$21,247,033	\$27,061,205	\$21,963,124	\$22,627,818
Basic care assistance						
General fund	\$1,654,727			\$747,857	\$5,374,918	\$6,097,305
Special funds	4,473,987	\$7,690,647	\$2,783,072	2,284,362	2,442,457	2,284,362
Federal funds			6,081,186	5,363,506	5,484,596	5,701,454
Total	\$6,128,714	\$7,690,647	\$8,864,258	\$8,395,725	\$13,301,971	\$14,083,121
Medical assistance¹						
General fund	\$180,467,562	\$195,469,683	\$217,096,629	\$259,872,239	\$305,282,957	\$367,900,585
Special funds	7,206,368	8,035,112	36,388,827 ²	12,584,800	29,940,507	36,772,356
Federal funds	422,301,922	471,880,515	550,022,159	596,320,683	637,259,645	711,393,360
Total	\$609,975,852	\$675,385,310	\$803,507,615 ²	\$868,777,722	\$972,483,109	\$1,116,066,301

	1997-99	1999-2001	2001-03	2003-05	2005-07	2007-09
Grants to Indian Counties						
General fund		\$121,766	\$456,993	\$649,559	\$1,147,174	\$955,124
Special funds	\$1,059,000	1,654,654	2,068,007	1,964,607	1,964,607	1,964,607
Total	\$1,059,000	\$1,776,420	\$2,525,000	\$2,614,166	\$3,111,781	\$2,919,731
Total						
General fund	\$187,822,289	\$201,091,449	\$221,504,004	\$270,946,146	\$315,743,491	\$379,267,956
Special funds	20,267,371	27,453,622	55,778,343	29,049,460	50,740,672	57,550,860
Federal funds	468,251,342	497,824,079	584,487,615	636,361,152	668,635,822	741,318,135
Total	\$676,341,002	\$726,369,150	\$861,769,962	\$936,356,758	\$1,035,119,985	\$1,178,136,951

¹Includes nursing facilities, intergovernmental transfer payments, developmental disabilities services grants, and Medicare Part D "clawback" payments, but excludes Healthy Steps.

²Includes the \$16.3 million special funds deficiency appropriation from the health care trust fund and the permanent oil tax trust fund approved by the 2003 Legislative Assembly.

STUDY PLAN

The committee may wish to proceed with this study as follows:

1. Review statutory provisions relating to the division of responsibility between the state and counties in the delivery and financing of economic assistance programs.
2. Receive information from the Department of Human Services regarding grant cost changes and county administrative costs for economic assistance programs resulting from the "swap" agreement since 1997.
3. Receive information from the North Dakota County Social Services Directors Association regarding administrative costs of county social service agencies since 1997.
4. Receive information from the Department of Human Services and county social service

agencies analyzing administrative cost increases incurred by county social service agencies for economic assistance programs since 1997-99 and grant cost increases paid by the state for economic assistance programs since 1997-99.

5. Receive testimony from other interested persons regarding responsibilities of the state and counties regarding economic assistance programs.
6. Develop recommendations and prepare any legislation necessary to implement the recommendations.
7. Prepare a final report for submission to the Legislative Council.

ATTACH:8

SECTION 18. LEGISLATIVE COUNCIL STUDY - LOCALLY ADMINISTERED ECONOMIC ASSISTANCE PROGRAMS. The legislative council shall consider studying, during the 2007-08 interim, the success and effects of the laws enacted by the fifty-fifth legislative assembly in House Bill No. 1041 and Senate Bill No. 2052, referred to in testimony as the "swap proposal", which required counties to pay the entire cost of the local administration of medicaid, energy assistance, basic care assistance, child care assistance, and temporary assistance for needy families in exchange for the state's assumption of the full responsibility for paying the grant costs associated with those programs. If conducted, the study should include a review of sections 50-01.2-00.1, 50-01.2-03.1, 50-01.2-03.2, 50-01.2-06, 50-03-00.1, 50-03-08, 50-03-09, and 50-03-10, subsection 28 of section 50-06-05.1, and sections 50-06-20, 50-24.1-14, and 50-24.5-08 to determine if those provisions have created a more understandable and sustainable division of responsibility between the state and counties in the delivery and financing of these economic assistance programs. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

**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**

HOUSE BILL NO. 1041
(Legislative Council)
(Budget Committee on Human Services)
(Representatives Boucher, Sandvig, Svedjan)
(Senators Kelsh, O'Connell, Lips)

AN ACT to create and enact four new sections to chapter 50-01.2, four new sections to chapter 50-03, a new subsection to section 50-06-05.1, a new section to chapter 50-06, a new section to chapter 50-24.1, and a new section to chapter 50-24.5 of the North Dakota Century Code, relating to the administration and financing of human services programs; to repeal sections 50-03-07, 50-09-16, 50-09-17, 50-09-18, 50-09-20, 50-09-20.1, 50-09-20.2, 50-09-21, 50-09-22, 50-24.1-03, and 50-24.5-06 of the North Dakota Century Code, relating to the administration and financing of human service programs; to require a legislative council study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-01.2 of the North Dakota Century Code is created and enacted as follows:

Definitions. In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
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.
3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
 - a. Temporary assistance for need families;
 - b. Child support enforcement programs;
 - c. Programs established under section 50-06-01.8;
 - d. Employment and training programs;
 - e. Child care assistance programs;
 - f. Medical assistance, including early periodic screening, diagnosis, and treatment;

- g. Food stamp programs, including employment and training programs;
- h. Refugee assistance programs;
- i. Basic care services;
- j. Energy assistance programs; and
- k. Information and referral.

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

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

1. The department shall adopt standards for administration for locally administered economic assistance programs and shall provide training for the implementation of those standards. Each county social service board shall provide for administration of locally administered economic assistance programs that meet those standards.
2. If a county social service board fails to provide for administration of locally administered economic assistance programs that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the county social service board to prepare and implement a corrective action plan.
 - c. Appoint a receiver to act in place of the county social service board.
3. At least thirty days before taking any action under subsection 2, the department shall provide notice of its proposed action to the county social service board and the board of county commissioners of the affected county. The notice must describe the proposed action and the reasons therefor.
4. If the county disputes a notice of proposed action, the board of county commissioners, before the effective date of the action, shall:
 - a. Request reconsideration by the department;
 - b. Propose an alternative action under subsection 2;
 - c. Request a peer review; or
 - d. Make any combination of these responses.
5. If the county's response includes a request for reconsideration or proposed alternative action under subsection 2, the department promptly shall consider that request or proposal and notify the county of its determination.
6. If the county's response includes a request for a peer review, the board of county commissioners shall name two members of a peer review committee, the department shall name two members of the peer review committee, and those four committee members shall name a fifth member of the peer review committee. At least one member of the peer review committee must be a member of a board of county commissioners and at least two members of the peer review committee must be county social service board directors or former county social service board directors. No member of the peer review committee may hold or have held office as county social service board director, or as a member of the county social service board or board of county commissioners, or be a resident of the county requesting the peer review.

7. A peer review must be based upon written submissions made by the department and the county requesting the peer review. The county submission must be made within fifteen days after the county requests peer review, and the department's submission must be made within fifteen days after receipt of a copy of the county's submission. The peer review committee may direct written questions to the parties, and the parties shall respond in writing within fifteen days.
8. A committee member designated by the department shall chair the peer review committee. The committee shall meet at the call of the presiding officer, and may meet by teleconference. Any committee action must be by motion. A decision on the county's request must be made within sixty days after receipt of the county's request, and subject to subsection 9, is binding on both parties.
9. The decision of the peer review committee is a final administrative decision. That decision may be appealed to the district court, and for that purpose, the decision must be treated as a decision on a request for rehearing made pursuant to section 28-32-14. Appeal to the district court must be taken in the manner required by section 28-32-15. The department shall submit a record consisting of:
 - a. Submissions made, and questions asked and answered, under subsection 7; and
 - b. The motion and vote upon which the peer review committee acted to decide the matter.
10. A timely dispute of a notice to appoint a receiver under subsection 2 stays that action until thirty days after issuance of a decision by a peer review committee.
11. A timely appeal of a decision by a peer review committee stays that decision until determination of that appeal.
12. A receiver appointed under this section may take any action that may lawfully be taken by the county social service board and may draw upon the human services fund.
13. Members of a peer review committee are entitled to receive compensation by the department in the same amounts as members of the legislative council. The county requesting the review shall reimburse the department for one-half of that cost.

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

Board may contract. In addition to actions a county social service board may take under chapter 54-40, a board may contract with another county social service board, the receiver of a county social service board appointed under section 2 of this Act, the department, or any other public or private person to discharge any of its duties or exercise any of its powers to administer economic assistance programs.

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

County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:
 - a. Locally administered economic assistance programs;
 - b. Replacement programs with substantially similar goals, benefits, or objectives; and
 - c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.

2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:
 - a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;
 - b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;
 - c. Totaling the amounts determined under subdivision b for all counties entitled to a distribution;
 - d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and
 - e. Multiplying that decimal fraction times one-half of the biennial appropriation.
3. The department shall seek appropriations for the purpose of providing additional financial assistance to county social service boards for human service program costs and local expenses of administering human service programs in counties in which the presence of an Indian reservation substantially reduces the amount of property subject to taxation.

SECTION 5. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Definitions. Terms defined in chapter 50-01.2 have the same meaning when used in this chapter.

SECTION 6. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Appropriation for county social service board administration and programs. The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay:

1. The local expenses of administration of locally administered economic assistance programs; and
2. That county's share of fifteen percent of the amount expended in this state, in excess of the amount provided by the federal government, for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services; and
3. That county's share of the cost of other family preservation services, including intensive in-home services, provided under title VI-B, subpart 2, of the Social Security Act [Pub. L. 103-66, title XIII, 13711(a)(2); 107 Stat. 649, et seq.; 42 U.S.C. 629, et seq.], as amended, as may be agreed to by the department and the county social board.

SECTION 7. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

Department to develop formula. The department, with the cooperation of the boards of county commissioners, shall develop a formula to be used to determine the appropriate amount of each county's share under subsection 2 of section 6 of this Act.

SECTION 8. A new section to chapter 50-03 of the North Dakota Century Code is created and enacted as follows:

County commissions to make recommendations. Before August first of each year, the boards of county commissioners of the counties shall make a collective recommendation to the department concerning the distribution between counties, of the social service block grant funds, general fund equivalents of social service block grant funds, and child support incentive funds available to the department for distribution to county social service boards. The department shall consider the recommendation of the county commissioners in determining the distribution to the county social service boards, in the following calendar year, of the social service block grant funds, general fund equivalents of social service block grant funds, and child support incentive funds available to the department for that purpose.

SECTION 9. A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.

SECTION 10. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. Except as provided in section 11 of this Act, services provided under chapter 50-24.1;
 - b. Benefits provided under subsection 19 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services provided under section 50-06-06.8 and chapter 50-09 as child care assistance;
 - e. Services provided under chapter 50-09 as employment and training programs;
 - f. Welfare fraud detection programs;
 - g. Temporary assistance for needy families; and
 - h. Special projects approved by the department and agreed to by any affected county social service board.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

SECTION 11. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Responsibility for expenditures - Exceptions.

1. Except as otherwise specifically provided in subsection 2 and section 6 of this Act, expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.
2. Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 6 of this Act.

SECTION 12. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Responsibility for expenditures. Except as otherwise specifically provided in section 6 of this Act, expenditures required under this chapter are the responsibility of the state of North Dakota.

SECTION 13. REPEAL. Sections 50-09-16, 50-09-17, 50-09-18, 50-09-20, 50-09-21, 50-09-22, and 50-24.1-03 of the North Dakota Century Code and sections 50-03-07, 50-09-20.1, 50-09-20.2, and 50-24.5-06 of the 1995 Supplement to the North Dakota Century Code are repealed.

SECTION 14. LEGISLATIVE COUNCIL STUDY OF CHILD SUPPORT SERVICES AND CHILD CARE LICENSING. The legislative council shall study the provision of child support services and child care licensing in this state during the 1997-98 interim. The study must consider whether child support services and child care licensing can be more efficiently and effectively provided and, if so, by which agency or unit of government. The legislative council shall report its findings, together with any legislation required to implement the recommendations, to the fifty-sixth legislative assembly.

SECTION 15. COMPUTER DEVELOPMENT - BUDGET SECTION APPROVAL. Except as may be waived by approval of the budget section of the legislative council, the department of human services shall meet the requirements provided by the administration for children and families of the United States department of health and human services in its communication dated February 12, 1997, related to the state's development of the reforming and enhancing services for the people of North Dakota (RESPOND) and training, education, employment, and management (TEEM) projects. The requirements include information regarding client eligibility and expert system rules, cost benefit analysis for the TEEM and RESPOND projects, and a revised budget for the TEEM and RESPOND projects. The department of human services may not spend the related general fund appropriations provided by the fifty-fifth legislative assembly until the department receives assurances that the requirements will be met.

SECTION 16. EFFECTIVE DATE. Sections 1 through 11 of this Act become effective January 1, 1998.

**CHAPTER 50-01.2
COUNTY SOCIAL SERVICE BOARDS**

50-01.2-00.1. Definitions. In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, 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 temporary assistance for needy families 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.
3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Food stamp programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.

50-01.2-01. County social service board - Members - Qualifications. Each board of county commissioners shall establish a county social service board consisting of five, seven, or nine members of which one or more must be members of the board of county commissioners. The board of county commissioners shall appoint the members of the county social service board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. The board must include members of each sex.

50-01.2-02. Members of county social service board - Term of office - Oath - Compensation. The members of the county social service board serve a term of three years or until their successors have duly qualified. Terms of office must be arranged so the term of office of one member expires in one year, the term of one-half the remaining members the next year, and the term of the remaining members the third year. Each member of the board qualifies by taking the oath provided for civil officers. The oath must be filed with the county auditor. The members of the county social service board are entitled to receive, in addition to any salaries

they receive from any other source, from the state or county or any municipality, a sum not to exceed forty-five dollars per day for time actually spent in transacting the business of the board. The county shall reimburse members for expenses actually incurred in the performance of their official duties and for mileage at the legal rate for necessary travel.

50-01.2-03. Duties of county social service board. The county social service board of each county in this state shall:

1. Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.
2. Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the county by private as well as public organizations.
4. Subject to subsection 17 of section 50-06-05.1, administer the food stamp program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the food stamp program with the department of human services.
5. Subject to subsection 19 of section 50-06-05.1, administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the energy assistance program with the department of human services.
6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.
7. Supervise and administer designated child welfare services under the direction and supervision of the department of human services. Through established procedures the department of human services may release the county social service board of this duty or the county social service board may request to be released from this duty by the department of human services. If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services unless otherwise negotiated and approved by the department.

50-01.2-03.1. Board may contract. In addition to actions a county social service board may take under chapter 54-40, a board may contract with another county social service board, the receiver of a county social service board appointed under section 50-01.2-06, the department, or any other public or private person to discharge any of its duties or exercise any of its powers to administer economic assistance programs.

50-01.2-03.2. County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:
 - a. Locally administered economic assistance programs;
 - b. Replacement programs with substantially similar goals, benefits, or objectives;
and

- c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.
2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:
 - a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;
 - b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;
 - c. Totalling the amounts determined under subdivision b for all counties entitled to a distribution;
 - d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and
 - e. Multiplying that decimal fraction times one-half of the biennial appropriation.
 3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which more than twenty percent of the caseload for these programs consists of people who reside on a federally recognized Indian reservation or property tax-exempt tribal trust lands. The reimbursement must be such that:
 - a. An affected county's expenses for locally administered economic assistance programs in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at one hundred percent;
 - b. Each calendar year the affected counties will receive quarterly allocations based on the actual county expenses for the state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date; and
 - c. The reimbursement will be calculated for each county and reported to the county social service board prior to August first of the year preceding the allocation.

50-01.2-04. Removal of members of the board. The board of county commissioners may adopt a resolution to remove a member of the county social service board without cause.

50-01.2-05. Actions and proceedings - Duty of state's attorney. Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance must be brought by or against the county in its corporate name. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01.

50-01.2-06. Standards of administration - Action upon failure to administer - Peer review committee - Appeal.

1. The department shall adopt standards for administration for locally administered economic assistance programs and shall provide training for the implementation of those standards. Each county social service board shall provide for administration of locally administered economic assistance programs that meet those standards.
2. If a county social service board fails to provide for administration of locally administered economic assistance programs that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the county social service board to prepare and implement a corrective action plan.
 - c. Appoint a receiver to act in place of the county social service board.
3. At least thirty days before taking any action under subsection 2, the department shall provide notice of its proposed action to the county social service board and the board of county commissioners of the affected county. The notice must describe the proposed action and the reasons therefor.
4. If the county disputes a notice of proposed action, the board of county commissioners, before the effective date of the action, shall:
 - a. Request reconsideration by the department;
 - b. Propose an alternative action under subsection 2;
 - c. Request a peer review; or
 - d. Make any combination of these responses.
5. If the county's response includes a request for reconsideration or proposed alternative action under subsection 2, the department promptly shall consider that request or proposal and notify the county of its determination.
6. If the county's response includes a request for a peer review, the board of county commissioners shall name two members of a peer review committee, the department shall name two members of the peer review committee, and those four committee members shall name a fifth member of the peer review committee. At least one member of the peer review committee must be a member of a board of county commissioners and at least two members of the peer review committee must be county social service board directors or former county social service board directors. No member of the peer review committee may hold or have held office as county social service board director, or as a member of the county social service board or board of county commissioners, or be a resident of the county requesting the peer review.
7. A peer review must be based upon written submissions made by the department and the county requesting the peer review. The county submission must be made within fifteen days after the county requests peer review, and the department's submission must be made within fifteen days after receipt of a copy of the county's submission. The peer review committee may direct written questions to the parties, and the parties shall respond in writing within fifteen days.
8. A committee member designated by the department shall chair the peer review committee. The committee shall meet at the call of the presiding officer and may meet by teleconference. Any committee action must be by motion. A decision on

the county's request must be made within sixty days after receipt of the county's request, and subject to subsection 9, is binding on both parties.

9. The decision of the peer review committee is a final administrative decision. That decision may be appealed to the district court, and for that purpose, the decision must be treated as a decision on a request for rehearing made pursuant to section 28-32-40. Appeal to the district court must be taken in the manner required by section 28-32-42. The department shall submit a record consisting of:
 - a. Submissions made, and questions asked and answered, under subsection 7; and
 - b. The motion and vote upon which the peer review committee acted to decide the matter.
10. A timely dispute of a notice to appoint a receiver under subsection 2 stays that action until thirty days after issuance of a decision by a peer review committee.
11. A timely appeal of a decision by a peer review committee stays that decision until determination of that appeal.
12. A receiver appointed under this section may take any action that may lawfully be taken by the county social service board and may draw upon the human services fund.
13. Members of a peer review committee are entitled to receive compensation by the department in the amount of sixty-two dollars and fifty cents per day. The county requesting the review shall reimburse the department for one-half of that cost.

CHAPTER 50-03 COUNTY HUMAN SERVICES FUND

50-03-00.1. Definitions. Terms defined in chapter 50-01.2 have the same meaning when used in this chapter.

50-03-01. Board of county commissioners may levy human services tax. The board of county commissioners, if it deems it expedient, annually at its session at which the county tax is ordered to be levied and assessed, may levy and assess a human services tax for the support of needy persons in its county.

50-03-02. County human services fund. Each county in this state shall maintain a fund to be known as the county human services fund into which the county treasurer, immediately upon receipt thereof, shall pay that proportion of the tax receipts which the county human services appropriation bears to the total county appropriations.

50-03-03. Relief expenditures paid from human services fund. All expenditures by the county for the relief of the needy must be paid out of the county human services fund. The fund is not subject to any other charges and is exempt from section 21-02-08.

50-03-04. Transfer of money to human services fund. If the human services appropriation made by a board of county commissioners is not sufficient to meet the expenditures required by law, the county auditor, on order of the board of county commissioners, may make a transfer to the county human services fund from any other fund, except sinking and interest funds set aside to pay the principal or interest on outstanding bond issues or funds set aside to retire any other outstanding indebtedness.

50-03-05. Emergency expenditures - Special warrants. If the unexpended balance in any fund or funds of the county which may be transferred to the county human services fund is insufficient to meet an emergency created by unusual and unanticipated demands on the human services fund, the board of county commissioners, by resolution, may authorize the expenditure of an amount in excess of budget appropriations and may obligate the county in excess of such appropriations for the purpose of replenishing the human services fund. For such emergency expenditures, the county auditor immediately shall issue special warrants to be known and designated as "warrant for emergency human services". Section 21-02-08 does not apply to such emergency expenditures.

50-03-06. Expenditure of total county appropriation - How appropriation following year determined. If the board of county commissioners of any county, due to an emergency, expends in any one year such an amount for human services purposes that the total county appropriations for that year are exceeded, the appropriations for the following year, to make up the deficit caused by such expenditures, shall not be included within the appropriations subject to the tax levy limitation for general county purposes provided by law.

50-03-07. Appropriation for food stamp program administration - Financial agreement. Repealed by S.L. 1997, ch. 403, § 13.

50-03-08. Appropriation for county social service board administration and programs. The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay:

1. The local expenses of administration of locally administered economic assistance programs;
2. That county's share of fifteen percent of the amount expended in this state, in excess of the amount provided by the federal government, for medical assistance in

the form of payments for care furnished to recipients of therapeutic foster care services; and

3. That county's share of the cost of other family preservation services, including intensive in-home services, provided under title VI-B, subpart 2, of the Social Security Act [Pub. L. 103-66, title XIII, 13711(a)(2); 107 Stat. 649, et seq.; 42 U.S.C. 629, et seq.], as amended, as may be agreed to by the department and the county social service board.

50-03-09. Department to develop formula. The department, with the cooperation of the boards of county commissioners, shall develop a formula to be used to determine the appropriate amount of each county's share under subsection 2 of section 50-03-08.

50-03-10. County commissions to make recommendations. Before August first of each year, the boards of county commissioners of the counties shall make a collective recommendation to the department concerning the distribution between counties, of the social service block grant funds and the general fund equivalents of social service block grant funds available to the department for distribution to county social service boards. The department shall consider the recommendation of the county commissioners in determining the distribution to the county social service boards, in the following calendar year, of the social service block grant funds and the general fund equivalents of social service block grant funds available to the department for that purpose.

50-06-05.1. Powers and duties of the department. The department has the following powers and duties to be administered by the department through its state office or through regional human service centers or otherwise as directed by it:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of deprived, unruly, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate social legislation to the legislative assembly.
8. To direct and supervise county social service board activities as may be financed in whole or in part by or with funds allocated or distributed by the department.
9. To inform the public as to social conditions and ways of meeting social needs.
10. To secure, hold, and administer for the purpose for which it is established, any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
11. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department including child-care facilities, nonmedical adult-care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
12. To permit the making of any surveys of human service needs and activities if determined to be necessary.
13. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or maternity hospital or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
14. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, county social

service board, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the developmental center at westwood park, Grafton, state hospital, or North Dakota youth correctional center.

15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, probation, and aftercare services when requested by the judge of a juvenile court, all reports to be kept confidential for the use of the judge except as may be disclosed by the judge.
16. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and probation and parole services, when requested by the judge in a criminal case, all reports to be kept confidential for use by the judge except as may be disclosed by the judge.
17. To act as the official agency of the state in the administration of the food stamp program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act.
18. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing assistance payments, and rental subsidies under any rental assistance programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction.
19. To act as the official agency of the state in the administration of the energy assistance program; to direct and supervise county administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the budget section of the legislative council may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits.
20. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
21. To exercise and carry out any other powers and duties granted the department under state law.
22. To coordinate services for pregnant women.
23. To administer, allocate, and distribute any funds made available for the payment of transitional living services, to develop standards and conduct needs assessments regarding transitional living services, to develop or approve and to evaluate demonstration projects offering transitional living programs, to approve transitional living facilities for the purpose of providing foster care, and to apply for and administer federal and other funds

that may be made available to undertake any of the activities described in this subsection. For purposes of this subsection:

- a. "Transitional living facility" means a specific site, identified by a licensed child-placing agency and approved by the department, for the provision of transitional living services.
 - b. "Transitional living program" means a program that provides transitional living services and may include an identified program operations location approved by the department.
 - c. "Transitional living services" may include housing, supervision, and supportive services intended and designed to assist persons who have received foster care services and who have reached age seventeen, but who have not reached age twenty-one, to achieve independence and self-sufficiency.
24. With the approval of the governor, to lease or transfer use of any part of the developmental center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
- a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the developmental center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
25. To act as a decedent's successor for purposes of collecting amounts due to the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
26. To provide those services necessary for the department and for county social service boards to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
27. To provide for the qualifications for and the membership of a qualified board as required by section 12.1-32-15.
28. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
29. Notwithstanding section 50-01.2-00.1, to determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

50-06-20. Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. Except as provided in section 50-24.1-14, services provided under chapter 50-24.1;
 - b. Benefits provided under subsection 19 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. Services provided under chapter 50-09 as child care assistance;
 - e. Services provided under chapter 50-09 as employment and training programs;
 - f. Welfare fraud detection programs;
 - g. Temporary assistance for needy families; and
 - h. Special projects approved by the department and agreed to by any affected county social service board.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

50-24.1-14. Responsibility for expenditures - Exceptions.

1. Except as otherwise specifically provided in subsection 2 and section 50-03-08, expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.
2. Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 50-03-08.

50-24.5-08. Department has preferred claim against estate. Funds used to provide services to an eligible beneficiary may not be considered as gifts. The department has a preferred claim against the estate of any person for recovery of funds expended under this chapter for that person or that person's spouse or minor children. No statute of limitations or similar statute nor the doctrine of laches bars a claim under this chapter.