

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### **BUDGET COMMITTEE ON HUMAN SERVICES**

Thursday, June 29, 2000  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Jeff Delzer, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Jeff Delzer, Ron Carlisle, Audrey Cleary, Pat Galvin, Lyle Hanson, Roxanne Jensen, Carol A. Niemeier, Todd Porter, Clara Sue Price, Sally M. Sandvig, Ken Svedjan, Robin Weisz; Senators Dennis Bercier, Judy L. DeMers, Tom Fischer, Judy Lee, David O'Connell, Russell T. Thane

**Member absent:** Senator Marv Mutzenberger

**Others present:** See attached appendix

**It was moved by Representative Cleary, seconded by Senator O'Connell, and carried on a voice vote that the minutes of the December 8, 1999, meeting be approved as distributed.**

#### **STUDY OF WELFARE REFORM ISSUES**

Ms. Sheri Steisel, Senior Committee Director, Human Services Committee, National Conference of State Legislatures, Washington, D.C., provided testimony regarding new rules for the temporary assistance for needy families (TANF) program, a copy of which is on file in the Legislative Council office. Ms. Steisel said nationwide there has been approximately a 50 percent reduction in TANF cases since the inception of the program. She said the caseload reduction allows many states the flexibility to assist working poor families who have left the welfare program and those hard-to-serve recipients who remain on the welfare program.

Ms. Steisel said the state's TANF programs are funded with federal funds and state maintenance of effort funds. She said states have the flexibility to use different eligibility and rules for different TANF-funded programs and services, but all TANF program expenditures must meet one of the following purposes:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage.
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies.
- Encourage the formation and maintenance of two-parent families.

Ms. Steisel said TANF funds may be used for traditional assistance benefits or for benefits not considered to be traditional assistance. Traditional assistance benefits meet ongoing basic needs such as cash, food, or housing and are subject to time limits, work participation rates, child support assignment, and data collection requirements. Nontraditional assistance benefits are short-term, nonrecurring benefits (up to four months) or any benefit that meets one of the four TANF purposes and is not for ongoing basic needs. Those benefits which fall in the nontraditional assistance category are not subject to time limits, work participation rates, child support assignment, and data collection requirements. She said states are allowed to transfer up to 30 percent of federal TANF funds into their child care development block grant, access to jobs program, and the social service block grant.

Ms. Steisel said state maintenance of effort funds may be commingled with federal TANF funds, segregated from federal TANF funds, or separated from federal TANF funds. If state funds are commingled, federal TANF rules apply. If state funds are segregated from federal TANF funds but in the same program, there is no time limit requirement, but work participation rates and data collection requirements apply. If state funds are separated, only chosen state rules apply.

Ms. Steisel said federal TANF funds must be spent on nonmedical services, but state maintenance of effort funds may be spent on medical services. Medical services are considered to be services received in the hospital, treatment by a doctor, or health insurance. Nonmedical services may be screening services, assessments, or services by nonmedical professionals.

Ms. Steisel said unobligated TANF balances from prior years or carryover TANF funds can only be spent on assistance. As a result, some states are designating unobligated TANF balances for cash assistance and are using the current TANF grant for services.

In response to a question from Representative Svedjan regarding state maintenance of effort funds, Ms. Steisel said states may use federal TANF funds for benefits with time limit requirements and use state maintenance of effort funds for more flexible programs.

In response to a question from Representative Galvin regarding TANF programs used to prevent out-of-wedlock pregnancies, Ms. Steisel said states have the flexibility to determine appropriate programs in this area including the definition of appropriate program eligibility requirements.

In response to a question from Representative Delzer regarding the time limit for spending unobligated TANF funds, Ms. Steisel said the current rule is that carryover TANF funds may be used only for cash assistance, food, or housing.

In response to a question from Senator Thane, Ms. Steisel said currently 55 to 65 percent of people leaving welfare are doing so because of employment. She said this allows states the flexibility to reorientate programs to concentrate on assisting working poor families.

In response to a question from Representative Svedjan regarding the new TANF spending flexibility, Ms. Steisel said it may be beneficial for states to start backwards in the process by looking at those whose needs are currently not being met. States can project where time limit requirements fall, determine what services need to be provided, and allow the money to follow. She said more information regarding this philosophy can be found in a checklist for state legislators prepared by the National Conference of State Legislatures, a copy of which is on file in the Legislative Council office.

Ms. Steisel also provided testimony regarding tribal TANF programs. She said new federal regulations regarding tribal TANF programs were issued in February 2000. The United States Department of Health and Human Services to date has approved 25 tribal TANF programs which impact 94 tribes and has 22 pending proposals which impact 78 tribes. She said two North Dakota tribes--the Three Affiliated Tribes and the Turtle Mountain Band of Chippewa--have filed letters of intent with the United States Department of Health and Human Services.

Ms. Steisel said the federal regulations allow tribes to design their own TANF programs with flexibility similar to what is found in state TANF programs. She also said tribes are allowed to determine their own benefits, eligibility requirements, work participation rate requirements, and definition of work.

Ms. Steisel said the first step for a tribe in developing a tribal TANF program is to file a letter of intent with the United States Department of Health and Human Services. Next, the state in which the tribe is located is responsible for computing the amount of federal TANF funds available to the tribe based on fiscal year 1994 tribal welfare costs. The tribe then must present a detailed plan to the United States Department of Health and Human Services. If the plan is accepted, the tribe is required to give the state a 30-day notice of its withdrawal from the state TANF program, and the state's share of TANF benefits

received from the federal government will be reduced to reflect the portion granted to the tribe.

Ms. Steisel said the definition of family used to determine the federal amount of funding the tribal TANF program will receive does not necessarily need to match the definition of family for the tribal TANF program. Therefore, states may have an obligation to continue to provide services to members of tribes operating a tribal TANF program based on the tribal TANF service plan.

Ms. Steisel said tribes with a high unemployment rate may have an incentive to stay in the state TANF program because of the exemption of any month where unemployment on a reservation is 50 percent or more from an individual's 60-month time limit.

In response to a question from Representative Delzer regarding the state's maintenance of effort requirement, Ms. Steisel said the state's maintenance of effort requirement is proportionately reduced to reflect approved tribal TANF programs.

In response to a question from Representative Weisz, Ms. Steisel said states may still provide welfare funding to tribes that have an approved tribal TANF program. The funding would be considered part of the state's maintenance of effort requirement, and the tribe would be responsible for spending the funding in accordance with the four purposes of TANF and any state-specific criteria attached to the funding.

In response to a question from Representative Svedjan regarding the definition of work for tribal TANF programs, Ms. Steisel said some tribes are including education, training, and culturally appropriate activities in their definition of work.

In response to a question from Senator Bercier, Ms. Steisel said in order to determine which would benefit a tribe more, a tribal TANF program or state TANF program, a tribe must review all the options. She said for either to be successful, there must be cooperation between the state and the tribe.

Mr. John Hougen, Assistant Director, Public Assistance Division, Department of Human Services, provided testimony regarding the TANF program, a copy of which is on file in the Legislative Council office.

Mr. Hougen's testimony included:

- The May 2000 caseload was 2,771 recipients, which exceeds estimates included in the 1999-2001 appropriation.
- The department is estimating that approximately \$10.7 million in TANF funds will be carried forward to the 2001-03 biennium.
- The amount of federal TANF expenditures in fiscal year 1999 was \$22.9 million, and the amount of federal TANF expenditures in fiscal year 2000 through March 2000 was \$6.6 million.
- Information regarding TANF recipients eligible for Medicaid benefits. Those recipients who become employed and exit the TANF program

are eligible for an additional 12 months of transitional Medicaid benefits. Reviews of closed TANF cases have been completed to ensure Medicaid coverage has been continued for eligible families. As of May 31, 2000, 2,556 recipients are receiving transitional Medicaid benefits.

- Food stamp eligibility rules in the process of being modified so TANF recipients who exit the program will continue to be considered for food stamp benefits based on income and family size.

The committee recessed at 12:00 noon for lunch and reconvened at 1:00 p.m.

Mr. Hougen continued his testimony regarding the TANF program which included:

- Regarding the Rolette County pilot project which has been in operation for one year, 13 of the 21 individuals involved in the classroom component have completed the coursework and graduated. Of the 12 individuals involved in the work activity component, seven are in paid employment, three are in work experience, and two are completing their GED.
- Regarding tribal TANF pilot programs, the Turtle Mountain Band of Chippewa and the Three Affiliated Tribes have filed letters of intent to operate their own tribal TANF programs. The department has computed the share of federal TANF funds available to each tribe. The share for the Turtle Mountain Band of Chippewa is \$3,002,353 each year, and the amount for the Three Affiliated Tribes is \$606,108. Each tribe's share of the federal funds would be deducted from the state's TANF block grant.
- Regarding unemployment information for Indian country, the Turtle Mountain Indian Reservation continues to have an unemployment rate greater than 50 percent for all months. The Spirit Lake Reservation dropped below the 50 percent unemployment rate for the months of April and May, and the Standing Rock and Three Affiliated Tribes Reservations continue to have unemployment rates lower than 50 percent.
- Regarding suggested statutory changes involving the administration of the TANF program, the department may have recommendations for statutory changes regarding the definitions of which families may continue to receive benefits after the 60-month time limit, nonassistance, and education.
- Information by county on the number of TANF recipients reaching the 60th month of assistance during the six-month period beginning July 1, 2002.

In response to a question from Senator Bercier regarding the high-performance bonus, Mr. Hougen

said the high-performance bonus received by the state may be used for the same programs as other federal TANF funds.

In response to a question from Representative Porter regarding the transitional Medicaid benefits, Mr. Hougen said there is no recipient liability for individuals receiving these benefits.

In response to a question from Representative Delzer regarding tribal TANF programs, Mr. Hougen said information regarding the effects of the operation of a tribal TANF program on the Department of Human Services "SWAP" agreement with counties can be presented at the next meeting.

In response to a question from Representative Delzer regarding departmental suggested statutory changes, Mr. Hougen said a list of departmental suggested statutory changes can be prepared for the committee's next meeting.

Mr. Leo Cummings, Department Administrator, Employment and Training, Three Affiliated Tribes, New Town, provided testimony regarding tribal TANF programs. Mr. Cummings said with the new tribal TANF regulations, the Three Affiliated Tribes is interested in administering its own TANF program, but he believes the federal TANF funds of approximately \$600,000 would not be sufficient to operate a tribal TANF program for 100 percent of the current reservation caseload. He said with the limited funds available, Three Affiliated Tribes could possibly administer a limited tribal TANF program concentrating on those individuals who encounter many barriers. He said if coordinated with the state, the tribe could operate a program serving 100 percent of the reservation TANF population.

Ms. Linda Isakson, Public Policy Coordinator, North Dakota Council on Abused Women's Services, provided testimony on domestic violence and TANF, a copy of which is on file in the Legislative Council office. Ms. Isakson said North Dakota has yet to apply legislation adopted in 1997 which waives the work requirements for victims of domestic violence for a limited time until they are able to find safe, affordable housing and dependable child care and to resolve legal problems. She provided the following suggestions to improve the family violence option under TANF:

- Clearly state the family violence option in law separate from the disability exemption.
- Have the Department of Human Services provide a basis for ongoing discussion of family violence issues and TANF.
- Provide emergency assistance funds to those people who are leaving abusive relationships to help find a safe place to live or to transport families to safety.
- Have the Department of Human Services develop rules for individual development accounts which would encourage TANF recipient savings and allow for a match from

the state, local, or nonprofit sector. The money would not affect eligibility and would be restricted for use for housing, transportation, and education.

In response to a question from Senator DeMers, Ms. Isakson said most individuals are not aware that the waiver exists. She said the Department of Human Services is aware of the problem and is working on correcting it.

Mr. Richard LaFromboise, Tribal Chairman, Turtle Mountain Band of Chippewa, provided testimony regarding tribal TANF programs. Mr. LaFromboise said there needs to be a cooperative working arrangement between the state and the tribe in order to get welfare recipients to become successes.

Ms. Michon C. Sax, County Social Service Director for McKenzie and Williams Counties and President of the North Dakota Association of County Social Service Directors, provided testimony regarding welfare reform. Ms. Sax said Williams County is one of the pilot demonstration counties which will be working with TANF recipients in attempting to perform many of the new programs allowed with the new TANF spending flexibility.

Senator DeMers requested the committee receive information from the Department of Human Services at its next meeting regarding individual development accounts.

Representative Niemeier asked that the committee receive at its next meeting a status report from the State Department of Health Maternal and Child Health Division regarding teen pregnancy and abstinence programs.

Representative Jensen requested the committee receive information from the Department of Human Services at its next meeting regarding the department's plans on implementing the new TANF spending flexibility including any reorganizing of priorities and service needs and program changes.

Representative Cleary asked that the committee members be provided a status report on the study of gaming addiction problems funded by the Indian Gaming Compact.

Later in the day, the committee discussed receiving additional information regarding the family violence option under TANF.

**It was moved by Representative Cleary, seconded by Senator O'Connell, and carried on a voice vote that the committee request the Legislative Council staff to prepare a bill draft which would identify the family violence option as an exemption to the TANF work requirements and 60-month benefit limit.**

### **STUDY OF THE DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE CENTER SERVICES**

Ms. Yvonne Smith, Acting Executive Director, Department of Human Services, provided testimony

regarding the Department of Human Services strategic planning process and the implementation of the recommendations contained in Senate Concurrent Resolution No. 4003. A copy of her testimony is on file in the Legislative Council office.

Ms. Smith said all divisions, human service centers, and institutions have completed their strategic plans, and the department's executive office has reviewed and approved all plans. She said each plan contains the program purpose statement which clearly identifies the major services, the immediate customer, the intended benefit to that customer, and performance measures for results, demand, output, and efficiency. She said all department employee critical job elements, which are workplans an employee is evaluated on, will be rewritten to reflect strategic plan measures by June 30, 2001. She also said each human service center has met with the county directors in its region to provide an overview of the department's plan and the human service center's strategic plan.

Regarding the department's implementation of the recommendations contained in Senate Concurrent Resolution No. 4003, Ms. Smith reviewed a status report detailing the 18 recommendations contained in the resolution and the department's progress in implementing each recommendation.

Ms. Smith said Congress has been considering severe reductions to the social service block grant, which currently provides approximately \$4.2 million to North Dakota to fund services through regional human service centers and county social service agencies. She said although it appears any drastic reductions will be avoided, the department will continue to monitor the situation and keep the Legislative Assembly informed of any reductions and the effect those reductions may have on the state.

Ms. Brenda M. Weisz, Director, Fiscal Administration, Department of Human Services, provided testimony regarding many of the areas outlined in Section 25 of 1999 Senate Bill No. 2012 regarding program funding issues. A copy of her testimony is on file in the Legislative Council office.

Ms. Weisz said regarding:

- Maximizing the use of federal funds, the department scrutinizes program expenditures and contributes the appropriate amount of general fund moneys to ensure that the necessary federal funds are accessed.
- Opportunities to reduce general fund expenditures, the department requires various entities with which it contracts to provide a portion or the entire amount of matching funds to enable the department to access federal funds without increasing department general fund requests. The department also accesses additional federal dollars for administrative costs through the use of a federally approved cost allocation plan.

- The appropriateness of the state replacing reductions in federal funds with state resources, the department reviews the general fund requirements to access the federal funds and the duration of the federal program before applying for new federal funds.
- The coordination of programs to avoid duplication in program delivery, the department attempts to ensure programs are not duplicated by establishing open communication within the department through biweekly senior management meetings, monthly meetings with the human service centers and institutions, and monthly meetings with county social service agencies.
- The cost-benefit of programs, the department analyzes the cost of the program or service, the expected benefits or outcomes, whether or not the program aligns with the mission of the department, and whether or not the department is statutorily required to provide the service prior to establishing a program.

Mr. Gene Hysjulien, Director, Disability Services Division, Department of Human Services, provided testimony detailing the vocational rehabilitation clients served during federal fiscal year 1999, a copy of which is on file in the Legislative Council office.

Mr. Hysjulien's testimony included:

- The total number of clients served in federal fiscal year 1999 was 6,969, of which 904 were rehabilitated and employed.
- Of the 904 clients rehabilitated and employed, the three largest occupational categories were service, professional, and clerical/sales.
- The division's rehabilitation rate for federal fiscal year 1999 was 66 percent.

In response to questions regarding the rehabilitation rate, Mr. Hysjulien said the rehabilitation rate of 66 percent was computed by comparing the number of clients employed during the federal fiscal year of 904 to the number of cases closed during the federal fiscal year of 1,379.

Mr. Roger Hertz, Director, Information Management Division, Department of Human Services, provided testimony regarding the Health Insurance

Portability and Accountability Act of 1996 and its impact on the department's computer systems, a copy of which is on file in the Legislative Council office.

Mr. Hertz said the goal of the Health Insurance Portability and Accountability Act is to reduce the cost and administrative burdens of health care by making possible the standardized, electronic transmission of health care data. He said the Health Insurance Portability and Accountability Act regulations are made up of nine standards which are centered around transactions, identifiers, security, and confidentiality. He said it is anticipated the implementation of these standards could be a very large undertaking both in fiscal and human resources as the standards are lengthy, detailed, and will require a complete business analysis in order to ensure computer systems, policies and procedures, and business processes meet the standards. He said other states are estimating the cost of implementing the standards may be as high as \$10 million. He said the department has established a Health Insurance Portability and Accountability Act steering committee and is currently in the process of determining the effects the proposed regulations will have on the department's business processes, computer systems, and security standards. Mr. Hertz said the department will keep the Legislative Assembly informed of the status of the regulations and the impact they may have on the department.

The committee adjourned at 4:05 p.m. subject to the call of the chair.

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Roxanne Hobza  
Fiscal Analyst

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Jim W. Smith  
Legislative Budget Analyst and Auditor

ATTACH:1