

1999 HOUSE HUMAN SERVICES

HCR 3057

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3057

House Human Services Committee

Conference Committee

Hearing Date February 15, 1999

Tape Number	Side A	Side B	Meter #
1	X		7.7 - 50.9
1		X	1.7 - 5.6
Committee Clerk Signature <i>Susann Lindsteigen</i>			

Minutes:

Rep. SHIRLEY MEYER, District 36, testified (Testimony attached). I did have a constituent's family that called me in October. When they explained to me what was going on, I found it difficult to believe. (Continued with paragraph 3 of testimony.) I want to emphasize, I'm not talking about fraud here. I'm talking about departmental error. I do not believe the department of human services' process is cost effective. The definition we are falling into is North Dakota has become rural poor. The over issuance of food stamps and subsequent repayment affects our county a great deal. They come in for emergency assistance and it kicks in during February when these people don't have heat or health. They are put on our county welfare rolls. I do not believe that this will trigger any kind of federal fund cuts. You're going to hear, perhaps, that if we engage in this study that that's going to jeopardize federal funding. I just do not believe that to be true. Before this ever took place, a study should have been done to see how this was going

to impact the people that are the very poorest in our state. That's all the Secretary required and that's why I highlighted (in yellow) that. The program goals, they want to reduce the burden and duplication and streamline requirements for our state food stamp program.

OPPOSITION

ROYCE ROBERSON, Director, Energy and Nutrition Division, Department of Human Services, commented on lines 11 and 12 of the resolution which refers to Section 844 of the Act. That section talks about reducing allotments of a household to recover food stamp benefits, withholding from unemployment compensation, recovering from federal income tax. It talks about cost effectiveness, states paragraph one shall not apply if the state can demonstrate to the satisfaction of the Secretary that *all* of the means referred to in paragraph (1) are not cost effective. I don't believe there is any way that we can defend or demonstrate to the Secretary or prove to the Secretary that allotment reduction is not cost effective. Its only done with families that are currently participating in the food stamp program. Many of the families that were in the pool, we say they owe past food stamp claims, many of them, in most cases, no longer participate in the program. This state resisted adopting federal tax offset until last year when we were told that we faced a sanction if we did not follow that part of the Act. We have implemented this in as careful a manner as we can. If I could direct your attention to lines 13 and 14 of the resolution. The over issuance of food stamp benefits totals \$1,200,000 roughly over the past 10 years or more. Of that amount, 26% of those dollars are there because of intentional program violation or fraud; 56% of those dollars are there because of client misunderstanding the food stamp program which is very complicated; and 18% of those dollars are there because of an agency error. Prior to the enactment of the Personal Responsibility Act of 1996, when an agency

error occurred, the notice to the client said "an agency error occurred, amount of dollars, consent to a repayment plan before any recovery can be made. That is derived from federal regulations and in effect, it conveys the message to the client. With the enactment of this legislation, the term *all*, over issuance of, and effectively says we have to collect agency errors regardless of consent of the family. The issue on going back ten years, is one that the department has taken up with Food and Nutrition Services, a division of the US Department of Agriculture. Carol Olson, Executive Director, sent a formal letter to that agency asking that benefits in terms of any claims that were established to people before 1996 that those be expunged or forgiven because of the unfairness of retroactively imposing recovery on those kind of benefits. We certainly agree and sympathize with the thrust of this resolution. However, we don't think we can win with the Secretary of Agriculture because we can't show an allotment reduction is ineffective. It is clearly effective. That's pretty easy. If there was something, a message, or perhaps a resolution that could be sent to Congress that might be more helpful in terms of urging them to amend this part of the Personal Responsibility Act and not require states to recover on agency errors that were established before the enactment of the Act. I think that would be fair.

Rep. AMY KLINISKE asked about the lump sum payment and how many people are affected?

ROYCE ROBERSON stated the payment represents the total aggregate sum. We have been doing everything we can to work out a repayment agreement with anybody even though the federal regulation guidelines say don't settle for less. When we started this effort back in April we had about 3500 people that were involved in the number of claims. However, we are down to about 900 submissions to the Treasury Offset Program. We have been unable to locate a lot of those people. Over ten years, people move. One of the requirements is that we have to have the

permanent IRS address to submit the claim and for many of those people they haven't informed IRS of their new address. The other thing is if there are repayment agreements in place and another key development took place and that is social security administration has obtained a waiver for anybody who's income is below \$750/month that their income will not be subject to treasury offset. This was a big concern to us because there are a lot of people who are living on SSI or less than \$750/month. Of the 900 family names submitted to Treasury Offset, we looked at only 100 of them so far but two out of 100 were agency error claims or anybody age 60 and over. We have not previously classified that information. It looks like most of the claims are going to be younger than age 60.

Rep. CAROL NIEMEIER asked for information on the eligibility of food stamp payments?

ROYCE ROBERSON stated it is based on your income and the number of people in a household. That is roughly 130% of poverty is the maximum gross income and you cannot have negotiable assets, things that can be converted to cash that exceed \$2000.00, unless you are over age 60, then its \$3000.00. You can't have an automobile that is worth more than \$4,650.00. If you do, the amount over that counts towards your asset level of \$2000.00. Rep. CAROL NIEMEIER asked how are the overpayments discovered? ROYCE ROBERSON stated they are usually discovered by the county agency or the department discovers their own error or someone didn't report a certain amount of income and then social security or job service names are matched to income reported and income earned. Rep. CAROL NIEMEIER asked are those areas investigated prior to the issuance of food stamps. ROYCE ROBERSON stated they bring in their own verification. The issue here seems to be agency error. They may have been informed that the person's income was going to change but the person didn't know how much it would

change. By the time the person found out how much Kmart is going to pay, they had already received benefits for that month. Lots of times agency error claims are sort of nobody's fault.

Rep. RALPH METCALF asked how much money are we talking about that needs to be

collected? ROYCE ROBERSON stated the \$1.2 million is the total we started at and that is the amount we have to carry on our books. Some people will never get more money so they will

stay on the books, some people move out of state and we'll never find out where they are. We're

estimating out of the \$1.2 million, at most, there will be \$600,000 that could be collected. In

reality, so far we have collected about \$56,000 since about September, of which all is voluntary.

Rep. RALPH METCALF asked how much is this program costing you, i.e., new staff? ROYCE

ROBERSON stated we hired two temporary people for three months at a salary of around

\$9500-\$9600; toll-free phone line, rent for space. We needed people to handle all the calls. Rep.

RALPH METCALF asked how many people are currently on the system that you call that are

beyond their means to repay and how does it affect them? ROYCE ROBERSON stated most of

these people are not currently receiving benefits. If they were receiving and there are roughly

14,000 families receiving every month, we are already doing allotment reduction. Most of the

people that they are talking about are currently not receiving. Rep. RALPH METCALF talked

about people in a nursing home who have no finances. ROYCE ROBERSON stated the problem

with the whole process is that we really didn't know if these people were still around because the

address that we would have could be ten years old, as well. We did get very good cooperation

with the counsel of services offices. We gave them a list of all the people that we mailed to so

that they could help us identify someone who was okay five years ago and now have entered a

nursing home. We don't want to offset nursing home costs because of the food stamp program

which is a 100% federal benefit. That's no reason to be any less responsible for it. First, their income would have to be greater than \$750/month of social security or some other source before we have an exemption for that. If there is the possibility that they have that kind of income, then we work out some kind of repayment agreement to repay some of the benefits. To my knowledge, that hasn't happened.

Rep. BRUCE ECKRE discussed working for construction as a seasonal worker. Do you have to go through Job Service to find out if they qualify for benefits? Can you type in the person's name and can you bring up their wages when people apply for benefits? ROYCE ROBERSON said no, we don't have direct access? It's an automatic match that is done later down the road by Job Service or Social Security Administration.

Rep. ROBIN WEISZ stated your testimony indicates 900 eligible for offset but according to your sheet, it shows 4600 eligible for offset on the \$1.2 million. Please explain your figures. ROYCE ROBERSON stated the sheet includes individuals who are currently receiving and all those cases. That would include active cases as well as some of the 3500 claims currently in the system. We are at 900 cases because those are the only cases that we could find where we could verify an IRS address. Rep. ROBIN WEISZ stated but if these are current cases and based on what you're saying they're open and you have no problem finding them and asked why don't you get these? ROYCE ROBERSON said I'm sorry if I said current cases. They're current for our pool, of course, in relation to offset but they are most likely not. I'm sure they're closed cases of the 900.

Rep. TODD PORTER stated I find an 18% agency error rate rather alarming. What's being done to correct that part of the problem. ROYCE ROBERSON stated the 18% is really the dollar

amount. So there's actually probably more agency error than 18% if you count the number of errors. A lot of errors can be \$10 or \$20 because someone didn't know what they were going to have for income until they got a job. The food stamp program is probably one of the most difficult and complicated programs. There's lots of rules. States don't have too much choice on making rules on the food stamp program. We would be training two to three times a year just to keep counties informed of the standards. Overall, the total of errors from all sources amount to around six. Last year we were over ten. Generally, North Dakota is one of the lowest.

Rep. CAROL NIEMEIER discussed the Treasury Offset Program and that a review can be requested to provide evidence to support their position. Is there any legal aid association that can help a client prepare such evidence? Also, Rep. Meyer's testimony provided a letter that the department has requested any legal opinion on this action but rather has totally avoiding federal sanctions in this regard. Has the department had any concerns about these legal ramifications?

ROYCE ROBERSON stated this is nationwide. There are states where there are legal challenges. I'm familiar with the details of those challenges. When over issuance is discovered in North Dakota, we issue a notice to the person. If they disagree with it, then they get a notice to appeal. Once that appeal is settled and if its upheld, then a claim goes to our claims and one is made and it turns to a legal claim. They don't have a chance to re-appeal the claim further. If the claim goes back more than three years, we don't actively have access to that information. It has been stored on a computer disc someplace. In fact, I know that information was sent to Legal Assistance in Cass County. Nothing has been ruled against the department's way of doing things in North Dakota. The law being the way it is, it doesn't seem right, but we've got to do it.

We've asked the human services division of USDA to consider not collecting before this Act was

passed. Rep. CAROL NIEMEIER asked do you agree that the burden of proof is on the client and that people in the lower income situations are going to have a hard addressing that? ROYCE ROBERSON stated the appeal that we speak to in our letter is not the formal deal. The appeal of whether this is a rightful claim, that time, has come and gone. You're right. Poor people have a harder time getting their needs met.

Rep. CLARA SUE PRICE stated you mentioned that Carol Olson sent a letter to USDA and asked to not have things prior to the 1996 Act. When do you expect an answer and how many states are requesting this information? ROYCE ROBERSON stated I don't know if the other states are. I can inquire. Other states don't seem to have this problem. I expect that we'll hear no later than one month from now. Rep. CLARA SUE PRICE asked of the 3500 people that you have additionally and you said you're down to 900 people because you don't have the IRS addresses, once you've eliminated the 2600 are they off the department record or is that going to be open forever and if they come back into the system, we're going to bill them? ROYCE ROBERSON stated that's right. They are not on forever. We cannot collect past ten years for treasury offset. But we have no commission to expunge claims. Rep. CLARA SUE PRICE asked what happens to the money when its collected? ROYCE ROBERSON said the law is prescriptable about that. If its an agency error, all of the money goes back to the federal government. If its fraud or an objectionable program violation, 65% goes back to the federal government and 35% stays in the state of North Dakota. If its a client misunderstanding, then 20% stays in North Dakota, 80% goes back to the federal government. It is a 100% federal benefit and still is. Rep. CLARA SUE PRICE stated if we don't cooperate, then we're sanctioned. How much are we sanctioned? ROYCE ROBERSON said I can't show you in

writing, there isn't any regulation. Maybe, we'll find out as a result of Carol Olson's letter.

Federal regulations on federal sanctions pretty much say that federal government rules or laws FCS, will withhold the state's administrative reimbursement which for North Dakota is \$4 million.

Rep. SHIRLEY MEYER, stated the Department of Agriculture, Food Nutrition Service, gave states every opportunity in the world. They wanted a simplified food service program, simplified food stamp program, simplified for the states. They were asking the states to tell us how is best in your state and why you feel this way. This is from the federal register. It was withdrawn from the Federal Register on October 1, 1998. Why? Because of lack of state agency interest. Not one state agency in our state or any other state sent in and said we prefer to do it this way. There wasn't a state agency that wrote a letter saying that this is going to hurt our poor. They are now and Carol wrote one now because of the stink I raised about it. Just one other question. The lawsuits that are taking place around the United States, they're taking place because of the clients that have had legal representation to go forward. This is in violation of the Fair Debt Collection Practices Act. I didn't want to do it. I've got this Act if you would like to read it. You cannot go with ex post facto back in the US Constitution nor the state constitution because you are inactive. Ex post facto means you are retroactively applying. Not once did our state agency nor any other state agency, there are other state agencies that have but North Dakota did not go back with this ex post facto and say to the federal, we cannot do this because its against the constitution of both the Untied States and North Dakota. One last point - none of these recipients have been notified or the people that they are sending notices to. Not one of them have been notified that there first \$750 of social security is exempt. And neither have they been notified

that their claims are not legally collectible. They are in violation of the Fair Collection and Trade Practices Act because of this. I just feel like this study would address a lot of these issues.

Thank you.

Rep. CLARA SUE PRICE stated we need to do some research on this. Last session when we worked on the Welfare Reform Act, we did try to do some simplification. Those of you who were here remember that we tried to put this more in line with the Medicaid Eligibility and those types of things. The US Department of Agriculture denied that.

Hearing Closed.

Committee Discussion.

Rep. CLARA SUE PRICE stated I want to do some more checking on this one. In reading it, my assumption is that it is a study and would report findings but I don't think it stops anything in the interim or meantime. They can continue the program as is. That whole food stamp area was a real problem when we did the Welfare Reform Act last session. We were trying to simplify it and to make the assets the same as Medicaid and those things. We didn't get our waiver for the easiest way. I found some of what she said confusing.

Rep. WANDA ROSE asked is it possible to get a copy of that letter that we sent to the Agriculture Department requesting the waiver. Rep. CLARA SUE PRICE said I will ask.

Rep. ROBIN WEISZ stated I know in the Interim Committee we had the letter from the Department of Agriculture turning down the waiver application.

Rep. WILLIAM DEVLIN stated if that exists, and I'm sure it does, and further asked can we get a copy of both letters? Rep. CLARA SUE PRICE said I will try to get copies.

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Rep. CAROL NIEMEIER asked do we have a copy from Rep. Meyer that Mrs. Olson sent out stating what is the result, the notification? Rep. CLARA SUE PRICE asked are you talking about the one that goes to the client, the recipients? Rep. CAROL NIEMEIER said yes, that letter. Rep. CLARA SUE PRICE said it is the 4th page from the back of her testimony.

Committee adjourned.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3057

House Human Services Committee

Conference Committee

Hearing Date February 24, 1999

Tape Number	Side A	Side B	Meter #
1		X	27.6 - 31.9
2	X		4.4 - 34.6
Committee Clerk Signature <i>Susanne Lindteigen</i>			

Minutes:

Committee Discussion.

Rep. CLARA SUE PRICE related discussion with department of human services. The department doesn't feel they will have a problem proving cost effectiveness. We should keep monitoring welfare reform and look at the whole package to include TANF, food stamp program, medicaid, etc.

Rep. AMY KLINISKE and Carol Olson, Department of Human Services, attended a seminar in Colorado. Many states have this problem and federal agents stated to call the state Congressional delegation to try and change the law.

Rep. CAROL NIEMEIER mentioned that a lot of things in this bill are important and the committee should look into it before there is a lawsuit. The state and federal law may be in conflict.

Rep. CLARA SUE PRICE discussed that the department is not happy with things in the repayment system. They would like to write off the accounts that are uncollectible but the federal law will not allow them to do that.

Rep. CLARA SUE PRICE distributed copies of an amendment (attached) prepared by the department of human services, dated February 23, 1999.

Rep. ROBIN WEISZ asked to delete the last three of the four **WHEREAS** paragraphs, delete lines 11 through 17, and at the end of line 18 change “will” to “may” of the bill.

Rep. RALPH METCALF agreed this change would not point fingers.

Rep. CLARA SUE PRICE expressed concern that the department will be doing the tax offset for the next two years and these are the same people who will be affected.

Rep. ROBIN WEISZ moved to ADOPT AMENDMENTS.

Rep. PAT GALVIN second the motion.

VOICE ROLL CALL VOTE #4: 15 yeas, 0 nays, 0 absent

Rep. CLARA SUE PRICE asked does the committee want to add welfare reform to the study? My concern is the evaluation and monitoring of the implementation of the effectiveness of welfare reform.

Rep. ROXANNE JENSEN expressed interest in composing a paragraph to add it to the study.

Rep. AMY KLINISKE moved to ADOPT AMENDMENT to add concept of welfare reform.

Rep. ROXANNE JENSEN second the motion.

VOICE ROLL CALL VOTE #5: 15 yeas, 0 nays, 0 absent.

Rep. CLARA SUE PRICE assigned Rep. AMY KLINISKE, Rep. WANDA ROSE, and Rep.

BLAIR THORESON to develop the language and obtain the committee’s agreement with it.

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House Human Services Committee

Bill/Resolution Number HCR 3057

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Rep. ROXANNE JENSEN moved DO PASS As AMENDED.

Rep. CAROL NIEMEIER second the motion.

VOICE ROLL CALL VOTE #6: 15 yeas, 0 nays, 0 absent

CARRIER: Rep. WANDA ROSE

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3057

- Page 1, line 2, replace "tax offset program of" with "food stamp overissuance collections by" and replace "Services' food stamp benefit recovery effort" with "Services"
- Page 1, line 3, replace "the federal" with "section 844(a) of the"
- Page 1, line 4, replace "all outstanding claims of" with "any"
- Page 1, line 8, after the comma insert "section 844(a) of"
- Page 1, line 11, replace "844" with "844(a)"
- Page 1, line 12, replace the second "the" with "all of those means of" and replace "is" with "are"
- Page 1, line 13, after the comma insert "eighteen percent of"
- Page 1, line 14, replace "and not" with ", fifty-six percent the result of recipient error, and twenty-six percent the result of"
- Page 1, line 15, remove "many"
- Page 1, line 16, remove "are elderly and living on very"
- Page 1, line 17, replace "low incomes" with ", fifty-two claims, consisting of approximately three percent of the total of all claims, were against persons age sixty or older"
- Page 1, line 18, replace "will" with "may"
- Page 1, line 22, remove "tax offset program of the"

Renumber accordingly

VK
2/25/99

HOUSE AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3057 HUMSER 2/25/9

Page 1, line 2, after "effort" insert "and to study and monitor North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Page 1, line 19, after the semicolon insert "and"

Page 1, after line 19, insert:

"WHEREAS, during the 1997-98 interim, the Legislative Council studied the monitoring of the implementation of welfare reform in North Dakota; and

WHEREAS, the interim committee assigned the welfare reform study identified a number of issues that may need continued monitoring by a future interim committee;"

Page 1, line 23, after "effort" insert "and to study and monitor North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Renumber accordingly

Date: 2-24-99
 Roll Call Vote #: 4

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 3057

House Human Services Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment delete lines 11-17
change line 18, last word "will" to "may" *Last 3 WHEREAS part*
 Motion Made By Robin Weisz Seconded By Pat Galvin

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total Yes 15 No 0
 Absent 0

Floor Assignment _____

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

Date: 2-24-99
 Roll Call Vote #: 5

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3057

House Human Services Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment to add welfare reform language

Motion Made By Amy Kliniske Seconded By Roxanne Jensen

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total Yes 15 No 0
 Absent 0

Floor Assignment _____

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

Date: 2-24-99
 Roll Call Vote #: 6

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. 3057

House Human Services Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 93117.0101

Action Taken Do Pass As Amended

Motion Made By Roxanne Jensen Seconded By Carol Niemeier

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman			Bruce A. Eckre		
Robin Weisz - Vice Chairman			Ralph Metcalf		
William R. Devlin			Carol A. Niemeier		
Pat Galvin			Wanda Rose		
Dale L. Henegar			Sally M. Sandvig		
Roxanne Jensen					
Amy N. Kliniske					
Chet Pollert					
Todd Porter					
Blair Thoreson					

Total Yes 15 No 0
 Absent 0

Floor Assignment Wanda Rose

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

REPORT OF STANDING COMMITTEE

HCR 3057: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3057 was placed on the Sixth order on the calendar.

Page 1, line 2, after "effort" insert "and to study and monitor North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Page 1, line 19, after the semicolon insert "and"

Page 1, after line 19, insert:

"WHEREAS, during the 1997-98 interim, the Legislative Council studied the monitoring of the implementation of welfare reform in North Dakota; and

WHEREAS, the interim committee assigned the welfare reform study identified a number of issues that may need continued monitoring by a future interim committee;"

Page 1, line 23, after "effort" insert "and to study and monitor North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Renumber accordingly

1999 SENATE HUMAN SERVICES

HCR 3057

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR3057

Senate Human Services Committee

Conference Committee

Hearing Date MARCH 15, 1999

Tape Number	Side A	Side B	Meter #
1		X	3,530
3/22/99 1	X		1,016
3/23/99	X		
Committee Clerk Signature <i>Barry K. Kolden</i>			

Minutes:

The hearing was opened on HCR3057.

REPRESENTATIVE SHIRLEY MEYER, sponsor, introduced the bill with written testimony.

SENATOR LEE: The Federal Dept of Agriculture has been uncooperative in implementation of food stamp rules and regulations that don't work well in ND. It doesn't all seem to lie with the Dept of Human Services. REP. MEYER: In contacts with them they said we had never submitted a plan from ND that shows it was not cost effective. SENATOR DEMERS: Are they going after estates of people that have died? REP. MEYERS: I was told they were but I have not been able to find out so I am uncomfortable in saying that.

Neutral or Opposition

ROYCE ROBERSON, Dept of Human Services, attending as a resource person. We need to peruse this requirement under the Welfare Reform Act. In the past whenever the agency made a

mistake and calculated too much for somebody and then they went off the program, the state was disallowed to collect or pursue that closed claim. Unless you agree to pay it back, you do not have to because it was not your mistake. SENATOR DEMERS: I'm puzzled about the amount of money. MR. ROBERSON: We give \$2 million a month in food stamps. ND track record is very good. We don't have a choice in pursuing collection. All food stamps are reimbursed 50% so we have to come up with the other 50%. We can take back 10% each month if they are still on the plan for recouping. SENATOR DEMERS: Has ND ever submitted a plan? MR. ROBERSON stated that through inquiries we were told it wouldn't be accepted. The dept has submitted claims against estates, only if the estate has assets. SENATOR DEMERS moved amendments page 1, line 22 delete "monitoring" and line 23 delete "of the", and page 2 line 4 delete "to". SENATOR LEE seconded it. Roll call vote carried. SENATOR LEE asked to delay final action. The committee was adjourned.

Discussion was resumed on 3/17/99.

SENATOR LEE moved to reconsider amendments on HCR3057. SENATOR DEMERS seconded it. Voice vote carried. HCR3057 will be returned to the committee for further discussion.

Discussion resumed on 3/22/99. SENATOR LEE moved amendments to resolution. SENATOR KILZER seconded. Roll call vote carried 4-2-0.

Discussion resumed on 3/23/99. SENATOR LEE moved DO PASS AS AMENDED.

SENATOR FISCHER seconded. Roll call vote carried 4-2-0. SENATOR LEE will carry the bill.

Date: 3/15/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCP 3057

Senate HUMAN SERVICES COMMITTEE Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Sen DeMers Seconded By Sen Lee

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

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

Amendment

Date: 3/2/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3057

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Sen Lee Seconded By Sen DeMers

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

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

Sen Lee -

Date: 3/2/99
Roll Call Vote #: 3

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3057

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen Lee Seconded By Sen Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers		✓			
Senator Mutzenberger		✓			

Total 4 (yes) 2 (no)

Absent 0

Floor Assignment Sen Lee

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

March 18, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE CONCURRENT
RESOLUTION NO. 3057

Page 1, line 1, replace "directing the Legislative Council to study the" with "urging Congress and the Secretary of Agriculture to reevaluate the feasibility, desirability, and" and replace the third "the" with "requiring states to collect certain outstanding claims of overissued food stamp benefits"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "effectiveness of welfare reform"

Page 1, line 21, remove "and"

Page 1, remove lines 22 through 25

Page 2, line 3, replace "study the" with "urges the Congress of the United States and the Secretary of Agriculture to reevaluate the feasibility, desirability, and" and replace "the tax offset program of the" with "requiring states to collect certain outstanding claims of overissued food stamp benefits"

Page 2, remove line 4

Page 2, line 5, remove "North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Page 2, line 7, replace "Legislative Council report its findings and" with "Secretary of State forward copies of this resolution to the President of the United States, the Secretary of Agriculture, the chairmen of the Senate and House Agriculture Committees, and to each member of the North Dakota Congressional Delegation"

Page 2, remove line 8

Page 2, line 9, remove "the Fifty-seventh Legislative Assembly"

Renumber accordingly

Date: 3/22/99
Roll Call Vote #: 4

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3057

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amendment

Motion Made By Sen Lee Seconded By Sen Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers		✓			
Senator Mutzenberger		✓			

Total 4 (yes) 2 (no)

Absent 0

Floor Assignment _____

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

Date: 3/23/99
Roll Call Vote #: 5

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3057

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen Lee Seconded By Sen Fischer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers		✓			
Senator Mutzenberger		✓			

Total 4 (yes) 2 (no)

Absent 0

Floor Assignment Sen Lee

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

REPORT OF STANDING COMMITTEE

HCR 3057, as engrossed: Human Services Committee (Sen. Thane, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3057 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "directing the Legislative Council to study the" with "urging Congress and the Secretary of Agriculture to reevaluate the feasibility, desirability, and" and replace the third "the" with "requiring states to collect certain outstanding claims of overissued food stamp benefits"

Page 1, remove lines 2 and 3

Page 1, line 4, remove "effectiveness of welfare reform"

Page 1, line 21, remove "and"

Page 1, remove lines 22 through 25

Page 2, line 3, replace "Legislative Council study the" with "Fifty-sixth Legislative Assembly urges the Congress of the United States and the Secretary of Agriculture to reevaluate the feasibility, desirability, and" and replace "the tax offset program of the" with "requiring states to collect certain outstanding claims of overissued food stamp benefits"

Page 2, remove line 4

Page 2, line 5, remove "North Dakota's welfare reform implementation efforts and the effectiveness of welfare reform"

Page 2, line 7, replace "Legislative Council report its findings and" with "Secretary of State forward copies of this resolution to the President of the United States, the Secretary of Agriculture, the chairmen of the Senate and House Agriculture Committees, and to each member of the North Dakota Congressional Delegation"

Page 2, remove line 8

Page 2, line 9, remove "the Fifty-seventh Legislative Assembly"

Renumber accordingly

1999 TESTIMONY
HCR 3057

Madam Chairman, and members of the committee, for the record my name is Shirley Meyer and I represent District 36.

House concurrent resolution 3057 is an attempt to study the issue of the food stamp program that has been put into place, and the detrimental effects it is having on the low income population of our state.

In September of 1998, a notice was sent to all clients who had previously been issued too many food stamps at any time in the past nine years and 11 months. The notice informed them they had until November to do one of the following:

1. Pay the claim in full
2. Establish a repayment agreement
3. Reapply and become eligible for food stamp benefits
4. Provide documentation that the claim has been paid or is not legally enforceable.

This was based on the Departments interpretation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and more specifically, Public Law 104-193, 104th Congress; and Section 844, Collection of Over Issuances (Food Stamps).

This law does make some major changes in the Food Stamp Program and does require that they be implemented in a "fair treatment principal" to the population they effect. I do not believe the law was intended to apply retrospectively to claims 8 and 9 years old. For example, 9 years ago, if an eligibility worker made a mistake and over issued food stamps to a household (not the client's fault), the client was told that they were not required or ever expected to ever repay that claim. I do not believe any judge in North Dakota, according to the statues of North Dakota, would allow the DHS to attach a lien to their social security for repayment of a claim that department verbally forgave years ago.

Section 844, (2) states "Cost Effective", paragraph (1) shall not apply if the state agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

I believe it is very important for the Department of Human Services to do a study to determine if the process they have now put into place is cost effective.

With the high percentage of low income citizens and the high percentage of elderly residing in North Dakota, a study would have been warranted to determine the cost effectiveness of the extreme measures implemented. (Those populations are also predisposed to be eligible for additional services provided by tax dollars, which are triggered by the income available to the household each month). Is it cost effective to take away income to repay an old Food Stamp claim, thus increasing their need for Medicaid, housing, possible reapplication for food stamps, and emergency assistance (which are county dollars), and paying an agency worker wages to rebudget each household each month?

The county offices I have contacted are not well informed with regard to this issue of recoupment of old claims, from households which are not currently open cases in their agency. They were told this was a state office issue and would be handled by the state office. The offices also stated they could not answer my questions because they did not have the records that far back, did not have access to them, and did not have the time or staff to address those issues.

Another problem with the notice as issued was the lack of information given to them concerning their legal representation if they wished to dispute the claims, and lack of information telling the individuals they could request copies of all materials in their files regarding the claim. The notice was sent to every client, even when the department knew some of the claims were legally uncollectible.

This study resolution is very important. Please look over the inclosed information and give it a do pass.

NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

STATE CAPITOL - JUDICIAL WING
600 E BOULEVARD AVE DEPT 325
BISMARCK, NORTH DAKOTA 58505-0250



Carl K. Olson, Executive Director

January 21, 1999

Edward T. Schafer, Governor

Representative Shirley Meyer
HC03 Box 78
Watford City, ND 58854-9530

Dear Representative Meyer: *Shirley*

You may have heard about the **Food Stamp Benefit Recovery** by the Department of Human Services. We are contacting about 3,500 former Food Stamp families who received too much in Food Stamp benefits. North Dakota is one of last three states to begin collecting over-issued Food Stamp benefits on closed cases - using the Treasury Offset Program.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 introduced significant changes for the Food Stamp Program. It required states to collect ALL outstanding claims (over-issued benefits), going back 9 years and 11 months from December 1998, and to use the federal Treasury and IRS as a final means of recovery. The outstanding amount in North Dakota is about \$1.2 million for the ten year period.

We are concerned that some of the 3,500 people we contacted are relying on very low incomes such as social security and SSI, administered by the Social Security Administration for people who have social security income below certain amounts. Under the Tax Offset Program, most federal benefits would be diverted to the **Food Stamp Benefit Recovery** effort.

We do not want to see any of our citizens lose their only or primary source of income in the middle of winter. The first interception is scheduled for February 1999. I assure you that we are making every effort to ensure this does not happen.

While we have recently been informed by the Food and Nutrition Service that there are some exemptions to the Tax Offset (the first \$750 per month of eligible Social Security income is exempt and the rest must be recovered through the Tax Offset), we feel that this might create financial hardship to our clients.

We have established a toll free number : **1-800-491-5716**. We have asked all persons we contacted to call us and discuss plans to repay over-issued Food Stamp benefits before the first interception. We want to assure you that the Department will work with any citizen on a reasonable collection plan. For some clients this could be as low as \$10 per month. While we must collect the claim, we do not want to create financial hardships for any clients involved. We also plan to attempt a personal contact with each person who does not respond to our letter.

GENERAL INFORMATION	(701) 328-2310	ECONOMIC ASSISTANCE	(701) 328-2332
FAX	(701) 328-2359	EXECUTIVE OFFICE	(701) 328-2538
TDD	1-800-366-6888	FIELD SERVICES	(701) 328-2310
		PROGRAM & POLICY	(701) 328-2310

Page 2

January 21, 1999

Food Stamp Benefit Recovery

County Social Service Board Directors are also concerned that vulnerable, elderly people may lose SSA or SSI benefits due to the **Food Stamp Benefit Recovery** plan. They have volunteered to make contact with all persons identified on our mailing list who have not responded to that letter. County Social Service Board staff will be asked to explain the nature of the **Food Stamp Benefit Recovery** and why it may be important to contact the state Food Stamp Office using the toll free number.

If you become aware of any person who has received a letter on repaying over-issued Food Stamp benefits, we ask you to refer that person to the toll free number as well. If you have any other suggestions or prefer to receive more information about the **Food Stamp Benefit Recovery** in this state, please call the Food Stamp office at (701) 328-2328.

Sincerely,



Carol K. Olson
Executive Director

Shirley,

How did that situation work out
with the person who had a concern in
this area?

NORTH DAKOTA HOUSE OF REPRESENTATIVES



Representative Shirley Meyer
District 36
P.O. Box 78
Watford City, ND 58854-9530

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

COMMITTEES:
Judiciary
Transportation

January 28, 1999

Carol K. Olson
Executive Director
North Dakota Department of Human Services
State Capitol - Judicial Wing
600 E Boulevard Ave Dept. 325
Bismarck, ND 58505-0250

Dear Carol,

Thank you for your correspondence of January 21, 1999.

I am familiar with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and more specifically, Public Law 104-193, 104th Congress; and Section 844, Collection of Over Issuances (Food Stamps). I have read and reread that section and cannot find the verbiage you quoted that requires states to collect all outstanding claims going back 9 years and 11 months from December 1998. Please provide me a copy of your Section 844 which states that.

The law does make some major changes in the Food Stamp Program and does require that they be implemented in a "fair treatment principal" to the population they effect. I do not believe the law was intended to apply retrospectively to claims 8 and 9 years old. For instance, 9 years ago, if an eligibility worker made a mistake and over issued food stamps to a household (not the client's fault), the client was told that he/she was not required or expected to ever repay that claim. I do not believe any judge in North Dakota, according to the statues of North Dakota, would allow the DHS to attach a lien to his/her social security for repayment of a claim that department verbally forgave years ago.

Section 844, (2), states "Cost Effective", paragraph (1) shall not apply if the state agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

(A) of Section 1, is currently implemented, reducing the allotment of the household for all claims, whether client or agency. That is done by the local county office eligibility workers, and is cost effective.

Did the DHS do a study to determine if it was cost effective to create another mini agency within the DHS to attempt to collect over issuances for past claims, which may or may not have been the fault of the client, and may or may not be legally collectable? Please provide me with a copy of that study.

With the high percentage of low income citizens and the high percentage of elderly residing in North Dakota, a study would have been warranted to determine the cost effectiveness of the extreme measures implemented. (Those populations are also predisposed to be eligible for additional services provided by tax dollars, which are triggered by the income available to the household each month). Is it cost effective to take away income to repay an old Food Stamp claim, thus increasing their need for Medicaid, housing, possible reapplication for Food Stamps, and emergency assistance (which are county dollars), and paying an agency worker wages to rebudget each household each month?

Did the DHS assure that these citizens had adequate legal representation to dispute this action and provide them with a referral source? Were the individuals who disputed the claims given copies of all the records and notices on file with the DHS?

You stated the outstanding amount (claims) in North Dakota is about \$1.2 million for the 10-year period. That would mean that an average of over \$100,000 of Food Stamp benefits are issued in error every year in North Dakota. The statistics I have previously reviewed did not support that. I am requesting a copy of your statistics which support that. It is my understanding that over half the Food Stamp claims in North Dakota are the result of agency errors.

The county offices I have contacted are not well informed with regard to this issue of recoupment of old claims, from households which are not currently open cases in their agency. They were told this was a state office issue and would be exclusively handled by the state office. These offices also stated they could not answer the questions of many of the individuals who called because they did not have the records that far back, did not have access to them and did not have the time or staff to address those issues.

It was told to me that a representative of your office was giving a presentation regarding the FTROP program. He was quoted as saying that he would not accept any monthly repayment less than \$50. He went on to relate that recently a farmer had contacted his office in response to the mass mailing. He related that the farmer explained that he had provided the information and that the county worker had made a mistake which caused the claim. He related that the county office had informed him at the time that he would not have to repay the claim since it was not his fault.

Your representative stated that he and this farmer had a heated exchange and the farmer had stated, "I will have my children eat the paint of the walls before I will have any more dealings with the DHS.

As a state legislator and as a private citizen, I am not comfortable with that image of the North Dakota Department of Human Services. I believe that laws can and should be applied with the "fair treatment principal", which would avoid that image. You can assure me of your intentions of your concerns for the low income population of North Dakota, but that must be supported by the actions and directions from within your department regarding the fair and equitable treatment of the population you serve.

I am requesting:

1. A copy of PRWORA of 1996, which you refer to as requiring you to collect all claims going back 9 years and 11 months from December 1998.
2. A copy of your statistics, by year, which show the total overissuance of Food Stamps in the last 10 years. Do you have that broken down by county, if it was county error or client error, and what percentage is determined to be intentional fraud?
3. A copy of any study which considered cost savings issues. A copy of your study which shows that creating another mini agency (a collection agency) within the DHS was cost effective for the citizens of North Dakota, and a copy of the cost projection of that mini agency and cost to date.
4. A copy of the notice which you mailed to North Dakota citizens informing them that the first \$750 of eligible Social Security income is exempt from this recoupment.
5. A copy of a legal opinion, if any, you received stating that all claims going back 9 years and 11 months from December 1998 are in fact legally collectable claims.
6. The process you had in place for citizens who wished to dispute the claim, and informing individuals they could request copies of all materials in their files regarding the claim, and the legal representation they could contact to advise them of their rights.

Sincerely,

Representative Shirley Meyer
District 36



NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

STATE CAPITOL - JUDICIAL WING
600 E BOULEVARD AVE DEPT 325
BISMARCK, NORTH DAKOTA 58505-0250



Carol K. Olson, Executive Director

Edward T. Schafer, Governor

February 9, 1999

Representative Shirley J. Meyer
NC 03 Box 78
Watford City, ND 58854

Dear Representative Meyer:

Your letter of January 28 to Carol Olson regarding the Department's response to the Treasury Offset Program for Food Stamps has been referred to me for response. I appreciate your concerns, and, in fact, we have discussed many of the issues among the staff involved in this program.

I will respond in numeric order to each of the requests from page three of your letter.

1. A copy of Section 844, Collection of Overissuances, Public Law 104-193, PRWORA of 1996, is enclosed. This section amends the Food Stamp Act of 1977. By including the phrase "any overissuance," the law requires that we collect not only for client error, but also agency or administrative error. The law takes precedence over the federal regulation previously in effect which allowed us discretion in recovering administrative errors. The mandate for the time frame is found in federal regulation, attached, which sets the basis as "within 10 years of January of the offset year." This translates to nine years and 11 months prior to December 1998, which is the offset year.
2. The attached copy of the reporting form "Status of Claims Against Households" provides a composite of the outstanding claims by category. We do not have this information available by county or by year, since claims are tracked on a composite, continuous accrual method. Line 13 shows the ending balance by category. In total, North Dakota had outstanding claims of \$1,271,242 at the end of March 1998. I use this number because we were required to use April 1998 as the basis for the Treasury Offset Program recovery. The dollar amount of "intentional fraud" claims is recorded in Column A "Intentional Program Violation." This equates to 26% of the total. Another 56% of the errors are due to client misunderstanding (Column B "Inadvertent Household Error"), leaving 18% to agency error.

GENERAL INFORMATION	(701) 328-2310	ECONOMIC ASSISTANCE	(701) 328-2332
FAX	(701) 328-2359	EXECUTIVE OFFICE	(701) 328-2538
TDD	1-800-366-6888	FIELD SERVICES	(701) 328-2310
		PROGRAM & POLICY	(701) 328-2310

Representative Shirley J. Meyer
February 9, 1999
Page 2

3. In regard to cost effectiveness, I refer you again to Section 844 of PRWORA of 1996, which sets forth in paragraph (2) that the collection of overissuance applies unless the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective. In fact, we have historically collected overissuances by reducing the allotment of the household. Since we cannot argue the cost effectiveness based upon "all of the means," there was no point in undertaking a study. The department employed two temporary employees for several months, to handle the initial requirements and answer inquiries. That has since ended, and we now have absorbed the workload into existing staff. The cost of the two temporary staff people was \$9,050.64.
4. Since our database does not identify certain sources of income, we cannot identify those who are affected by the \$750 exemption of eligible Social Security income. Therefore, we cannot send them a notice. We have received no detail from the regional office of Food and Nutrition Services in regard to how to handle this exemption. I will let you know if we take any further action on this.
5. We have not requested a legal opinion. Our actions have been based upon the need to avoid federal sanction for noncompliance with this requirement. As you know, 47 other states have been using the Treasury Offset. There have been legal challenges in other states. However, we are not aware of the specific issues in these lawsuits. We expect that the federal Food Stamp agency, which determines the process rules, will inform us of any required changes due to lawsuits that impact the operation of this program.
6. I have attached IM 4648, which was sent on August 26, 1998, informing county social service board directors of the collection effort. Attached to this IM is a sample of the 60-day notice that was sent to all clients affected by the Federal Tax Refund Offset Program and the Treasury Offset Program. I realize that the letter is not "reader friendly." However, the content was quite strictly prescribed by the federal authorities. This letter outlines the program and the actions that the client can take. In addition, we provided a toll-free number for inquiries.

Representative Meyer, we are in complete agreement that this reversal in federal requirements for collection of overissuance is not fair to the clients who were previously informed that they were not required to repay agency error. We are also in complete agreement that withholding of federal benefits from low income citizens is not only unfair, but fiscally imprudent in terms of the increased expense to Medicaid and other public assistance programs. Finally, we are in complete agreement that

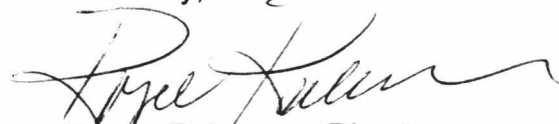
Representative Shirley Meyer
February 9, 1999
Page 3

the 10-year retroactive requirement is excessive. We resisted using the Treasury Offset Program until we believed it would lead to a fiscal sanction against North Dakota. Unfortunately, based upon our understanding of federal rule and the sanctions involved for noncompliance, it is necessary that we institute the procedures. If we find that we are able to modify our procedures in the future, we will do so.

The Department has worked diligently to see that counties have information about this program. I have attached copies of IM's issued in August, October, and January to the directors of the county social service boards. By directing the calls to our toll-free number, hopefully we have been able to take some of the pressure off the local offices. In addition, we have worked diligently with those whom we were able to locate, in order to establish a repayment that would avoid having to submit their names to the Treasury Offset Program. The counties have been very helpful in assisting us to locate individuals for whom we did not have a current address.

Again, I appreciate your concerns, and assure you that we are doing our best to implement this requirement in a way that spares citizens undue hardship. If you are aware of anyone who believes he or she is or has been unfairly treated in establishing a repayment agreement, please encourage that person to call our toll-free number, 1-800-491-5716, or call me directly at (701)328-3311.

Sincerely,



Royce Roberson, Director
Energy and Nutrition Division

cc Carol K. Olson

Enclosures

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
Bismarck, North Dakota**

October 14, 1998

IM 4660

TO: Directors, County Social Service Boards
Regional Representatives, OEA
Quality Control Reviewers, OEA

FROM: Royce Roberson, Director, Energy & Nutrition Division
Bruce Crabtree, FTROP/TOP Coordinator, Food Stamp Unit

SUBJECT: **Federal Tax Refund Offset Program (FTROP)/
Treasury Offset Program (TOP)**

RETENTION: Informational Only

Because this is the first time that the Food Stamp Program has participated in an offset program, some questions have arisen that may need more clarification. Part A Food Stamp Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 require the State to collect any overissuance by reducing future benefits, recovering from federal payments or income tax refunds, or any other means that are cost effective. In the past, agency error (AG) claims were not collectable unless the client voluntarily signed an agreement to repay the overissued benefits. This is no longer true. All overissuance claims can now be recovered by the various offset methods. In other words, any claim is collectable no matter who made the error.

Past due claims are claims that show no activity for at least a three month period. Activity that would not make the claim past due is allotment reduction from current benefits, cash payments, or Electronic Benefits Transfer (EBT) payments.

Legally enforceable claims must be \$25.00 or more. The claim must not be more than nine years, 11 months old when the final certification list is submitted to the Treasury Department in early December 1998.

What can be offset by the Treasury Department for partial or full payment of any claim? Any federal benefit or payment that is not exempt can be offset (i.e., social security benefit, supplemental security income (SSI), federal disability payment, federal entitlement, Earned Income Tax Credit, etc.),

For example, if a client with a past due and legally enforceable claim of \$1,000.00 is receiving monthly social security disability payments of \$200.00, the offset for this claim will continue until paid in full or, in this example, for five consecutive months. This will place an undue hardship on the client and the best course of action would be to establish a repayment agreement with the State Office.

U.S. DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE

STATUS OF CLAIMS AGAINST HOUSEHOLDS

1a. STATE NAME

ND

2a. QUARTER COVERED

2

1-FIRST 3-THIRD
2-SECOND 4-FOURTH

1b. STATE CODE

38

2b. FISCAL YEAR

98

CLAIMS SUMMARY	A. INTENTIONAL PROGRAM VIOLATION		B. INADVERTENT HOUSEHOLD ERROR		C. STATE AGENCY ADMINISTRATIVE ERROR	
	NUMBER	AMOUNT	NUMBER	AMOUNT	NUMBER	AMOUNT
3a. BEGINNING BALANCE	1045	349,004.19	2002	722,278.30	1527	220,977.68
b. BALANCE ADJUSTMENTS (+) or (-)	-1	-256.00	-3	-1,218.00	-1	-112.00
4. NEWLY ESTABLISHED	10	3,755.00	249	92,569.00	264	39,093.00
5. TRANSFER (+) or (-) (See Instructions)	+34	+10,140.29	-33	-9,795.29	-1	-345.00
6. REFUNDS (20a+20b)		0.00		0.00		0.00
7. TOTAL (3a+3b+4+5+6)	1,088	362,643.48	2,215	783,774.01	1,789	259,635.68
8. CLOSED	57		158		217	
9. TERMINATED	16	6,476.00	71	41,234.00	58	13,827.00
10. COMPROMISED	-0-	0.00	-0-	0.00	-0-	0.00
11a. COLLECTION (18a)		20,690.57		30,964.06		21,619.53
b. COLLECTION ADJ. (18b+18c)		0.00		0.00		0.00
12. TOTAL (See Instructions)	73	27,166.57	229	72,198.06	275	35,446.53
13. ENDING BALANCE (7 LESS 12)	1,015	335,476.91	1,986	711,575.95	1,514	224,189.15

COLLECTION SUMMARY

14. CASH, CHECK, M.O.	9,258.19	6,275.62	1,051.42
15. FOOD STAMPS/EBT	251.38	1,963.44	1,688.11
16. RECOUPMENT	11,029.00	19,719.00	17,681.00
17. OFFSET	152.00	3,006.00	1,199.00
18a. TOTAL (14+15+16+17)	20,690.57	30,964.06	21,619.53
b. CASH ADJ. (+) or (-)	0.00	0.00	0.00
c. NON-CASH ADJ. (+) or (-)	0.00	0.00	0.00
19. TRANSFERS (+) or (-) (See Instructions)	+1,883.71	-1,949.71	+66.00
20a. CASH REFUNDS	0.00	0.00	0.00
b. NON-CASH REFUNDS	0.00	0.00	0.00
21. TOTAL (18a+18b+18c+19-20a-20b)	22,574.28	29,014.35	21,685.53

FS 3468

22. RETENTION AMOUNT (See Instructions)

7901.00

5,802.87

23. NET CASH COLLECTION (14+18b-20a)

16,585.23

24. TOTAL SA RETENTION (22A+22B)

13,703.87

25. LOC ADJ. (+) or (-) (23-24)

2,881.36

26. REIMBURSEMENTS DUE FNS (See Instructions)

BILLING ADJUSTMENTS (See Instructions)

TOTAL LETTER OF CREDIT ADJUSTMENTS (26+26-27)

2,881.36

29. REMARKS (Attach separate sheet, if necessary)

I certify that the above information is true and correct to the best of my knowledge.

30. DATE

4/09/98

31. TITLE

Admin. Asst.

32. SIGNATURE

Theresa H. [Signature]

TREASURY OFFSET PROGRAM 60-DAY NOTICE
NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

MONTH/DAY/YEAR

[FULL NAME]
[STREET ADDRESS]
[CITY, STATE, ZIPCODE]

CASE NUMBER: [CASE NUMBER]

Dear [Case PI]:

The Department of Human Services has records documenting that you, [Name of Case PI], Social Security Number [000-00-0000], are liable for [unpaid balance of the recipient claim] resulting from overissued food stamp benefits. The Department of Human Services has previously mailed or otherwise delivered demand letters notifying you about this claim, including the right to a fair hearing on the claim, and has made any other required collection efforts.

The Department of Human Services will submit your debt to the Treasury Offset Program if you do not pay your debt or take other described action to avoid the Treasury offset before 60 days from the date of this notice. We may also add penalties and other charges to your unpaid debt.

TREASURY OFFSET PROGRAM: Once your debt is submitted for Treasury offset, the U. S. Department of the Treasury (U. S. Treasury) will reduce or withhold any of your eligible federal payments by the amount of your debt. This process, known as "offset," is authorized by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996. The U.S. Treasury is not required to send you notice before your payment is offset. Federal payments eligible for offset include:

- your income tax refunds;
- your federal salary pay, including military pay;
- your federal retirement, including military retirement pay;
- your contract/vendor payments;
- certain federal benefit payments, such as Social Security, Railroad Retirement, and Black Lung (part B) benefits; and
- other federal payments, including certain loans to you, that are not exempt from offset.

Before we submit your debt for Treasury offset, we are required to tell you that you may:

1. Inspect and copy our records related to your debt;
2. Request a review of our determination that you owe this debt;
3. Have a hearing if we determine that a hearing is required; and
4. Enter into an acceptable written repayment agreement.

TO AVOID TREASURY OFFSET, you must do one of the following within 60 days of the date of this notice:

- **REPAY YOUR DEBT:** To repay your debt, send us a check or money order, payable to the Department of Human Services, for the full amount you owe.
- **AGREE TO A REPAYMENT PLAN:** If you are unable to pay your debt in full, contact the Department of Human Services, Food Stamp Unit, agree to a written repayment plan acceptable to us, and make payments required in the repayment plan.
- **REQUEST A REVIEW IF YOU BELIEVE THE DEBT IS NOT OWED:** If you believe that all or part of the debt is not past due or legally enforceable, you must send evidence to support your position. We will inform you of our decision about your debt.

IF YOU FILE A JOINT INCOME TAX RETURN: You should contact the Internal Revenue Service before filing your return regarding the steps to take to protect that part of the income tax refund which may be payable to your spouse, if your spouse was not part of the household when this food stamp debt was established.

IF YOU ARE A FEDERAL EMPLOYEE: Your current net disposable pay is subject to offset if you do not pay your debt or take other action described above. The U.S. Treasury will deduct up to 15% of your disposable net pay beginning in the pay period that your debt is submitted for Treasury offset, and continuing every pay period until your debt, including any penalties and other costs, is paid in full.

As a federal employee, if you wish to petition for a waiver or hearing to dispute the existence or amount of the debt, or the amount of the payroll deduction, you must file a written request for a hearing no later than 30 days from the date of this notice to the above state agency address. The timely filing of a petition for hearing will stay the commencement of offset proceedings.

BANKRUPTCY: If you file for bankruptcy and the automatic bankruptcy stay is in effect, you are not subject to offset while the stay is in effect. Please notify us of the stay by sending evidence concerning the bankruptcy.

If you make or provide any knowingly false or frivolous statements, representations, or evidence, you may be liable for penalties under the False Claims Act (31 U.S.C. §§ 3729-3731), or other applicable statutes, and/or criminal penalties under 18 U.S.C. §§ 286, 287, 1001, and 1002, or other applicable statutes.

Unless prohibited by law or contract we will promptly refund to you any amounts paid by you or deducted from your payment for your debt which are later waived or found not owed.

HOW TO CONTACT US: If you have any questions about this letter or your rights, you should contact the Department of Human Services, Food Stamp Unit, immediately. You may telephone us at **1-800-491-5716**. You may mail items to us at:

Department of Human Services
Energy and Nutrition Division/FTROP
1st Floor, Judicial Wing
600 East Boulevard Avenue, Dept. 325
Bismarck, ND 58505-0250

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
Bismarck, North Dakota**

August 26, 1998

IM 4648

TO: Directors, County Social Service Boards
Regional Representatives, OEA
Quality Control Reviewers, OEA

FROM: Royce Roberson, Director, Energy & Nutrition Division
Bruce Crabtree, FTROP/TOP Coordinator, Food Stamp Unit

SUBJECT: **Federal Tax Refund Offset Program (FTROP)/
Treasury Offset Program (TOP)**

RETENTION: Informational Only

The FTROP/TOP Program has been established for several years. In creating this program the overall mission of the federal government is to collect delinquent payments on overissued food stamp benefits owed to the United States Department of Agriculture (USDA).

Due to the fact that food stamp benefits are provided by USDA, the federal government is able to take direct collection actions through the Internal Revenue Service (IRS). If the state of North Dakota is unable to negotiate a repayment agreement with the individual, the IRS will offset the amount due from the individual's federal income tax refund or other federal payments.

The overall mission in this collection effort is to dispose of existing delinquent food stamp overissuance claims owed to the North Dakota Department of Human Services (NDDHS). More importantly, this program sends a consistent message to NDDHS clients and the general public that affirmative action is being taken to collect food stamp debt and that fraud and abuse of the Food Stamp Program will not be tolerated.

FTROP/TOP claims are for closed cases only that have had no repayment activity for a minimum of ninety days to a maximum of nine years and 11 months. FTROP/TOP is being administered by the Energy and Nutrition Division, Food Stamp Unit, for collection of claims from 1998 income tax refunds and other federal payments starting in January 1999.

Prior to referring claims for collection under FTROP/TOP, NDDHS must provide individuals with a 60-day notice. All clients affected by FTROP/TOP should be referred to the **1-800-491-5716** number or address listed on the notice. Attached is a copy of the notice that will be mailed to these individuals on September 1, 1998.

If the client wishes to make an FTROP/TOP payment on a delinquent claim at a county office, they may do so, but this is not the preferred method. If a client wants to make a payment, the county must determine if it is for FTROP/TOP by calling **1-800-491-5716** to confirm and submit the payment to the Energy and Nutrition Division at the address on the attached notice.

If you have any questions regarding the policy changes noted, please contact your regional representative.

**NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
Bismarck, North Dakota**

January 14, 1999

IM 4683

TO: Directors, County Social Service Boards
Regional Representatives, OEA
Quality Control Reviewers, OEA

FROM: Royce Roberson, Director, Energy & Nutrition Division
Bruce Crabtree, TOP Coordinator, Food Stamp Unit

SUBJECT: Treasury Offset Program (TOP)

RETENTION: Informational Only

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 introduced changes for the Food Stamp Program that may significantly impact some of North Dakota's most vulnerable citizens. The concern is that some of the 3,500 people that received the 60-Day TOP Notice who rely on very low incomes such as Social Security Administration (SSA) or Supplemental Security Income (SSI) benefits would lose their only or primary sources of income.

There have been some statutory changes to the United States Code (U.S.C.) which exempt payments by federal law for collection of over issuances that have occurred in the Food Stamp Program. The references for this information are 31 U.S.C. 3701 (d)(2), 31 U.S.C. 3716 (c)(3)(A), and 31 U.S.C. 3716 (c)(3)(B).

These statutory changes affect SSA & SSI benefits. In order for TOP to apply to any Food Stamp recipient who received a 60-Day Notice and has not contacted the Food Stamp Recovery Office, the recipient must be receiving a SSA or SSI benefit of more than \$750.00 each month. This will automatically exempt SSI benefits (as the maximum amount in ND for an SSI individual is \$500.00 effect January 1, 1999). Also, SSI lump sum payments will not be offset under TOP.

An example of a claim offset is: The client is in receipt of SSA benefits of \$850.00 per month and owes a claim of \$240.00. The offset can only be collected at \$100.00 per month because the first \$750.00 is exempt. It would take three months to collect this claim (month one=\$100.00, month two=\$100.00, and month three=\$40.00). The Food Stamp Program will use the gross amount (\$850.00) while Medical will use the net amount (\$750.00) when calculating benefits.

Because of the computer programming constraints to the National Interactive Delinquent Debtor Database (NID3) that are being experienced by the Department of Treasury concerning this statutory change it is not known when this exemption will take affect. At present, until further notice SSA & SSI benefits will not be intercepted because of the computer programming constraints.

If there are any questions concerning this information, you may call the Food Stamp Recovery Office at 1-800-491-5716.

PUBLIC LAW 104-193 [H.R. 3734]; August 22, 1996

PERSONAL RESPONSIBILITY AND WORK
OPPORTUNITY RECONCILIATION
ACT OF 1996

For Legislative History of Act, see p 2183.

An Act to provide for reconciliation pursuant to section 201(a)(1) of the concurrent resolution on the budget for fiscal year 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—BLOCK GRANTS FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

- Sec. 101. Findings.
- Sec. 102. Reference to Social Security Act
- Sec. 103. Block grants to States.
- Sec. 104. Services provided by charitable, religious, or private organizations.
- Sec. 105. Census data on grandparents as primary caregivers for their grandchildren.
- Sec. 106. Report on data processing.
- Sec. 107. Study on alternative outcomes measures.
- Sec. 108. Conforming amendments to the Social Security Act.
- Sec. 109. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
- Sec. 110. Conforming amendments to other laws.
- Sec. 111. Development of prototype of counterfeit-resistant Social Security card required.
- Sec. 112. Modifications to the job opportunities for certain low-income individuals program.
- Sec. 113. Secretarial submission of legislative proposal for technical and conforming amendments.
- Sec. 114. Assuring medicaid coverage for low-income families.
- Sec. 115. Denial of assistance and benefits for certain drug-related convictions.
- Sec. 116. Effective date; transition rule.

TITLE II—SUPPLEMENTAL SECURITY INCOME

- Sec. 200. Reference to Social Security Act.

Subtitle A—Eligibility Restrictions

- Sec. 201. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
- Sec. 202. Denial of SSI benefits for fugitive felons and probation and parole violators.
- Sec. 203. Treatment of prisoners.
- Sec. 204. Effective date of application for benefits.

Subtitle B—Benefits for Disabled Children

- Sec. 211. Definition and eligibility rules.
- Sec. 212. Eligibility redeterminations and continuing disability reviews.

Personal
Responsibility
and Work
Opportunity
Reconciliation
Act of 1996.
42 USC 1305
note.

- Sec. 603. Authorization of appropriations and entitlement authority.
- Sec. 604. Lead agency.
- Sec. 605. Application and plan.
- Sec. 606. Limitation on State allotments.
- Sec. 607. Activities to improve the quality of child care.
- Sec. 608. Repeal of early childhood development and before- and after-school care requirement.
- Sec. 609. Administration and enforcement.
- Sec. 610. Payments.
- Sec. 611. Annual report and audits.
- Sec. 612. Report by the Secretary.
- Sec. 613. Allotments.
- Sec. 614. Definitions.
- Sec. 615. Effective date.

TITLE VII—CHILD NUTRITION PROGRAMS

Subtitle A—National School Lunch Act

- Sec. 701. State disbursement to schools.
- Sec. 702. Nutritional and other program requirements.
- Sec. 703. Free and reduced price policy statement.
- Sec. 704. Special assistance.
- Sec. 705. Miscellaneous provisions and definitions.
- Sec. 706. Summer food service program for children.
- Sec. 707. Commodity distribution.
- Sec. 708. Child and adult care food program.
- Sec. 709. Pilot projects.
- Sec. 710. Reduction of paperwork.
- Sec. 711. Information on income eligibility.
- Sec. 712. Nutrition guidance for child nutrition programs.

Subtitle B—Child Nutrition Act of 1966

- Sec. 721. Special milk program.
- Sec. 722. Free and reduced price policy statement.
- Sec. 723. School breakfast program authorization.
- Sec. 724. State administrative expenses.
- Sec. 725. Regulations.
- Sec. 726. Prohibitions.
- Sec. 727. Miscellaneous provisions and definitions.
- Sec. 728. Accounts and records.
- Sec. 729. Special supplemental nutrition program for women, infants, and children.
- Sec. 730. Cash grants for nutrition education.
- Sec. 731. Nutrition education and training.

Subtitle C—Miscellaneous Provisions

- Sec. 741. Coordination of school lunch, school breakfast, and summer food service programs.
- Sec. 742. Requirements relating to provision of benefits based on citizenship, alienage, or immigration status under the National School Lunch Act, the Child Nutrition Act of 1966, and certain other acts.

TITLE VIII—FOOD STAMPS AND COMMODITY DISTRIBUTION

Subtitle A—Food Stamp Program

- Sec. 801. Definition of certification period.
- Sec. 802. Definition of coupon.
- Sec. 803. Treatment of children living at home.
- Sec. 804. Adjustment of thrifty food plan.
- Sec. 805. Definition of homeless individual.
- Sec. 806. State option for eligibility standards.
- Sec. 807. Earnings of students.
- Sec. 808. Energy assistance.
- Sec. 809. Deductions from income.
- Sec. 810. Vehicle allowance.
- Sec. 811. Vendor payments for transitional housing counted as income.
- Sec. 812. Simplified calculation of income for the self-employed.
- Sec. 813. Doubled penalties for violating food stamp program requirements.
- Sec. 814. Disqualification of convicted individuals.
- Sec. 815. Disqualification.
- Sec. 816. Caretaker exemption.
- Sec. 817. Employment and training.

- Sec. 818. Food stamp eligibility.
- Sec. 819. Comparable treatment for disqualification.
- Sec. 820. Disqualification for receipt of multiple food stamp benefits.
- Sec. 821. Disqualification of fleeing felons.
- Sec. 822. Cooperation with child support agencies.
- Sec. 823. Disqualification relating to child support arrears.
- Sec. 824. Work requirement.
- Sec. 825. Encouragement of electronic benefit transfer systems.
- Sec. 826. Value of minimum allotment.
- Sec. 827. Benefits on recertification.
- Sec. 828. Optional combined allotment for expedited households.
- Sec. 829. Failure to comply with other means-tested public assistance programs.
- Sec. 830. Allotments for households residing in centers.
- Sec. 831. Condition precedent for approval of retail food stores and wholesale food concerns.
- Sec. 832. Authority to establish authorization periods.
- Sec. 833. Information for verifying eligibility for authorization.
- Sec. 834. Waiting period for stores that fail to meet authorization criteria.
- Sec. 835. Operation of food stamp offices.
- Sec. 836. State employee and training standards.
- Sec. 837. Exchange of law enforcement information.
- Sec. 838. Expedited coupon service.
- Sec. 839. Withdrawing fair hearing requests.
- Sec. 840. Income, eligibility, and immigration status verification systems.
- Sec. 841. Investigations.
- Sec. 842. Disqualification of retailers who intentionally submit falsified applications.
- Sec. 843. Disqualification of retailers who are disqualified under the WIC program.
- Sec. 844. Collection of overissuances.
- Sec. 845. Authority to suspend stores violating program requirements pending administrative and judicial review.
- Sec. 846. Expanded criminal forfeiture for violations.
- Sec. 847. Limitation on Federal match.
- Sec. 848. Standards for administration.
- Sec. 849. Work supplementation or support program.
- Sec. 850. Waiver authority.
- Sec. 851. Response to waivers.
- Sec. 852. Employment initiatives program.
- Sec. 853. Reauthorization.
- Sec. 854. Simplified food stamp program.
- Sec. 855. Study of the use of food stamps to purchase vitamins and minerals.
- Sec. 856. Deficit reduction.

Subtitle B—Commodity Distribution Programs

- Sec. 871. Emergency food assistance program.
- Sec. 872. Food bank demonstration project.
- Sec. 873. Hunger prevention programs.
- Sec. 874. Report on entitlement commodity processing.

Subtitle C—Electronic Benefit Transfer Systems

- Sec. 891. Provisions to encourage electronic benefit transfer systems.

TITLE IX—MISCELLANEOUS

- Sec. 901. Appropriation by State legislatures.
- Sec. 902. Sanctioning for testing positive for controlled substances.
- Sec. 903. Elimination of housing assistance with respect to fugitive felons and probation and parole violators.
- Sec. 904. Sense of the Senate regarding the inability of the noncustodial parent to pay child support.
- Sec. 905. Establishing national goals to prevent teenage pregnancies.
- Sec. 906. Sense of the Senate regarding enforcement of statutory rape laws.
- Sec. 907. Provisions to encourage electronic benefit transfer systems.
- Sec. 908. Reduction of block grants to States for social services; use of vouchers.
- Sec. 909. Rules relating to denial of earned income credit on basis of disqualified income.
- Sec. 910. Modification of adjusted gross income definition for earned income credit.
- Sec. 911. Fraud under means-tested welfare and public assistance programs.
- Sec. 912. Abstinence education.
- Sec. 913. Change in reference.

include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.”.

SEC. 842. DISQUALIFICATION OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12(b) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)) is amended—

- (1) in paragraph (2), by striking “and” at the end;
- (2) in paragraph (3), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:
“(4) for a reasonable period of time to be determined by the Secretary, including permanent disqualification, on the knowing submission of an application for the approval or reauthorization to accept and redeem coupons that contains false information about a substantive matter that was a part of the application.”.

SEC. 843. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

“(g) DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED UNDER THE WIC PROGRAM.—

Regulations.

“(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this Act of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (7 U.S.C. 1786).

“(2) TERMS.—A disqualification under paragraph (1)—

“(A) shall be for the same length of time as the disqualification from the program referred to in paragraph (1);

“(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

“(C) notwithstanding section 14, shall not be subject to judicial or administrative review.”.

SEC. 844. COLLECTION OF OVERISSUANCES.

(a) COLLECTION OF OVERISSUANCES.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) COLLECTION OF OVERISSUANCES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

“(A) reducing the allotment of the household;

“(B) withholding amounts from unemployment compensation from a member of the household under subsection (c);

“(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

“(D) any other means.

“(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the

Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall not reduce the monthly allotment of the household under paragraph (1)(A) by an amount in excess of the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) \$10.

"(4) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with the requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1)."; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENTS.—Section 11(e)(8)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(C)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(c) RETENTION RATE.—The proviso of the first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "25 percent during the period beginning October 1, 1990" and all that follows through "section 13(b)(2) which arise" and inserting "35 percent of the value of all funds or allotments recovered or collected pursuant to sections 6(b) and 13(c) and 20 percent of the value of any other funds or allotments recovered or collected, except the value of funds or allotments recovered or collected that arise".

SEC. 845. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) by redesignating the first through seventeenth sentences as paragraphs (1) through (17), respectively; and

(2) by adding at the end the following:

"(18) SUSPENSION OF STORES PENDING REVIEW.—Notwithstanding any other provision of this subsection, any permanent disqualification of a retail food store or wholesale food concern under paragraph (3) or (4) of section 12(b) shall be effective from the date of receipt of the notice of disqualification. If the disqualification is reversed through administrative or

Effective date.

Mr. Chairman, and members of the committee, for the record my name is Shirley Meyer and I represent District 36.

House concurrent resolution 3057 is an attempt to study the issue of the food stamp program that has been put into place, and the detrimental effects it is having on the low income population of our state.

In September of 1998, a notice was sent to all clients who had previously been issued too many food stamps at any time in the past nine years and 11 months. The notice informed them they had until November to do one of the following:

1. Pay the claim in full
2. Establish a repayment agreement
3. Reapply and become eligible for food stamp benefits
4. Provide documentation that the claim has been paid or is not legally enforceable.

This was based on the Departments interpretation of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and more specifically, Public Law 104-193, 104th Congress; and Section 844, Collection of Over Issuances (Food Stamps).

This law does make some major changes in the Food Stamp Program and does require that they be implemented in a "fair treatment principal" to the population they effect. I do not believe the law was intended to apply retrospectively to claims 8 and 9 years old. For example, 9 years ago, if an eligibility worker made a mistake and over issued food stamps to a household (not the client's fault), the client was told that they were not required or ever expected to ever repay that claim. I do not believe any judge in North Dakota, according to the statutes of North Dakota, would allow the DHS to attach a lien to their social security for repayment of a claim that department verbally forgave years ago.

Section 844, (2) states "Cost Effective", paragraph (1) shall not apply if the state agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

I believe it is very important for the Department of Human Services to do a study to determine if the process they have now put into place is cost effective.

With the high percentage of low income citizens and the high percentage of elderly residing in North Dakota, a study would have been warranted to determine the cost effectiveness of the extreme measures implemented. (Those populations are also predisposed to be eligible for additional services provided by tax dollars, which are triggered by the income available to the household each month). Is it cost effective to take away income to repay an old Food Stamp claim, thus increasing their need for Medicaid, housing, possible reapplication for food stamps, and emergency assistance (which are county dollars), and paying an agency worker wages to rebudget each household each month?

The county offices I have contacted are not well informed with regard to this issue of recoupment of old claims, from households which are not currently open cases in their agency. They were told this was a state office issue and would be handled by the state office. The offices also stated they could not answer my questions because they did not have the records that far back, did not have access to them, and did not have the time or staff to address those issues.

Another problem with the notice as issued was the lack of information given to them concerning their legal representation if they wished to dispute the claims, and lack of information telling the individuals they could request copies of all materials in their files regarding the claim. The notice was sent to every client, even when the department knew some of the claims were legally uncollectible.

This study resolution is very important. Please look over the inclosed information and give it a do pass.

a description of how the public assistance recipients

[[Page 110 STAT. 2336]]

in the program shall, within a specific period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported.

(6) Displacement.--A work supplementation or support program shall not displace the employment of individuals who are not supplemented or supported.''

SEC. 850. WAIVER AUTHORITY.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended--

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) in subparagraph (A)--

(A) in the first sentence, by striking "benefits to eligible households, including'" and inserting the following: "benefits to eligible households, and may waive any requirement of this Act to the extent necessary for the project to be conducted.

(B) Project requirements.--

(i) Program goal.--The Secretary may not conduct a project under subparagraph (A) unless--

(I) the project is consistent with the goal of the food stamp program of providing food assistance to raise levels of nutrition among low-income individuals; and

(II) the project includes an evaluation to determine the effects of the project.

(ii) Permissible projects.--The Secretary may conduct a project under subparagraph (A) to--

(I) improve program administration;

(II) increase the self-sufficiency of food stamp recipients;

(III) test innovative welfare reform strategies; or

(IV) allow greater conformity with the rules of other programs than would be allowed but for this paragraph.

(iii) Restrictions on permissible projects.--If the Secretary finds that a project under subparagraph (A) would reduce benefits by more than 20 percent for more than 5 percent of households in the area subject to the project (not including any household whose benefits are reduced due to a failure to comply with work or other conduct requirements), the project--

(I) may not include more than 15 percent of the State's food stamp households; and

(II) shall continue for not more than 5 years after the date of implementation, unless the Secretary approves an extension requested by the State agency at any time.

(iv) Impermissible projects.--The Secretary may not conduct a project under subparagraph (A) that--

(I) involves the payment of the value of an allotment in the form of

[November 9, 1998 (Volume 63, Number 216)]

[Unified Agenda]

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[DOCID:ua09no98_001-201]

[Page 61477-61478]

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Food and Nutrition Service (FNS)

375. FOOD STAMP PROGRAM: WELFARE REFORM AND REGULATORY REVIEW OF PROGRAM MANAGEMENT

Priority: Other Significant. Major status under 5 USC 801 is undetermined.

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 7 USC 2011 to 2032

[[Page 61478]]

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273.15; 7 CFR 274; 7 CFR 275; 7 CFR 276; 7 CFR 281

Legal Deadline: None

Abstract: The Department of Agriculture is proposing substantial revisions to the Food Stamp Program regulations governing State agency administrative and management requirements. This action is being taken to incorporate certain provisions from the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform) and in response to the President's Regulatory Reform effort and as part of the Department's ongoing effort to expand State flexibility. This action will provide the State agencies with more flexibility in operating the Food Stamp Program by eliminating outdated or overly prescriptive requirements. This rule also proposes to implement provisions of the Government Performance and Results Act of 1993 (GPRA), which shifts the focus of Federal agencies from managing processes to achieving results. (95-023)

Timetable:

Action	Date	FR Cite
NPRM	09/00/99	
NPRM Comment Period End	12/00/99	
Final Action	09/00/00	
Final Action Effective	09/00/00	

Regulatory Flexibility Analysis Required: No

Government Levels Affected: State, Local, Federal

Agency Contact: Sheri Ackerman, Agency Regulatory Officer, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Room 308, Alexandria, VA 22304
Phone: 703 305-2246

tax credit are included in a minimum wage increase/tax measure adopted by the House and Senate.]

Title IV-E Eligibility: States are required to use the IV-A rules and requirements in effect as of *June 1, 1995* under their state plan to determine eligibility for Title IV-E

Child Welfare Information Systems: The bill extends the deadline for enhanced funding (75 percent FFP) for Statewide Automated Child Welfare Information Systems (SACWIS) for one year, from October 1, 1996 to October 1, 1997. With no changes to current law for child abuse and child protection programs, there are, of course, no changes to data reporting requirements under the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS).

For Profit Providers: The bill amends current law (Section 472(c)(2)) to allow states to use Title IV-E dollars for for-profit providers to care for children in foster care.

Kinship Care: Adds the following new element under the Title IV-E Foster Care and Adoption Assistance State Plan as follows: "provides that the State shall consider giving preference to an adult relative over a non-related caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant State child protection standards."

National Random Sample Study of Child Welfare: The bill authorizes the Secretary to conduct a national study based on random samples of children who are at risk of child abuse or neglect, or are determined by states to have been abused or neglected, and such other research as may be necessary.

VIII. FOOD STAMP PROGRAM (Title VIII)

Program Structure:

The Food Stamp Program retains its current structure as an uncapped, individual entitlement. States will not have the option to choose a food stamp block grant and alter the structure of the program.

New provisions are effective upon enactment, with the exception of some budgetary changes which are effective October 1, 1997.

The legislation reauthorizes the program through FY 2002.

New Work Requirement: Able-bodied recipients age 18-50 with no dependents are ineligible for food stamps unless they meet a new work requirement. These individuals may receive food stamp benefits for only three months in every 36 month period unless they are engaged in work or work programs. However, if the recipient finds work and then loses his or her job, an additional three months of benefits are allowed once in the three year period. "Work" includes participating in a work program 20 hours or more a week, averaged monthly. Qualifying work programs include programs under JTPA or the Trade Adjustment Assistance Act, state or local programs approved by the Governor (including a food stamp E&T program), and workfare. Job search or job search training programs do not qualify. Upon request from a state, the Secretary may waive the work requirement for individuals who reside in an area in the state which has an unemployment rate over 10% or in an area that does not have sufficient number of jobs to provide employment for the individuals.

Employment and Training: States will have greater flexibility to run the Food Stamp Employment and Training Program. Funding will increase gradually, totaling \$79 million in FY 1997, and rising to \$90 million in FY 2002. The program must be carried out through a statewide workforce development system unless the component is not available locally through such a system.

Simplified Food Stamp Program: State may operate a "simplified food stamp program" for households in which one or more members receive assistance under the TANF Block Grant. The simplified program allows for a single set of rules and procedures to determine eligibility, and benefits for food stamps, and standardizes the deductions between programs. A state's simplified plan may not increase costs to the federal government. If it does, the state must enter into and carry out a corrective action plan, or the Secretary must terminate the state's simplified program. States will not be required to collect information on households not in the simplified program; the Secretary may approve alternative accounting periods in making cost determinations; and states may include in the program households with one or more non-TANF members if approved by the Secretary.

Waiver Authority: The conference agreement includes broad new waiver authority allowing states to request waivers for welfare reform, work, or multi-program conformity projects, with some restrictions. The major restrictions include: no new

cash-out projects; no transfer of food stamp or employment and training funds to other assistance programs; no non-time-limited projects; a limitation to 15% of the caseload and five years duration if the project would reduce benefits by more than 20% for more than 5% of households in the project; **no adverse effect on certain vulnerable populations nor on certain rights and procedures in the Food Stamp Act**; no conditions based on "behavioral" activity such as a family cap or benefit time limit; and no waivers of provisions in the Simplified Food Stamp Program option.

Deductions from Income: The standard deduction will remain frozen at FY 96 levels (\$134 for the 48 states and D.C.). The excess shelter deduction will remain capped at current-law levels through December 31, 1996 (\$247 for the 48 states and D.C.), and then rise incrementally (to \$300) through FY 2001. Low-Income Home Energy Assistance (LIHEAP) payments will not be counted as income; the homeless shelter allowance is frozen at current levels; and earned income deductions will be disallowed if the earned income is not reported timely.

Adjustment to Thrifty Food Plan: The maximum food stamp benefit will be 100% of the cost of the Thrifty Food Plan rather than at 103% as under current law.

Food Stamp Cash-Out (Employment Initiatives Program): Qualifying states may cash out food stamp benefits to individuals who have worked in unsubsidized employment for at least 90 days, earned at least \$350 a month and receive benefits under TANF. Qualifying states are those where at least 50% of the food stamp households also received AFDC during the summer of 1993. States must increase benefits to compensate for state or local food sales taxes faced by these individuals.

Work Supplementation: States may operate a work supplementation or support program where the value of public assistance including food stamps is provided to employers to be used for hiring and paying the recipient.

Reduction of Public Assistance Benefits: Individuals whose benefits are reduced under other means-tested program as a penalty cannot have their food stamp allocation increased. The state may reduce the food stamp allotment of the household by up to 25%.

Child Support: States have the option to disqualify individuals who are delinquent in any payment due under a court order for the support of a child. States may disqualify custodial or noncustodial parents who do not cooperate with the child support program.

Other State Administrative Options: The bill allows states a degree of additional administrative flexibility in several areas. States will no longer be governed by detailed rules for application forms and procedures; they may allow verbal fair hearing withdrawals; and they may use the IEVS system (but not the SAVE system) at their option.

Retention Rates: Changes in the retention rates, allowing states to keep 35% of fraud over-issuance collections and 20% of non-fraud collections.

Quality Control: The final bill leaves present QC law intact. Present QC law will also apply to the Simplified Food Stamp Program option.

Other Administrative Simplifications and Changes:

The new legislation extends the expedited service timetable from five to seven days, and ends the expedited service for homeless households. Expedited service will still have to be provided to households whose shelter costs exceed their income and resources.

States may lower the age of the caretaker exemption to three without restriction. A state may lower the age to as low as one only if it requested a waiver to do so, and had the waiver denied prior to August 1, 1996.

The bill provides other administrative reforms including: allowing 12 month certification periods (24 months for elderly and disabled households) with one contact per year; requiring that later recertification benefits be prorated (rather than issued as a full month); and allowing states to combine allotments for the first and second months for expedited households applying after the 15th.

IX. CHILD NUTRITION PROGRAMS (Title VII)

Two Tier CACFP Reimbursement Structure. Meal reimbursements for family or group day care homes in the Child and Adult Care Food Program (CACFP) will be restructured into two tiers. Current law rates will continue for family or group day care homes located in areas in which at least 50 percent of the children are in households that are below 185 percent of the