

# Social Services

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## State-Local Government Relations in Social Services

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In most states, the state—rather than local governments—administers social services programs.<sup>1</sup> By contrast, in North Carolina most social services are provided through programs that are administered by counties under the state's supervision. North Carolina's county-administered, state-supervised social services system reflects the state's long history of local (county) responsibility for public social services, the strength of county government in the state, and the continued role of North Carolina's counties as the primary vehicle for the delivery of basic services to citizens.

The evolution of the relationship between North Carolina's state and county governments in the area of social services has coincided with substantial change within the social services field itself. Public social services—known earlier as public welfare and earlier still

as public charity or poor relief—have not been a static group of governmental activities. Some functions, like financial assistance to the poor and child welfare services, have changed significantly while remaining central to what the term social services denotes. New programs and services have proliferated. Some functions, such as mental health and juvenile delinquency services, which used to be components of public welfare, have become organizationally and conceptually distinct from the social services system.

No change in the nature of the state-county relationship begins to match the impact that federal dollars, laws, and regulations have had on both the state and the counties over the past sixty years. Within the overall federal-state-county arrangement, however, some aspects of the state-county relationship involved in operating a massive social services system are very current concerns to those who work in the field and to county and state officials. Understanding the development and present characteristics of the state-county balance of responsibilities is an important step in defining and addressing those concerns.

This bulletin describes the evolution of North Carolina's social services system<sup>2</sup> and discusses the

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1. "Social services" covers a broad range of financial assistance and service programs. Public assistance (or welfare) programs such as Aid to Families with Dependent Children (AFDC), Medicaid, and Food Stamps address the needs of low-income citizens through cash assistance, payments directly to providers for medical care, and coupons for food purchases. Other programs provide services, often without regard to the recipients' income. These include investigating and responding to reports of child abuse, neglect, and dependency; investigating and responding to reports involving the abuse, neglect, or exploitation of disabled adults; various in-home services to allow people with special needs to remain in their own homes; adoption services; foster care; and child and adult day care.

2. For a more thorough history of the development of the social services system in North Carolina, see Roy M. Brown, *Public Poor Relief in North Carolina* (Chapel Hill, N.C.: The University of North Carolina Press, 1928); A. Laurance Aydlett, "The North Carolina State Board of Public Welfare," *The North Carolina Historical Review* 24 (Jan. 1947): 1-33; Mavis Andree Mann, "North Carolina County Government: 1925-1945" (doctoral dissertation, The University of North Carolina, 1946); Clement Harold Donovan, "The Readjustment of State and Local Fiscal

responsibilities of the federal government, the state, and counties with respect to the administration and financing of social services programs today.<sup>3</sup>

## The Evolution of Social Services in North Carolina

### The Early Role of Counties: Poor Relief and Public Charity

Early poor relief in North Carolina had its roots in the English Poor Laws.<sup>4</sup> During colonial times, relief for the poor was the responsibility of each local parish. Between 1755 and 1771 North Carolina's colo-

nial assembly passed laws to restrain vagrancy and to authorize the vestrymen of each parish to levy a poll tax for parish expenses, including support and relief of the poor. To receive poor relief, a citizen appeared before the vestrymen and stated his, her, or another poor person's need, or the person might seek reimbursement for aid that he or she had given to a poor person.<sup>5</sup> During the same period, the response to dependent children was usually apprenticeship. Poor or neglected children were placed with families, where they worked without pay, usually performing housework or farmwork or learning trades.<sup>6</sup>

The North Carolina Constitution of 1776 made no provision for care of the poor. Nonetheless, the duties and powers of the vestry were assumed by elected overseers of the poor in each county. These officials had the authority to tax and to dispense aid to the poor through designated wardens of the poor. Eventually county courts were authorized to appoint wardens of the poor, to levy property and poll taxes, and to build almshouses. The state legislature passed numerous local acts<sup>7</sup>—and statewide laws in 1793 and 1831—that authorized counties to build almshouses or poorhouses for the housing and employment of the poor. Many counties were slow to implement legislation that provided for local overseers or for the construction of poorhouses. Eventually, though, the poorhouse system partially replaced outdoor relief—or direct payment—in most counties, and the use of public tax funds to care for the poor became accepted as a function of county government.

The present delineation of state and county roles in social services began to take shape after the Civil War. In 1868 the General Assembly enacted legislation making it the duty of county commissioners to provide for the poor and giving counties authority to levy taxes and to employ an overseer of the poor.<sup>8</sup> The

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Relations in North Carolina, 1929–1938” (doctoral dissertation, The University of North Carolina, 1940); Paul W. Wager, *County Government and Administration in North Carolina* (Chapel Hill, N.C.: The University of North Carolina Press, 1928); J. S. Kirk, Walter A. Cutter, and Thomas W. Morse (eds.), *Emergency Relief in North Carolina* (Raleigh, N.C.: Edwards & Broughton, 1936); and Andrew W. Dobelstein (ed.), *Crisis in Social Services in North Carolina* (Raleigh, N.C.: N.C. Conference for Social Services, 1974). There are many good sources for information, not specific to North Carolina, about the history of the welfare system in this country. See, e.g., Advisory Commission on Intergovernmental Relations (ACIR), *Public Assistance: The Growth of a Federal Function*, Report A-79 (Washington, D.C.: ACIR, 1980); Walter I. Trattner, *From Poor Law to Welfare State: A History of Social Welfare in America*, 5th ed. (New York: The Free Press, 1994); Bruce S. Jansson, *The Reluctant Welfare State: A History of American Social Welfare Policies*, 2d ed. (Pacific Grove, Calif.: Brooks/Cole Publishing Co., 1993); Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York: Basic Books, Inc., 1986); June Axinn and Herman Levin, *Social Welfare: A History of the American Response to Need*, 3d ed. (New York: Longman Publishing Group, 1992).

3. For a fuller description, see Janet Mason and Mason P. Thomas, Jr., “Social Services,” in *County Government in North Carolina*, 3d ed., Fleming A. Bell, II, ed. (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1989), 378–415; and Mason P. Thomas, Jr., and Janet Mason, *A Guidebook to Social Services in North Carolina*, 4th ed. (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1989). At this writing (February 1995), proposals for major welfare reform are pending both in Congress and in the state legislature. If enacted, these could change the distribution of responsibilities described in this bulletin.

4. The English Poor Laws attached negative moral judgments to poverty and emphasized local community responsibility for financing and administering the care of the poor. Other characteristics of the Poor Laws that were carried over in North Carolina were the distinction between the deserving and undeserving poor, the attachment of work requirements to the receipt of assistance, and the two primary methods of providing relief—outdoor relief (or assistance to paupers in their own homes) and indoor relief (institutionalization of the poor).

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5. Later the same general method of administering public assistance was used by county commissioners until 1919.

6. The practice of apprenticeship continued in North Carolina until passage of the state's first juvenile court law in 1919. For a description of apprenticeship in colonial America, see Grace Abbott, *The Child and the State*, vol. 1 (Chicago: The University of Chicago Press, 1938), 187–255.

7. Local acts, which also addressed other details of counties' poor relief programs, reflected considerable local autonomy. Local acts covered such subjects as whether all the poor should be required to live in poorhouses and how the superintendent of the poorhouse would be selected.

8. 1868 N.C. Public Laws, Spec. Sess., ch. 20, § 24. During the 1800s, each county was responsible, under the doctrine

precise means of providing poor relief, however, were left to local discretion, and traditional practices did not change very much.

Although counties retained primary responsibility for poor relief, the North Carolina Constitution of 1868 established, for the first time, a role for the state government with respect to social services:

Beneficent provision for the poor, the unfortunate, and orphan being one of the first duties of a civilized and Christian state, the General Assembly shall, at its first session appoint and define the duties of a Board of Public Charities, to whom shall be entrusted the supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.<sup>9</sup>

The assumption by the state of a primary role in providing social services developed slowly. The primary functions of the State Board of Public Charities that was created pursuant to the new constitution<sup>10</sup> were to investigate and supervise charitable and penal institutions, recommend needed changes, and study social problems. The board operated with no funds except a travel allowance, and it received little support.<sup>11</sup> It was effectively nonfunctioning for almost nineteen years, and even when it was revived in 1889, had little authority or support. The board did survey conditions in local poorhouses. It attracted some attention to the deplorable conditions in many counties, such as county homes that housed the mentally ill, criminals, and homeless children together. Some conditions at the county level improved, but immense disparities among counties continued.

The first substantial state action in the welfare field tended to complement rather than impinge on local welfare activity. The North Carolina Constitution of 1868 and subsequent legislation made the state responsible

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of "legal settlement," for the support of poor people who had resided in the county for at least one year. *See* Board of Comm'rs of McDowell County v. Board of Comm'rs of Forsyth County, 121 N.C. 295 (1897). Now N.C. GEN. STAT. § 143A-257 (hereinafter G.S.) controls determinations of residency for purposes of counties' social services responsibilities.

9. N.C. CONST. of 1868, art. XI, § 7.

10. 1868-69 N.C. Pub. Laws ch. 170. The board consisted of five members appointed by the General Assembly.

11. The board was authorized to require reports from county officials, but it had no enforcement power. The 1869-70 session of the legislature made it a misdemeanor to fail to comply with a proper request for information by the board, but the next session did away with the board's travel allowance for meetings. 1869-70 N.C. Pub. Laws ch. 154; 1870-71 N.C. Pub. Laws ch. 106.

for the care of the insane, the deaf-mute, and the blind. The state first established residential schools for young people who were deaf or blind and a hospital for the insane. Other state institutions were created for the "feeble-minded," epileptics, tuberculosis patients, and Confederate soldiers and their wives or widows. At the same time, orphanages for dependent children were being developed through private and religious groups, with some state support. These institutions relieved the counties of some, though by no means all, of the responsibility for the care and support of these groups.

Public efforts were supplemented substantially, if not outweighed, by private charity and charitable organizations (sometimes focusing on special populations such as dependent children), and there really was not a statewide public system for providing poor relief. But greater links between the state and counties began to develop. The renewed state board, for example, facilitated the creation of voluntary county committees that visited county institutions and reported to the state board.

### Increased State Involvement, 1917-1934

Many features of today's social services system were created by North Carolina's first statewide public welfare law, which was enacted in 1917<sup>12</sup> and supplemented in 1919.<sup>13</sup> This law marked the beginning of an organized system of state supervision and local administration of social services.<sup>14</sup>

Under the law the state board was enlarged to seven members, renamed the State Board of Charities and Public Welfare, and given expanded authority.<sup>15</sup> The law also provided for a state commissioner of public welfare and for a professional staff at the state level. At the county level the 1917 law provided for the appointment by the county commissioners of three-member local boards of charity and public welfare (in place of the unofficial boards of visitors). The 1919 law transferred to the state board the authority to appoint the local boards.

The 1919 law also provided for the appointment jointly by the board of commissioners and the board of

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12. 1917 N.C. Pub. Laws and Res. ch. 170.

13. 1919 N.C. Pub. Laws and Res. ch. 46.

14. Later North Carolina was described as having been a leader among states in developing a state-county system for the administration of public welfare programs. Grace Abbott, *The Child and the State*, vol. 2 (Chicago: The University of Chicago Press, 1938), 616.

15. Among the board's duties were to promote the welfare of dependent and neglected children and to inspect child-caring institutions.

education in each county of a superintendent of public welfare. The superintendent also served as the chief school attendance officer and the juvenile probation officer. In addition, the superintendent acted both as agent of the state board and as administrator of public poor funds under the direction of the county commissioners—a dual role that exists for county social services directors today.<sup>16</sup> The superintendent was responsible for oversight of dependent and neglected children and of prisoners on parole or probation in the county. He also was responsible for assisting in finding jobs for the unemployed and for making any investigations in the county that were requested by the state board. Although local officials appointed the superintendent, the state board was required to pass on his qualifications for the position.

Under this new structure the number of county homes increased and their quality and conditions tended to improve. The distribution of poor relief funds, however, continued to be largely unsupervised and was subject to graft or political or personal influence. Although the law made the county superintendent, under the county commissioners' control, responsible for the care and supervision of the poor and administration of the poor fund, the authority actually delegated to the superintendent varied greatly from county to county. Some boards of commissioners set general policy and determined amounts of money available but left policy administration up to the superintendent. Other boards ignored the law and continued to handle the discretionary handing-out of funds, or only gradually shared administrative responsibility with the local superintendent.

During the period of expansion and growth of the 1920s, spending for public welfare was only a small portion of state and local budgets. At the state level a Division of Child Welfare was established along with bureaus for County Organization, Institutional Supervision, Mental Health and Hygiene, and Promotion and Education. The state board and the commissioner of public welfare were involved substantially in implementing the juvenile court law that was enacted in 1919.<sup>17</sup> By 1925 fifty-seven counties had organized

welfare departments, forty-six had full-time county superintendents, and eleven had part-time superintendents; in forty-three counties the school superintendent also served as the superintendent of welfare.<sup>18</sup>

In 1923 the state enacted a mother's aid law<sup>19</sup> to provide financial assistance to certain indigent mothers with children under the age of fourteen. Forerunner of the federal Aid to Families with Dependent Children (AFDC) program, mother's aid was state supervised and county administered. Counties' participation in the program was optional; however, by 1926 seventy-one counties were participating. The cost of the program was divided equally between the state and the counties that chose to participate. The standards set for the program and its supervision by the state created a noticeable contrast to the often arbitrarily administered and inadequately supervised poor-relief practices of the counties.

The inefficiency of operating the large number of county homes in the state and the recognition that many people were in the homes because of medical needs led both the State Board of Charities and Public Welfare and the legislature to propose the creation of district hospital homes to replace almshouses or county homes. But in 1924 the state board cited counties' inability to agree on location, local jealousy, and local pride as barriers to such change.<sup>20</sup>

In some respects North Carolina was becoming a leader in a national trend toward centralized, or state, financial responsibility. By 1934 the state was financing most of the services that had been major county functions in 1900—public schools, roads and highways, and prison camps. The state also had responsibility for administering roads, highways, and the prison system. The state's role in social services also increased, but much more modestly. In contrast to, and perhaps partly because of, the state's assumption of

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diction or power" as would further the objects of the law, and made counties responsible for the cost of care of children who were placed outside their own homes. 1919 N.C. Pub. Laws and Res. ch. 97, §§ 14 and 22.

18. A. Laurance Aydlett, "The North Carolina State Board of Public Welfare," *The North Carolina Historical Review* 24 (Jan. 1947) (hereinafter Aydlett, "The N.C. State Board"): 1-33, at 20-23.

19. 1923 N.C. Pub. Laws and Res. ch. 260. The act was entitled "An Act to Aid Needy Orphan Children in the Homes of Worthy Mothers."

20. Roy M. Brown, *Public Poor Relief in North Carolina* (Chapel Hill, N.C.: The University of North Carolina Press, 1928) (hereinafter Brown, *Public Poor Relief in North Carolina*), 169.

16. See G.S. 108A-14(a)(4), (5).

17. 1919 N.C. Pub. Laws and Res. ch. 97. That law authorized the court to place a child who was "delinquent, neglected, or in need of more suitable guardianship" in the custody of the state board, for placement and supervision in a suitable family home. 1919 N.C. Pub. Laws and Res. ch. 97, § 9. The same act made it "the duty of every . . . county . . . official or department to render such assistance and cooperation within his or its juris-

other major responsibilities, both the funding and administration of social services remained primarily county responsibilities. The legislative battle of 1931–33 that resulted in major shifts of responsibilities from the counties to the state and in the revamping of government financing had little effect on public welfare. Counties remained responsible for poor relief, for the care of the elderly poor, and for the care of dependent children. The state maintained various institutions, contributed to the mother's aid program, and established a fund for foster care for children.

Still, in the 1930s activity at the state level and the state board's responsibilities increased significantly. The board became the central registration point for all adoption proceedings.<sup>21</sup> A new state Division of Field Social Work was created to provide liaisons between the state office and county welfare departments. With a federal grant of \$225,000, the state board assumed some of the administrative and supervisory duties of the liquidated Federal Emergency Relief Administration. It also was the designated agency for certifying applicants to various federal programs and for sponsoring a statewide commodity-distribution project. These latter functions were relatively short-lived; expansion of the state's role was not.

### Increased Federal Involvement, 1935 to the Present

The widespread hardship brought on by the Depression led to a change in attitudes toward poverty. There was an increased awareness of the seriousness of local disparities that were based on levels of unemployment, agricultural conditions, and other economic factors. During and following the Depression, public welfare activities by state and local governments expanded, and governmental involvement in addressing the problems of the poor took on a new legitimacy.

The federal government, which theretofore had resisted involvement in most public welfare efforts,<sup>22</sup>

seriously tackled unemployment and its effects. New federal programs and agencies proliferated.<sup>23</sup> But it was the Social Security Act of 1935 that became "the cornerstone of the American welfare state"<sup>24</sup> and that marked the beginning of a drastic redefinition of government's role at every level in the social services field.

The Social Security Act had several major components. The pension program for the elderly—old-age insurance—was funded by payroll taxes and taxes on wages. It was, and remains, a federally administered program. The unemployment insurance program, although also funded through payroll taxes, used federal financial incentives to encourage states to administer programs in accordance with federal standards.<sup>25</sup>

These social insurance programs were distinguished from the public assistance or "relief" programs that also were part of the Social Security Act and for which eligibility was based on financial need. These programs were "categorical"—they provided assistance only to people who were in specified categories, such as those over age sixty-five, blind persons, and children in single-parent families. Funding for these programs came from the federal and state governments, and federal funding was conditioned on states' complying with federal standards.<sup>26</sup> Needy persons who did not qualify for these categorical programs continued to be dependent on the completely county-funded general assistance programs.

The Social Security Act brought federal child welfare funds to North Carolina in 1936 and triggered the development of legislation to qualify the state for federal funds for the categorical assistance programs. Besides providing federal dollars and creating important new federal-state relationships, the Social Security

21. 1935 N.C. Pub. Laws and Res. ch. 243.

22. Earlier federal involvement included the Bureau of Refugees, Freedmen, and Abandoned Lands which, from 1865 to 1872, provided some emergency, temporary relief primarily for former slaves. In 1912 a federal Children's Bureau was created; between 1921 and 1929 it administered grants-in-aid to states for maternal and child health services under the Sheppard-Towner Act. Both the creation of the Children's Bureau and passage of the Sheppard-Towner Act were influenced by the first White House Conference on Dependent Children, which was held in 1909. Walter I. Trattner, *From Poor Law to Welfare State: A History of Social Welfare in America*, 5th ed. (New York: The Free Press, 1994) (hereinafter Trattner, *Poor Law to Welfare State*), 84–86, 218–23.

23. Some of these were the Civilian Conservation Corps, the Public Works Administration, the National Youth Administration, the Works Progress Administration, the Civil Works Administration, and the U.S. Housing Authority. In addition, from 1933 to 1935 the Federal Emergency Relief Act provided grants-in-aid that states and localities were responsible for administering. Trattner, *Poor Law to Welfare State*, 282–88.

24. Edward D. Berkowitz, *America's Welfare State from Roosevelt to Reagan* (Baltimore: The Johns Hopkins University Press, 1991), 13.

25. Trattner, *Poor Law to Welfare State*, 289–95.

26. Initially the federal government provided a dollar-for-dollar match for state funds spent in the programs for the aged and blind and one dollar for every two dollars spent for aid to dependent children. In 1939 the match for the latter program also became dollar for dollar. James T. Patterson, *America's Struggle against Poverty 1900–1980* (Cambridge: Harvard University Press, 1981), 67.

Act resulted in major changes in state-county relationships, with responsibility shifting from the local to the state level. The act required that public assistance plans, approved by the federal government, be in effect in all political subdivisions of the state and that a single state agency administer or supervise the administration of the state plan. When North Carolina chose to participate in the federal programs, legislation was passed to make participation by counties mandatory.<sup>27</sup> The state was responsible for achieving efficient operation of the plan, and it was required to provide administrative appeal hearings to persons whose claims for assistance were denied at the county level.

The expansion required for administering the federal programs of old-age assistance and aid for dependent children—the two cash-assistance programs assigned to the State Board of Charities and Public Welfare—necessitated the organization of the thirty-one counties that still did not have full-time public welfare superintendents. By 1937 all 100 counties had full-time public welfare units. The legislation that was passed in 1937 to qualify the state for federal funds also restored to county commissioners a role in the appointment of local boards—they appointed one member, the state board appointed one member, and those two appointees appointed a third member.<sup>28</sup> The local boards played an active part in the administration of the public assistance programs.

Although the Social Security Act required state financial participation, the burden of providing matching funds to attract federal dollars fell largely on the counties.<sup>29</sup> Having so recently assumed a major portion of the cost for schools and highways, the state was not prepared to shoulder by itself the increased costs of public welfare. By 1945 many counties were seeking to increase the limits on property taxation for general relief

through special legislative acts, and in that year a general act doubled the rate that counties could levy for general relief purposes.<sup>30</sup>

Since 1937 the development of the social services system in North Carolina largely has reflected initiatives and funding criteria at the federal level.<sup>31</sup> From World War II through the 1960s the social services system grew tremendously in terms of programs, dollars, personnel, people served, and complexity.<sup>32</sup> In the 1950s the federal Aid to Families with Dependent Children (AFDC) program was expanded to include grants for caretakers. In the 1960s social services programs multiplied at what some considered an uncontrollable rate. The Food Stamp program was begun. Medicaid, which was added in 1965, is now the most expensive and complex of the county-administered social services programs. The Work Incentive (WIN) program, started in 1967, began a string of efforts to tie work or training requirements to the receipt of public assistance. In 1972 the federally funded and administered Supplemental Security Income (SSI) program was established, taking over from the states responsibility for categorical assistance to aged, blind, and disabled persons. In 1974 Title XX of the Social Security Act was enacted, providing states with funds, now categorized as block grants, to help pay for a variety of social services. During the 1960s and 1970s courts began to play an increasing role in defining and enforcing rights and responsibilities in the social services system,<sup>33</sup> and various forms of financial assistance increasingly were viewed as entitlements instead of charity or welfare.

27. 1937 N.C. Pub. Laws and Res. ch. 288. In addition to accepting provisions of the federal Social Security Act to qualify for federal funds for programs of old-age assistance and aid to dependent children, the legislation specified responsibilities of the State Board of Charities and Public Welfare, a state director of public assistance, the county boards of charities and public welfare, and boards of county commissioners.

28. 1937 N.C. Pub. Laws and Res. ch. 288. Today the board of county commissioners and the state Social Services Commission each appoint two members in counties in which the commissioners elect to have a five-member board of social services. G.S. 108A-3.

29. See Clement Harold Donovan, "The Readjustment of State and Local Fiscal Relations in North Carolina, 1929-1938" (doctoral dissertation, The University of North Carolina, 1940), 185.

30. Aydlett, "The N.C. State Board": 32.

31. For example, 1941 amendments to the Social Security Act led to the creation of the Merit System Council, which governed the personnel operations of the state's welfare program, and to the application of state merit examinations and classification and compensation plans to county welfare employees. 1941 N.C. Pub. Laws and Res. ch. 378.

32. Between 1960 and 1970 the number of people receiving public assistance nationally doubled. Trattner, *Poor Law to Welfare State*, 315.

33. See, e.g., *King v. Smith*, 329 U.S. 309 (1968) (holding so-called "man in the house" rules unconstitutional); *Shapiro v. Thompson*, 394 U.S. 618 (1969) (striking down residency requirements as conditions of eligibility); *Goldberg v. Kelly*, 397 U.S. 254 (1970) (holding that welfare recipients were entitled to notice and a hearing before termination of their benefits); *Dandridge v. Williams*, 397 U.S. 471 (1970) (holding that a state's method of determining maximum family welfare grants was not unconstitutional and did not violate federal law); and *Wyman v. James*, 400 U.S. 309 (1971) (holding that requiring caseworker home visits did not violate recipients' rights).

The late 1970s and the 1980s, however, were a period of decreased federal funding for social programs and of substantial talk, if not action, about welfare reform. The federal Family Support Act, enacted in 1988, replaced earlier work programs with the Job Opportunities and Basic Skills Training Program (JOBS) for AFDC recipients. The program combines a variety of education, training, and job-placement efforts with supportive services such as assessment, transportation, and child day care. The Family Support Act also strengthened child support enforcement requirements, expanded AFDC eligibility to some two-parent families in which a parent was unemployed, and continued Medicaid benefits for a year when a recipient became ineligible for AFDC because of employment income. Even though labeled a welfare reform measure, however, the act did not make fundamental changes in the operation of the welfare system.

In North Carolina the state board's name was changed in 1945 to the State Board of Public Welfare<sup>34</sup> and in 1969 to the State Board of Social Services.<sup>35</sup> These changes reflected both a change in philosophy and the fact that the programs' scope had become much broader than financial aid. State supervision of county administration occurred primarily through field representatives who were active in developing and coordinating public welfare work in the counties. State office personnel conducted annual reviews of county administration, and the state was divided into six districts to facilitate regular meetings of state and local welfare officials.

Biennial reports of the State Board of Public Welfare during the 1940s and 1950s repeatedly emphasized state-local coordination and the state's efforts to keep local welfare boards and boards of county commissioners fully informed. The board's reports frequently commented on both the tremendous disparities among the counties' general assistance programs and the need for state appropriations to help address that problem. The board also called often for additional state moneys to help fund counties' administrative costs. In 1958 formulas were developed to distribute state equalizing funds and state funds to aid county administration based on counties' abilities and efforts to raise their share of public assistance costs. Still, the state's appropriation for county administration of welfare programs was far below its contribution to the administrative costs

of other locally administered programs such as health, education, and agricultural extension.<sup>36</sup>

Local administration increasingly became the direct responsibility of the county superintendent of public welfare and county staff. During the 1950s a growing number of professional groups sought more formal input into the social services process. The North Carolina Association of County Commissioners appointed an advisory committee to meet regularly with state welfare personnel. County welfare board members, county superintendents of public welfare, and caseworkers also formed statewide organizations.

Federal and state regulations plus the increasing cost of programs generated frustration, dissatisfaction, and a new level of intergovernmental suspicion and distrust. Specialization, the creation of new agencies and programs, and frequent changes within programs resulted in fragmentation and a perception of decreased coordination among state and local officials. In 1967 the General Assembly directed its Legislative Research Commission to study the laws structuring the welfare program, and in 1969 it rewrote those laws.<sup>37</sup> In terms of the relationship between the state and the counties, the 1969 legislation was substantially similar to present social services laws that were recodified in 1981.<sup>38</sup> The state-local relationship has not changed drastically, although questions about the relationship, especially in regard to funding, are raised frequently.<sup>39</sup>

## The Social Services System Today

### Policy and Administration

As it has since the late 1930s, the state-county social services relationship operates in the context of a federal system that greatly influences social services programs. In general the federal government still leaves to the states responsibility for administering most social services programs. The federal government is not involved, however, in deciding how the state and counties share the nonfederal share of the cost of programs or in North Carolina's continued preference for assigning to the counties responsibility

34. 1945 N.C. Sess. Laws and Res. ch. 43.

35. 1969 N.C. Sess. Laws and Res. ch. 546.

36. N.C. State Board of Public Welfare, *Biennial Report, 1956-58* (Raleigh, N.C.: N.C. State Board of Public Welfare, 1958), 20.

37. 1969 N.C. Sess. Laws and Res. ch. 546.

38. 1981 N.C. Sess. Laws ch. 275 (G.S. ch. 108A).

39. See John L. Saxon, "Mandates, Money, and Welfare: Financing Social Services Programs," *Popular Government* 60 (Summer 1994): 2-15.

for administering most social services programs.<sup>40</sup> Nonetheless, through the creation and funding of major programs, the federal government is the source of much of the policy, both broad and specific, regarding the kinds of benefits and services that should be provided and who should receive them.

### *The Federal Role*

The Social Security Act, which has been amended numerous times since its enactment in 1935, continues to be the federal statutory basis for most federally funded social services programs. These include Aid to Families with Dependent Children, Child Support Enforcement, Medicaid, the Social Services Block Grant, child welfare services, and the Job Opportunities and Basic Skills Training program. The Food Stamp program is established by separate federal legislation.

When Congress establishes these or other programs, it does not require that states operate them. Rather, it makes federal funds available to states that choose to operate the programs. Because the level of funds is so substantial<sup>41</sup>—irresistible to a state that wants to provide basic public assistance and social services programs for its citizens—the option of declining federal funding for most of these programs is not very real. Therefore the conditions that Congress imposes on states' acceptance of the federal dollars are experienced and talked about as federal "mandates." The funding conditions that specify the extent to which the state—and, at the state's option, the counties—must share in funding the programs, are discussed below. Other general conditions that apply to federally supported programs include the following:

- A single state agency must either administer or supervise the administration of the programs.

40. In 1989 the General Assembly reaffirmed that it is the state's policy "to operate its social services system through a cooperative partnership between the State and the counties, primarily through programs that are administered by the counties and supervised by the State." 1989 N.C. Sess. Laws ch. 448, § 1.

41. In July 1994 the state Department of Human Resources estimated that federal funds available for social services programs in North Carolina for fiscal year 1994–95 would total more than \$3.15 billion. The estimated number of state and county dollars required to attract these federal dollars was approximately \$1.07 billion (state) and \$364 million (county). N.C. Department of Human Resources, *Determination of State/County Financial Participation: Estimated Funds Available—1994–95* (Raleigh, N.C.: N.C. Department of Human Resources, July 1, 1994) (hereinafter *Determination of State/County Financial Participation*). These figures do not include state and county dollars that are required for programs for which no federal dollars are received.

- The programs must be statewide and must be administered uniformly; in other words, eligibility requirements and the amount of benefits may not vary from county to county.
- The state (and the counties that administer the programs) must protect the legal rights of applicants and recipients, including the right to appeal from adverse decisions.
- Client records and information about clients must be kept confidential unless specific exceptions apply.
- Persons who work in federally supported programs must be hired on a merit basis.

Detailed regulations governing federally supported social services programs are promulgated by the federal Department of Health and Human Services (HHS) or, in the case of Food Stamps, the Department of Agriculture. Although these regulations dictate some very precise details of the programs, federal law and regulations also leave some substantial choices up to the states. In the AFDC program, for example, federal law and regulations limit eligibility to children and their caretakers in circumstances in which the child is living with a "specified relative," and federal law defines who qualifies as a specified relative. If North Carolina wanted to provide the same benefits to children who were needy but who lived with someone other than a specified relative, federal funds would not be available for that purpose, and the benefits would have to be paid without any federal financial participation.<sup>42</sup> At the same time, federal law allows each state to set the income limits that determine eligibility and the dollar amount of benefits that people who are eligible for AFDC will receive. In 1994 the maximum monthly benefit amount for an eligible parent (or other specified relative) and two children in North Carolina was \$272. The comparable amounts in several other states were as follows: Mississippi—\$120; South Carolina—\$200; Georgia—\$280; Virginia—\$354; California—\$607; Alaska—\$923.<sup>43</sup>

42. In fact North Carolina does that in the areas of foster care and adoption assistance payments to provide benefits to children who are not eligible for federally supported benefits. See G.S. 108A-48 and -50.

43. U.S. House of Representatives Committee on Ways and Means, *Overview of Entitlement Programs: Background Material and Data on Programs within the Jurisdiction of the Committee on Ways and Means* (Washington, D.C.: U.S. Government Printing Office, 1994) (hereinafter, *1994 Green Book*), 368–69.



In addition to issuing program regulations, the federal agencies, usually the Department of Health and Human Services (HHS), monitor states' performances and can impose sanctions (withhold or demand the re-payment of federal funds) if a state falls below specified limits in complying with federal rules and regulations. HHS, through its regional office in Atlanta, also provides the state with consultation and assistance in interpreting federal requirements.

Compared to the major public assistance programs, most service programs—such as child protective services, adoptions, foster care, adult protective services—do not always have clear origins in federal law. However, federal involvement in these programs is also substantial. The state (and through the state, the counties) receives federal funds under the Social Services Block Grant that may be used for providing a wide range of social services—as long as the service relates to one of several broad objectives spelled out in federal law.<sup>44</sup> Funds under Title IV-E and Title IV-B of the Social Security Act help support child protective services, family preservation, foster care, and adoption efforts. But like public assistance funds, these come with some fairly detailed conditions. Federal regulations affect such things as how the state defines a “neglected child” or “abused child” for purposes of the mandatory reporting law and other aspects of the child protective services system.<sup>45</sup> The Adoption Assistance and Child Welfare Act of 1980<sup>46</sup> required states to incorporate into their laws the philosophy that children are better off in their own homes than in out-of-home placements if they can remain home safely. For example, a juvenile court judge, before removing a child from his or her own home, must make findings about whether the county social services department made reasonable efforts to prevent the need for the child to be removed from the home.<sup>47</sup> If a court order removes a child from the home but does not contain those findings—or if the child's case is not reviewed periodically or the child's record does not contain a case plan, as required by federal law—federal funds will not help pay for the child's care.

44. One author has described the federal objectives as being “so expansive as to permit virtually every social service activity.” Madelyn DeWoody, *Making Sense of Federal Dollars: A Funding Guide for Social Service Providers* (Washington, D.C.: Child Welfare League of America, 1994), 48.

45. See, e.g., 45 C.F.R. §§ 1340.2, 1340.14(b), 1340.15.

46. Pub. L. No. 96-272, 94 Stat. 500 (codified as amended at 42 U.S.C. §§ 620–628, 670–679a).

47. For the state law requirements to this effect, see G.S. 7A-577(h), -651(c), -657(e).

If enough instances of noncompliance show up during a federal audit, hundreds of thousands of federal dollars may be jeopardized.

Most federal policies that apply to the states as funding conditions relate to the specific programs, services, or cases to which the federal dollars flow. Occasionally, however, the federal requirements are broader. In the area of child support enforcement, for example, federal funds are available only for services that are provided through the state's or a county's IV-D Child Support Enforcement program. To receive those federal funds, however, the state must comply with some mandates that apply to all child support cases, regardless of whether they are handled through the federally funded program.<sup>48</sup>

In these areas and others the federal government has assumed an increasingly active role in social services and family law matters that previously were considered the exclusive province of the state.

#### *The State Role*

**The General Assembly.** The North Carolina Constitution of 1970 retained a provision comparable to the language quoted earlier from the constitution of 1868. In addition, Article XI, Section 3, of the new constitution provides the following:

Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

The North Carolina General Assembly is the source of major state policies regarding social services in the state. Since 1937 it has enacted legislation

- to authorize the state's participation in federally funded programs and to determine those program characteristics—such as AFDC eligibility limits and benefit amounts—that federal law leaves up to the state,
- to establish other programs to be funded with only state or county dollars or both,

48. States must provide for immediate wage withholding (as opposed to using withholding only as a method of enforcement following noncompliance with a court order) for all child support orders issued on or after January 1, 1994, regardless of whether a parent has applied for services from the IV-D Child Support Enforcement program. *1994 Green Book*, 524. In other instances the state voluntarily applies federally mandated conditions to all cases in order to have all child support cases treated as much alike as possible.

- to specify how the state and counties share the nonfederal share of the cost of social services programs,
- to describe the role of counties in administering and funding social services programs, and
- to determine the structure for state agency supervision.

Many state laws, regulations, and policies that affect the counties have their origins at the federal level as funding criteria for bringing federal dollars to the state. The state, as the recipient of the federal funds, must ensure uniformity of programs across the state and compliance with federal requirements. Thus when the state assigns to counties the role of administering these programs, it mandates that counties comply with federal requirements as well as with policies and funding requirements that originate at the state level. The General Assembly also establishes, funds, and requires county participation in programs—such as State-County Special Assistance for Adults<sup>49</sup> and the State Abortion Fund<sup>50</sup>—that are not funded or required by the federal government.

The core of state laws relating to social services is found in Chapter 108A of the North Carolina General Statutes. (Hereinafter the General Statutes will be cited as G.S.) However, many important laws that affect social services are found elsewhere, including those relating to child support enforcement (G.S. Chapters 49, 50, and 110), child protective services (G.S. Chapter 7A, Subchapter XI—The North Carolina Juvenile Code), adoption (G.S. Chapter 48), and state agency organization (G.S. Chapter 143B).

Of course in addition to enacting legislation, the General Assembly appropriates funds to pay the state's share of social services costs. (See the discussion below on financing.) Some key social services provisions are found not in the General Statutes, but in the annual budget acts. These include AFDC and Medicaid eligibility levels, AFDC benefit levels, medical services covered by Medicaid, and other special provisions. In addition, the General Assembly periodically authorizes studies of key issues relating to social services.

49. See G.S. 108A-40 through -47. State-County Special Assistance for Adults provides financial assistance to elderly or disabled adults who are financially needy and who are receiving rest-home care.

50. See, e.g., 1993 N.C. Sess. Laws ch. 321, § 259.1, which authorized \$1.2 million in state funding for the State Abortion Fund.

**The Executive Branch.** Within the executive branch, administrative functions relating to social services occur primarily through the Department of Human Resources (DHR)—one of the ten principal departments of state government established by the Executive Organization Act of 1973.<sup>51</sup> Several divisions within DHR relate to social services functions carried out through county departments of social services. County administration of most mixed-funding programs is supervised by the Division of Social Services, although a separate Division of Medical Assistance supervises the Medicaid program. Other divisions to which counties must relate include the Division of Facility Services, which licenses and monitors a variety of care-providing facilities; the Division of Child Development, which oversees child day-care functions; the Division of Services for the Blind; the Division of Family Development; and the Division of Aging. DHR relates to the counties through four regional offices<sup>52</sup> as well as through state office staff.

The Social Services Commission is the state-level executive body authorized to adopt rules and regulations for the conduct of the state's social service programs.<sup>53</sup> It consists of twelve members, one from each congressional district, appointed by the governor for four-year terms.<sup>54</sup> The commission has broad rule-making authority for programs established under G.S. Chapter 108A, with the exception of Medicaid, for which DHR has rule-making authority. The commission is responsible for developing standards for (1) the inspection and licensing of maternity homes,

51. G.S. 143B-6. In the early 1970s more than thirty state agencies had social services functions. When state government was reorganized in 1971 and 1973, these agencies were brought under the new Department of Human Resources, and Social Services became one division of that department. At the same time, the state social services board became the Social Services Commission. See Andrew W. Dobelstein, ed., *Crisis in Social Services in North Carolina* (Raleigh, N.C.: N.C. Conference for Social Services, 1974), 11.

52. These are located in Black Mountain (Region I), Winston-Salem (Region II), Fayetteville (Region III), and Greenville (Region IV). The regional social services director in each region and other regional staff are state employees.

53. G.S. 143B-153. The commission also has authority, among other things, to adopt (1) rules to implement statutes relating to DHR, (2) rules to achieve "maximum cooperation with other agencies of the State and with agencies of other states and of the federal government in rendering services to strengthen and maintain family life," and (3) rules required by the federal government in connection with federal grants-in-aid for social services purposes. G.S. 143B-153.

54. G.S. 143B-154.

domiciliary homes for aged or disabled persons, and child-care institutions; (2) the inspection and operation of jails or local detention facilities; and (3) the regulation and licensing of charitable organizations and professional fund-raisers.<sup>55</sup> The commission's rules, if adopted in accordance with the North Carolina Administrative Procedure Act (G.S. Chapter 150B), have the force of law. DHR is authorized to enforce the commission's rules and regulations,<sup>56</sup> although the law is not very explicit about how such enforcement should occur. The commission appoints either one or two members of each county social services board (depending on whether the county has a three- or five-member board) and may assign responsibilities to the county social services board and director.<sup>57</sup>

The Department of Human Resources, not the Social Services Commission, has rule-making authority for the Medicaid program,<sup>58</sup> for specified components of the Social Services Block Grant,<sup>59</sup> and for rules and regulations applicable to local human resource agencies for purposes of program evaluation, fiscal audits, and collection of third-party payments.<sup>60</sup>

State social services law defines the state's role relative to the counties more clearly in the area of public assistance programs than it does for services programs. Chapter 108A of the General Statutes establishes the major public assistance programs—Aid to Families with Dependent Children, State-County Special Assistance for Adults, Food Stamps, Foster Care and Adoption Assistance, Low-Income Energy Assistance, and Medical Assistance—and explicitly provides for them to be administered by counties “under rules and regulations adopted by the Social Services Commission and under the supervision of the Department of Human Resources” or, in the case of Medical Assistance, “under rules and regulations adopted by the Department of Human Resources.”<sup>61</sup> The law explicitly authorizes the state to withhold funds from a county that does not pay its full share of public assistance costs.<sup>62</sup>

There are not comparable provisions regarding the state's supervision of counties' administration of most service programs. The only service program that

is established specifically by Chapter 108A is adult protective services.<sup>63</sup> However, the law does

- authorize DHR to “accept all grants-in-aid available for programs of social services under the Social Security Act, other federal laws or regulations, State appropriations and other non-federal sources”;
- designate DHR as the “single State agency responsible for administering or supervising the administration of such programs”; and
- express the intent “that programs of social services be administered so that the State and its citizens may benefit fully from any grants-in-aid.”<sup>64</sup>

In addition to the General Assembly, the Department of Human Resources, and the Social Services Commission, the State Personnel Commission and the Office of State Personnel play important social services roles. County social services employees are subject to the State Personnel Act, unless the county's personnel system has been approved as being “substantially equivalent” to the state system.<sup>65</sup> Thus state personnel rules apply to most county social services directors and staff, and appeals from local personnel decisions involving these employees often are through the state, rather than the county, personnel system.

### *The County Role*

State law requires that every county have a county department of social services.<sup>66</sup> The counties' primary roles in social services are (1) to administer public assistance and social services programs that are mandated by the state, (2) to fund a portion of the nonfederal share of the cost of those programs, and (3) to identify and respond to local needs that are not addressed, or that are not addressed sufficiently, by federal and state programs.

**County Commissioners.** Boards of county commissioners are involved primarily in developing, approving, and funding the local social services budget

55. G.S. 143B-153(3).

56. G.S. 143B-153(7).

57. G.S. 108A-3, -9(5), -14(5).

58. G.S. 108A-25(b); G.S. 143B-153.

59. G.S. 143B-153(2a)b.

60. G.S. 143B-139.1.

61. G.S. 108A-25.

62. G.S. 108A-93.

63. Article 6 of G.S. Chapter 108A is the Protection of the Abused, Neglected, or Exploited Disabled Adult Act. G.S. 108A-111 directs DHR, along with the Administrative Office of the Courts, to “adopt standards and other procedures and guidelines with forms to insure the effective implementation of the provisions of [the] Article.”

64. G.S. 108A-71.

65. G.S. 126-5(a), -11.

66. Two or more counties may employ a social services director jointly, but none does so. G.S. 108A-12.

and in deciding what programs or services, in addition to mandated programs, the county will provide with county funds. While counties are required to participate in the major social services programs, they are authorized to establish, fund, and operate additional programs or services using only county funds.<sup>67</sup> The extent to which counties do so varies greatly, and the availability of emergency assistance and some services to fill gaps left by the major programs is not uniform statewide. Social services also vary from county to county when the state authorizes pilot programs in counties that agree to establish and administer them.<sup>68</sup>

The Child Support Enforcement Program is available in every county, but it is administered by the state in about one third of the counties. When the program was established in the mid-1970s, boards of county commissioners in each county were given the option to administer the program locally or to have the state administer it. Counties' option to "give" the program back to the state was removed in 1986, and the number of counties in which the program was state-administered was frozen.<sup>69</sup> When the program is administered locally, it most often is located within the department of social services. At the discretion of the county commissioners, it may be administered through another county department or office.

Commissioners appoint either one or two members of the county social services board—depending on whether the board has three or five members<sup>70</sup>—and they generally take advantage of their statutory authorization to appoint one of their own members to the social services board.<sup>71</sup> The commissioners may review any final action by that board or the county social services director regarding an application for Aid to Families with Dependent Children to determine whether it complies with federal and state regulations.<sup>72</sup> They are

also responsible, through the social services department, for the administration and operation of the Food Stamp program.<sup>73</sup>

Some of the other responsibilities of the board of county commissioners are

- to establish per diem rates and policies for subsistence and travel reimbursement for county social services board members;<sup>74</sup>
- to approve, along with the board of social services, fees to cover the cost of certain voluntary services the social services board contracts to provide;<sup>75</sup>
- to appoint or designate, with the approval of the social services board, a licensed attorney or the county attorney to serve as a special county attorney for social service matters;<sup>76</sup> and
- to determine whether financial assistance for certain disabled persons will be provided under the State-County Special Assistance for Adults program.<sup>77</sup>

**The County Social Services Board.** As noted earlier, both the board of county commissioners and the state Social Services Commission appoint either one or two members of each county social services board; the four (or two, if it is a three-member board) members thus appointed select the fifth (or third) member.<sup>78</sup> County social services boards are primarily, but not exclusively, advisory bodies. By far their most significant responsibility is hiring the county social services director.<sup>79</sup> The director must be hired according to the merit system rules of the State Personnel Commission, and a board may fire a director only in accordance with those rules. The board determines the director's salary, with the commissioners' approval, according to the State Personnel Office classification plan.<sup>80</sup>

Some of the responsibilities of county social services boards, in addition to hiring the director, are to

67. G.S. 108A-41(d); G.S. 153A-255.

68. A small number of counties offer Intensive Family Preservation Services—a program that the General Assembly established in 1991 but funded for only three pilot counties. About a quarter of the counties operate the Adolescent Parenting Program, which began with an eight-county pilot in 1984. (Several organizations have state-level contracts to provide this service in some other counties.) See *Determination of State/County Financial Participation*, 23–24.

69. G.S. 108A-141. A county in which the program is state-administered still has the option of assuming responsibility for administration of the program.

70. The board of commissioners also determines whether the social services board has three or five members. G.S. 108A-2.

71. G.S. 108A-3.

72. G.S. 108A-33(c).

73. G.S. 108A-51.

74. G.S. 108A-8.

75. G.S. 108A-10.

76. G.S. 108A-16.

77. G.S. 108A-45.

78. G.S. 108A-5. Mecklenburg County is an exception. There the board of county commissioners serves as the county social services board under special legislation that offers that option to counties with a population of more than 425,000. G.S. 153A-77.

79. G.S. 108A-9(1).

80. G.S. 108A-13.

- establish county policies for social services programs in conformity with rules of the state Social Services Commission (or, for Medicaid, rules of DHR) and under the supervision of the Department of Human Resources;<sup>81</sup>
- advise county and municipal authorities in developing policies and plans to improve the community's social conditions;<sup>82</sup>
- consult with the county social services director about problems relating to the director's office, assist the director in planning budgets for the county social services department, and transmit or present the department's budget to the board of county commissioners;<sup>83</sup> and
- review and either approve or reject the director's findings and recommendations on each AFDC application.<sup>84</sup>

In regard to state-county relations, the board's most interesting responsibility is to "have such other duties and responsibilities as the General Assembly, the Department of Human Resources or the Social Services Commission or the board of county commissioners may assign to it."<sup>85</sup> Thus this board of a major department of county government has as many members appointed by a state commission as by the county board of commissioners,<sup>86</sup> and it may be assigned responsibilities by a state commission and department.

**The County Social Services Director and Employees.** The county social services director's duties and responsibilities are defined by statute.<sup>87</sup> The director is

responsible for hiring, and by implication may fire, all necessary personnel for the social services department.<sup>88</sup> Some of the responsibilities assigned to directors deal with specific program responsibilities in areas such as child abuse and neglect, foster care, adoption, and domiciliary care. The most significant general duties include, in addition to hiring county social services personnel, administering the programs of public assistance and social services under state and federal rules and regulations. The director is charged with administering funds provided by the board of commissioners for the care of indigent persons in the county under policies approved by the county social services board. But he or she also is to act as agent of the Social Services Commission and DHR in relation to work required by the commission and DHR in that county.<sup>89</sup>

When the county social services director wears the hat of agent of a state-level commission and department, he or she is somewhat different from other heads of units or departments of county government. The director's dual role as agent of the state and employee and agent of the county often is discussed in terms of control and accountability. But the question of for whom the director acts also has been addressed by courts in the context of liability for the actions of the director or the county staff through whom the director performs many of his or her responsibilities. In 1981 a federal district court ruled that a North Carolina county social services director was acting for the state, not the county, when he fired an eligibility supervisor, and therefore the county could not be liable to the plaintiff even if she proved that her rights had been violated.<sup>90</sup>

North Carolina courts, in cases involving the alleged negligence of a county social services director or employee, have held that in some circumstances county social services employees act as agents of the state. In *Vaughn v. North Carolina Department of Human Resources*,<sup>91</sup> the state supreme court held that DHR could be liable for negligent acts (performed through the director's employees) of a county social services director with respect to the placement of children in foster

81. G.S. 108A-1.

82. G.S. 108A-9(2).

83. G.S. 108A-9(3), (4).

84. G.S. 108A-33. The board may, and boards generally do, delegate to the director the authority to consider, process, and approve or reject all applications. Boards also generally waive the requirement that the director submit for the board's approval terminations of or changes in public assistance payments.

85. G.S. 108A-9(5).

86. The North Carolina Association of County Commissioners periodically has urged the General Assembly to provide that all county social services board members be appointed by the board of county commissioners. See, e.g., North Carolina Association of County Commissioners, "Resolution Calling for All Members of County Boards of Social Services To Be Appointed Directly by Boards of County Commissioners," August 13, 1983; North Carolina Association of County Commissioners, "Policy Statement on Human Resources," appendix 6 in "Report of the Committee to Investigate Unfunded State and Federal Mandates," 1994.

87. See G.S. 108A-14.

88. County social services employees are subject to the State Personnel Act and must be selected according to the state merit system. G.S. 126-5(a).

89. G.S. 108A-14(5).

90. *Fracaro v. Priddy*, 514 F. Supp. 191 (M.D.N.C. 1981). The court also stated that social services board members could not be liable in that case because only the director had authority to dismiss the plaintiff/employee.

91. 296 N.C. 683, 252 S.E.2d 792 (1979).

care. In reaching that conclusion, the court pointed to (1) the statutory provision that makes the director the agent of the Social Services Commission and DHR, (2) the Social Services Commission's rules governing the placement of children in foster care, (3) the degree of state control over the director's administration of the foster care program, and (4) the extent of state funding of the program. In a more recent case, *Coleman v. Cooper*,<sup>92</sup> the court of appeals relied on *Vaughn* in holding that the county acted as an agent of the state in the area of child protective services.

#### *Cooperation between the State and Counties*

The cases described above and others have contributed significantly to a heightened concern and increased discussion about the nature of the state-county relationship in social services. For a number of years many of those concerns were highlighted by a federal lawsuit against the state that had major implications for the counties. In *Alexander v. Britt* (formerly *Alexander v. Hill* and *Alexander v. Flaherty*), which was filed in 1974, the state DHR was sued by public assistance applicants who claimed that county departments of social services failed to process their applications within the time frames required by federal law.<sup>93</sup> Although the state was responsible for the counties' performance, it had no direct control over counties' staffing levels or other factors that determine whether applications are processed in a timely way. And despite the fact that the counties were not named as parties to the lawsuit, the counties have been subject to extensive monitoring procedures and to monetary fines and penalties under a series of court orders and consent agreements negotiated between the state and the plaintiffs.

The heightened concern about and attention to the state-county relationship in social services seems to have generated a certain level of "creative tension" that is seeking more cooperative means of resolution than might have been true in decades past. At least the channels for state-county communication and collaboration seem to be open and productive, as illustrated by the following:

- A work group consisting of state and county social services officials is examining the nature of state supervision. It has identified the need for clearer standards against which counties' performance can be measured and is exploring the feasibility of accreditation or some other formal means of recognizing counties' achievement of goals.
- The state and counties collaborated in an extensive state and local planning process to begin implementation of the JOBS program, which now either operates or has begun to be implemented in all 100 counties.<sup>94</sup>
- A Human Services Automation Policy and Planning Council has brought the state and counties together in planning for an automated system for the support of service delivery.
- A statewide training plan developed jointly by state and county representatives has begun to fill gaps in local training needs and continues to evolve.
- Some collaborative efforts have resulted in legislative changes, such as the creation in 1994 of a program to provide educational loans to encourage social workers to enter public child welfare agencies.
- Significant strides have been made to increase the efficiency of some program operations.<sup>95</sup>

Both the state and the counties will continue to face challenges inherent not only in the size and complexity of the social services system, but in the fact that the system is always changing. "Welfare reform" has been widely advocated periodically for decades. People mean different things by the term, but generally they mean at least fundamental changes in the nature of federally funded programs and in the federal-state relationship in administering and financing those programs. In 1995 the challenge of adapting to change may be about to accelerate, as welfare reform once

92. 102 N.C. App. 650, 403 S.E.2d 577, *cert. denied*, 319 N.C. 786, 408 S.E.2d 517 (1991).

93. Under North Carolina's state-supervised, county-administered system, county departments of social services have primary responsibility for processing AFDC and Medicaid applications. In cases involving disability, however, the state DHR Disability Determination Service shares responsibility for processing applications.

94. After initial implementation of the program in seventy-five counties, the remaining twenty-five counties began implementation in July 1994. In fiscal year 1991-92, 18,766 AFDC recipients participated in the JOBS program. N.C. Division of Social Services, *Biennial Report, 1992* (Raleigh, N.C.: N.C. Department of Human Resources, 1992), 29.

95. For examples of innovations and efficiency measures, see N.C. Division of Social Services, *Biennial Report, 1992* (Raleigh, N.C.: N.C. Department of Human Resources, 1992), 48-55.

again is the subject of study and lively debate not only at the federal level, but within North Carolina as well.<sup>96</sup> The social services system a few years from now may look different from the social services system today.

### Financing Public Assistance and Social Services Programs

North Carolina's system of county administration and state supervision of social services programs generates complex practices and issues regarding the division of financial responsibility between the state and counties. In both state and county government, many concerns about social services relate to cost containment and to lack of control. These issues are reflected in a special sensitivity when legislative, regulatory, policy, or judicial mandates are received unaccompanied by the funds to implement them, whether those mandates are directed from the federal government to the state or from the state to the counties.

#### *Federal Funding for Social Services*

During the past sixty years, the federal government has assumed a major role in financing social services programs administered by state and local governments. In state fiscal year 1994-95, the federal government provided more than \$3 billion to North Carolina for social services programs. These federal funds accounted

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96. During 1994, for example, North Carolina saw the creation of both a Legislative Study Commission on Welfare Reform and the Governor's Welfare Reform Task Force. The legislative study commission, which was directed to submit a final report within the first week of the 1995 session of the General Assembly, was directed to include in its study the following:

1. A reexamination of the whole purpose of the welfare system and an identification of those disincentives to raising responsible, independent participants in society that are built into the system.
2. An analysis of the federal welfare reform proposals and of other states' initiatives.
3. A compilation and detailed examination, including detailed fiscal analysis, of proposals to reform the welfare system.

1993 N.C. Sess. Laws (Ex. Sess. 1994) ch. 24, § 47.

Addressing the Welfare Reform Task Force on September 22, 1994, Governor Jim Hunt asked it to focus on doing three things: (1) look for ways to promote education and training programs to give people marketable skills, (2) find new ways to discourage teen parenthood, and (3) help make systemic changes to streamline and eliminate bureaucratic barriers to self-sufficiency. Attachment to letter of October 25, 1994, from Mary K. Deyampert, director of the Division of Social Services, to county directors of social services.

for approximately two thirds of the total spending for social services programs in the state.<sup>97</sup>

Federal laws—such as the Social Security Act, the Food Stamp Act, and budget acts—determine how much money the federal government will provide for each public assistance or social services program, how the money will be distributed among the states, the purposes for which the federal funds may be used, the conditions with which the states must comply to receive the federal funding, and whether the states will be required to pay part of the costs of the program. The share of costs funded by the federal government is called the *federal share* or the rate of federal financial participation. The share of costs that must be paid for by the state (or by the counties) is called the *nonfederal share* or the required state match.

The federal share of social services spending varies from program to program. Federal funds generally provide about half of the cost of administering public assistance and social services programs,<sup>98</sup> and at least half of the cost of direct payments or benefits to eligible recipients. In some programs, such as the Food Stamp and Low-Income Energy Assistance programs, federal funds cover the entire cost of the benefits paid to eligible recipients. In the AFDC and Medicaid programs, the federal share of public assistance payments is determined under a formula that is inversely related to each state's per capita income and that ranges from 50 percent to approximately 80 percent.<sup>99</sup> As economic conditions in North Carolina have improved over the past decade, the federal share of the state's AFDC and Medicaid payments has decreased from 69.54 percent in 1983 to 64.71 percent in 1995.<sup>100</sup>

In some public assistance entitlement programs, such as AFDC and Medicaid, federal law mandates that benefits be provided to every person who applies and meets the eligibility requirements for the program.

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97. See *Determination of State/County Financial Participation*.

98. Administrative costs include the salaries (and related personnel costs) of county social services employees; expenses related to the construction, rent, and maintenance of buildings that house the county department of social services; and other expenses such as computers, telephones, copiers, and supplies, related to the administration of social services programs.

99. *1994 Green Book*, 383.

100. *Id.*, 384. In some programs, federal law provides a higher federal share for certain activities. For example, the federal share for costs connected with the Medicaid Management Information System is 75 percent, and federal funds may be used to pay 90 percent of the cost of family planning services for Medicaid recipients.

The federal government's financial obligation is *open-ended*—regardless of how many people qualify for benefits, the federal government must provide funds sufficient to pay the federal share of benefits for everyone who is entitled to assistance. (Of course, the state's financial obligation also is open-ended, as the state must provide funds sufficient to pay the nonfederal share of the cost of the benefits.) In other programs, such as the Low-Income Energy Assistance Program and the Social Services Block Grant, the amount of federal funding is *capped*. Federal appropriations provide a fixed amount of funding for the program. If the federal funds are insufficient to provide benefits or services to everyone who is eligible, the state must limit the number of people served by the program, limit the amount of benefits or the level of services provided to eligible persons, or provide additional state funding for the program.

#### *State and County Roles in Financing Social Services*

In most states the nonfederal share of the cost of public assistance and social services programs is paid entirely by the state government from state revenues. Under North Carolina's county-administered, state-supervised system, the nonfederal share of social services costs is divided between the state government and the counties.<sup>101</sup>

Under G.S. 108A-87 the General Assembly has the authority to decide whether, and how, to divide the nonfederal share of costs for social services programs between the state and counties.<sup>102</sup> Table 1 shows the

101. North Carolina is one of only fourteen states that require counties to pay part of the cost of Medicaid benefits. It is one of only ten states that require counties to pay part of the cost of AFDC benefits, and one of only six that require counties to pay more than half of the nonfederal share of the cost of administering public assistance programs at the local level. Steven D. Gold, *Reforming State-Local Relations: A Practical Guide* (Denver, Colo.: National Conference of State Legislatures, 1989), 103, note 5; *1994 Green Book*, 386-87.

102. There are at least two limitations on this authority. First, G.S. 108A-87(b) makes the state government responsible for the entire nonfederal share of the cost of social services provided to Native Americans living on federal reservations within the state. Second, G.S. 108A-54 provides that the counties' share of nonfederal costs related to the Medicaid program may not exceed the state's share.

Only two general statutory provisions divide the cost of particular public assistance programs between the state and counties. G.S. 108A-39.1 provides that the nonfederal share of cash benefits under the AFDC Emergency Assistance program will be divided equally between the state and counties, but that county or other local funds must be used to pay the entire nonfederal share

allocation of the federal, state, and county shares of the cost of several public assistance and social services programs for fiscal year 1994-95.

As shown in Table 1, North Carolina generally requires counties to pay virtually all of the nonfederal share of administrative costs incurred by county departments of social services, as well as a significant portion of the cost of social services provided to county residents.<sup>103</sup> State appropriations, however, pay half or more of the nonfederal share of public assistance benefits for county residents. The General Assembly also appropriates several million dollars each year to reimburse counties for part of the nonfederal share of the cost of administering public assistance programs,<sup>104</sup> for additional eligibility workers to support the expansion of public assistance programs,<sup>105</sup> and for additional social workers to provide protective services to abused, neglected, and dependent children.<sup>106</sup>

In addition, the State Public Assistance Equalization Program provides almost \$7 million each year to reduce the financial burden that paying for public assistance programs places on North Carolina's poorer

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of noncash services provided under the program. G.S. 143B-139.5 provides that both the state and counties are responsible for paying 50 percent of the cost of the State-County Special Assistance program.

The allocation of the nonfederal share of the cost of Medicaid services is part of the biennial state budget act. See, e.g., 1993 N.C. Sess. Laws ch. 321, § 222(b), which provides that the state will pay 85 percent and the counties 15 percent of the nonfederal share of the cost of services under the Medicaid program.

103. A person's legal residence, as determined under G.S. 143A-257, dictates which county is responsible for the county share of the cost of social services provided to an individual.

104. See N.C. ADMIN. CODE tit. 10, ch. 24A § .0401. In fiscal year 1993-94 the General Assembly appropriated \$6,334,018 for State Aid to Counties, which represented about 7.2 percent of the total amount spent by counties for public assistance administration.

105. The General Assembly initially appropriated \$1.5 million for additional eligibility workers for fiscal year 1987-88, and in 1993-94 provided more than \$1.6 million to counties for these positions. Although counties that fund positions with this additional funding are not required to match the federal and state dollars, they may not reduce the amount of county funding for public assistance eligibility workers.

106. In fiscal year 1993-94 the General Assembly appropriated \$2 million to hire social workers in counties with child protective services caseloads of more than twenty cases per worker, and provided an additional \$13 million in state funds to continue funding additional child protective services positions established by counties since 1992. In both cases, counties must provide a match (on a 25 percent county to 75 percent state basis) and may not use the additional state funding to supplant county funding for child protective services.



**Table 1**  
**Federal, State, and County Shares of Costs for Public Assistance and Social Services Programs**

<b>Program</b>	<b>% Federal</b>	<b>% State</b>	<b>% County</b>
Medicaid	65.24	29.52	5.24
Medicaid Administration	49.97	0.05	49.97
Aid to Families with Dependent Children (AFDC)	64.82	17.59	17.59
AFDC Administration	49.95	0.11	49.95
State-County Special Assistance	0.00	50.00	50.00
Special Assistance Administration	0.00	0.01	99.99
Food Stamps	100.00	0.00	0.00
Food Stamp Administration	49.88	0.24	49.88
Low-Income Energy Assistance (Benefits and Administration)	100.00	0.00	0.00
Social Services Block Grant (Regular)	75.00	0.00	25.00
SSBG (In-home Services)	87.50	0.00	12.50
Foster Care (IV-E)	64.82	17.59	17.59
Foster Care (State)	0.00	50.00	50.00
Child Protective Services (State)	0.00	75.00	25.00
Job Opportunities and Basic Skills (JOBS)	56.88	36.70	6.42
Child Day Care (AFDC Family Support Act)	64.82	35.18	0.00
Child Day Care (Other)	65.17	34.83	0.00
<b>All Public Assistance and Social Services Programs</b>	<b>66.63%</b>	<b>24.78%</b>	<b>8.59%</b>

Source: *Determination of State/County Financial Participation: Estimated Funds Available—1994–95* (Raleigh, N.C.: N.C. Department of Human Resources, July 1, 1994). County participation rates include funding required to meet federal and state matching requirements, and do not include additional county-only funding that may be required to administer some programs. Participation rates for administration are based on local administrative costs only, and do not reflect federal and state funding for administrative costs of state agencies within the Department of Human Resources.

counties.<sup>107</sup> These “equalizing funds” are distributed to counties based on the relative ability of each county to pay for the county’s share of public assistance costs, taking into consideration the county’s per capita property tax and sales tax collections, the proportion of the county residents receiving public assistance, and the county’s per capita spending for public assistance.<sup>108</sup>

State law also establishes a Public Assistance Contingency Loan Program, which allows counties to borrow money from the state, without interest and over a period of two fiscal years, when the county’s actual expenditures for public assistance benefits (not including

related administrative costs) exceed the amount that was estimated by the state and budgeted by the county.<sup>109</sup>

State law requires the Department of Human Resources to notify each county department of social services by February 15 regarding the amount of federal and state funding estimated to be available to the county for social services programs during the next fiscal year and the percentage of estimated spending for social services that the county will be expected to provide.<sup>110</sup> Directors of county departments of social services, in consultation with county boards of social services, are responsible for preparing an annual budget for the county department of social services, and the county social services board is responsible for submitting the social services budget to the board of county commissioners for approval.<sup>111</sup>

Under state law, the board of county commissioners in each county is required to levy and collect the taxes necessary to meet the county’s share of mandated social services programs.<sup>112</sup> State law also provides that if a county fails to pay its full share of public assistance costs, the state may withhold the county’s share of local sales tax revenues that have been collected by the state Department of Revenue.<sup>113</sup>

109. G.S. 108A-89. The Contingency Loan Program was established in 1977 after the General Assembly, over the objections of counties, repealed a 1975 law that required the state to pay the county’s share of public assistance costs if the county’s actual expenditures exceeded the DHR estimates under G.S. 108A-88. See John V. Witherspoon, “A County Official Looks at Welfare Budgeting,” *Popular Government* 44 (Summer 1978): 10; and Barbara D. Matula, “Financing Social Services—The State’s Perspective,” *Popular Government* 44 (Summer 1978): 16.

110. G.S. 108A-88.

111. G.S. 108A-9(3), (4). In practice, often the director or the director and the board present the budget, and in many instances it is presented initially to the county manager rather than to the board of county commissioners.

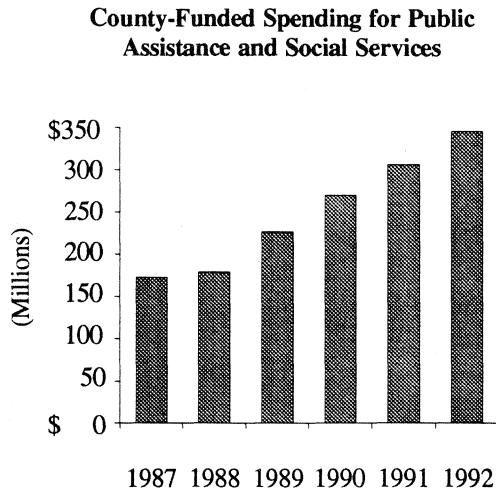
112. G.S. 108A-90. Under G.S. 153A-149 counties are authorized to levy property taxes, without restriction as to rate or amount, to provide public assistance programs required by G.S. Chapter 108A. Counties also are authorized to levy additional property taxes (up to a combined rate of \$1.50 per \$100 of appraised value) for other specified purposes, including the administration of nonmandated social services programs. G.S. 153A-149 (c)(30).

113. G.S. 108A-93. The state’s authority to withhold county sales tax revenues was used in 1993 when Gaston and Union counties refused to fund the full county share of the cost of public assistance programs. The Gaston County board of commissioners voted not to spend \$1.8 million that the county department of social services estimated would be needed to pay the increased costs of mandated public assistance programs. See Chip Wilson, “Gaston warns welfare funding may not rise,” *Charlotte Observer*, June 18, 1992, G1; Joby Warrick, “Counties fighting mandated programs,” *News and Observer* (Raleigh), June 27, 1993, A1.

107. G.S. 108A-92.

108. See N.C. ADMIN. CODE tit. 10, ch. 24A §.0306.

Figure 1

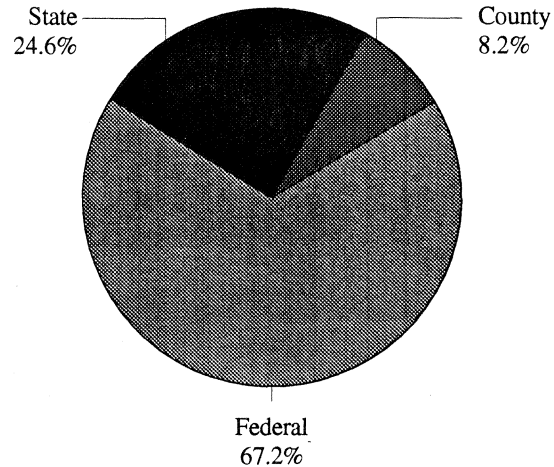


In 1992 North Carolina counties spent approximately \$342 million in county funds for public assistance and social services programs (see Figure 1).<sup>114</sup> County-funded expenditures, however, account for less than one tenth of the total cost of social services programs in North Carolina (see Figure 2). Nonetheless, county officials often perceive the social services system as consuming an ever-increasing share of the county budget, especially given the rapidly increasing cost of social services programs and of Medicaid in particular.<sup>115</sup>

On a statewide basis, spending by North Carolina counties for social services programs accounted for about 15 percent of all spending by North Carolina counties in 1992.<sup>116</sup> However, because federal and

Figure 2

**Federal, State, and County Funding of Public Assistance and Social Services Programs in North Carolina, 1992**



state revenues paid for almost half of the social services spending included in county budgets, *county-funded* spending for social services programs actually accounts for only 8 to 10 percent of total county spending<sup>117</sup> (see Figure 3).

Because the needs of county residents and the financial resources available to meet those needs vary from county to county, the proportion of county spending allocated to social services programs also varies among North Carolina's counties. For example, for fiscal year 1991-92, county-funded spending for social services programs consumed almost 12 percent of Gaston County's budget, compared to 4.5 percent in Wake County and the statewide average of 7.85 percent.<sup>118</sup>

Financing of public assistance and social services programs in North Carolina is a shared responsibility of the federal government, the state, and the counties. Inevitably, this sharing of financial responsibility raises

114. Information obtained from the Annual Financial Information Reports (AFIR) submitted by counties to the State and Local Government Division of the Office of the State Treasurer.

115. The views of county officials regarding financing of mandated social services programs are discussed in more detail in two articles—John L. Saxon, "Mandates, Money, and Welfare: Financing Social Services Programs," *Popular Government* 60 (Summer 1994): 2-15; and John V. Witherspoon, "A County Official Looks at Welfare Budgeting," *Popular Government* 44 (Summer 1978): 9-14.

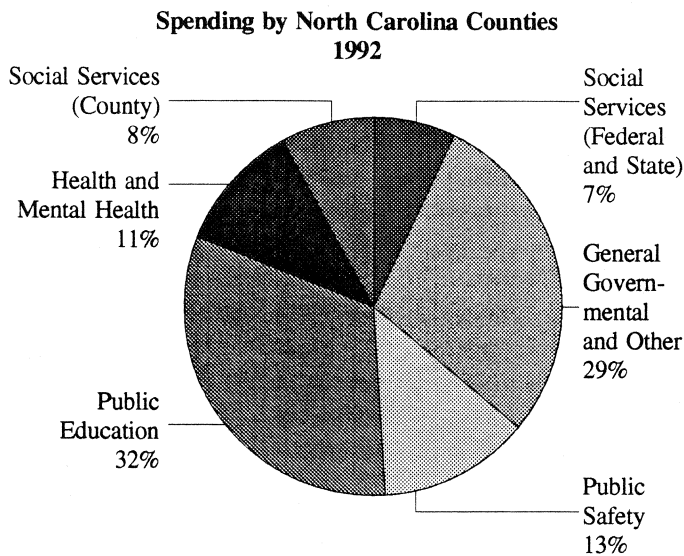
116. The data on social services spending by counties reflect all county-funded spending for social services programs, including the county share of AFDC, Medicaid, and Special Assistance payments made to eligible county residents by the state on behalf of the county, as well as state and federal funds that are received by the county for the administration of social services programs. The federal and state shares of AFDC, Medicaid, Food Stamp, and Special Assistance payments that are made directly to, or on behalf of, eligible county residents by the state divisions

of social services and medical assistance, however, constitute the vast majority of spending for social services programs and are not included in the county budget data because these funds do not pass through the county budget.

117. Information derived from Annual Financial Information Reports (AFIR) submitted by counties to the State and Local Government Division of the Office of the State Treasurer. If all state and federal funds are excluded from county budgets, county spending for social services programs would have accounted for 9.8 percent of all county-funded spending in 1992.

118. For several other specific county comparisons, see John L. Saxon, "Mandates, Money, and Welfare: Financing Social Services Programs," *Popular Government* 60 (Summer 1994): 2-15.

Figure 3



questions, and sometimes controversies, regarding how much each level of government should pay for public assistance and social services programs.

### Conclusion

Unlike most states, North Carolina continues to call on counties to be the primary deliverers of public social services. North Carolina's arrangement of county administration and state supervision and the intergovernmental cooperation it requires, generates special frustrations and problems. But it also results in a statewide social services system that provides general uniformity of benefits and services while also maintaining some measure of local flexibility and control. While state administration of social services is advocated occasionally, there is no serious movement in North Carolina toward adopting the state administration model.

Given the extent of federal involvement in establishing, regulating, and funding social services programs, the system is perhaps the most complex example of federal-state-county interaction. In addition, at each of those levels of government, each *branch* of government—legislative, executive, and judicial—plays a

critical role.<sup>119</sup> Social services programs in North Carolina will continue to be influenced greatly by changes at the federal level and by federal funding conditions for the many programs for which federal funding is critical. Even apart from federal influences, there are serious choices to be made and issues to be addressed regarding how best to meet the needs of children, families, and disadvantaged adults when the resources for addressing those needs never seem sufficient.

North Carolina's social services system strikes a balance of state and county responsibilities for funding and administering a complex group of public assistance and social service programs. The adequacy of that balance is, and very likely will continue to be, the subject of debate.

119. Technically there are no judicial branch functions in local government. Although clerks of superior court and some judges are elected locally, they are state employees and the court system is a unified state system. At the executive level in local government, some judicial-like functions occur, such as the county social services department's conduct of "fair hearings" when recipients appeal from decisions regarding their benefits.

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