

FISCAL NOTE
Requested by Legislative Council
01/14/2013

Bill/Resolution No.: HB 1170

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2011-2013 Biennium | | 2013-2015 Biennium | | 2015-2017 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$0 | \$830,922 | \$0 | \$1,182,984 |
| Expenditures | \$0 | \$0 | \$830,922 | \$830,922 | \$1,182,984 | \$1,182,984 |
| Appropriations | \$0 | \$0 | \$830,922 | \$830,922 | \$1,182,984 | \$1,182,984 |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2011-2013 Biennium | 2013-2015 Biennium | 2015-2017 Biennium |
|-------------------------|--------------------|--------------------|--------------------|
| Counties | \$0 | \$0 | \$0 |
| Cities | \$0 | \$0 | \$0 |
| School Districts | \$0 | \$0 | \$0 |
| Townships | \$0 | \$0 | \$0 |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1170 provides nursing and basic care facilities with an expedited rate setting process to cover costs associated with the Affordable Care Act of 2010 as it relates to providing health insurance policies to the facility's employees.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 provides nursing and basic care facilities with an expedited rate setting process to cover costs associated with providing health insurance to the facility's employees. Section 2 includes as an "allowable" cost, any penalty assessed under the Federal Patient Protection and Affordable Care Act of 2010 to a nursing facility that does not offer health insurance policies to its employees. Rate changes would take effect January 2014 and would only be applicable for 18 months of the 13-15 Biennium. As Nursing Facilities have equalized rates this change would also impact private payers of nursing facility care. In addition to the amounts noted above the Department estimates private pay individuals would see an increase of \$825,870 in the 13-15 biennium and \$1,175,802 in the 15-17 Biennium. Medicaid must demonstrate compliance with an annual Upper Payment Limit(UPL) for Nursing Homes, Intermediate Care Facilities, Psychiatric Residential Treatment Facilities and Hospitals (inpatient and outpatient) based on provider ownership. The UPL categories are private, state government and non-state government operated facilities. A combination of provider rate enhancements increases the likelihood of exceeding the UPL. If the Upper Payment Limit is exceeded, federal Medicaid funding is not available for expenditures for rates that exceed the limit. In order to retain federal Medicaid funding for any portion of the rate, the rates must be reduced to comply with the UPL. ND Medicaid cannot make a separate general fund payment to facilities to make up the difference between the established rate based on legislative appropriation and an adjusted rate which has been reduced to comply with the UPL (Note: for Nursing Homes, due to the equalized rates, if the UPL is met, the rates for both Medicaid and private pay would be reduced to comply with the UPL.)

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The increase in revenues in each biennium is the additional federal funding the state will receive due to the increased expenditures relating to allowable expenditures.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The costs paid by Medicaid for nursing facility care are estimated to increase by \$1,661,844 for 18 months of the 11-13 biennium, of which \$830,922 would be from the general fund. The costs for the 15-17 biennium are estimated at \$2,365,968, of which \$1,182,984 would be general fund.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Department will need an appropriation increase of \$1,661,844 in the 13-15 biennium, of which \$830,922 would be from the General Fund and \$830,922 would be from federal funds. The Department will need an appropriation increase of \$2,365,968 in 15-17 biennium, of which \$1,182,984 would be from the General Fund and \$1,182,984 would be from federal funds.

Name: Debra A. McDermott

Agency: Department of Human Services

Telephone: 701-328-1980

Date Prepared: 01/21/2013