NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON HEALTH CARE

Tuesday, September 24, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Judy Lee, Chairman, called the meeting to order at 9:00 a.m.

Members present: Senators Judy Lee, Dennis Bercier, Gary A. Lee, Ken Solberg; Representatives Rick Berg, Audrey B. Cleary, William R. Devlin, David Drovdal, Jim Kasper, George Keiser, Carol A. Niemeier, Chet Pollert, Todd Porter, Clara Sue Price

Members absent: Senators Michael Polovitz, Russell T. Thane; Representatives Kenton Onstad, Robin Weisz

Others present: See attached appendix

It was moved by Representative Drovdal, seconded by Senator Bercier, and carried on a voice vote that the minutes of the previous meeting be approved as distributed.

MANDATED HEALTH INSURANCE COVERAGE STUDY

Mr. Lou McPhail, Legal Counsel, Insurance Department, reviewed the definition of mandated health benefits. He said the Insurance Department categorizes and defines mandated health benefits as follows:

1. Service mandates - Benefit or treatment mandates that require insurers to cover certain treatments, illnesses, services, or procedures. Examples include child immunizations, well child visits, and mammography.
2. Beneficiary mandates - Mandates that define the categories of individuals eligible to receive benefits. Examples include newborns from moment of birth, adopted children from time of adoption, and handicapped dependents.
3. Provider mandates - Mandates that require insurers to pay for services provided by specific providers. Examples include nurse practitioners, optometrists, and psychologists.
4. Administrative mandates - Mandates that relate to certain insurance reform efforts that increase the administrative expenses of a specific health care plan. Examples include information disclosures, precluding companies from basing policy rates on gender, and precluding insurers from denying coverage for preauthorized services.

A copy of the report is on file in the Legislative Council office.

Ms. Leigh M. Wachenheim, Principal, Milliman USA, Consultants and Actuaries, Minneapolis, Minnesota, presented a report analyzing North Dakota's existing health insurance mandates and providing a proposed analysis for future legislative mandates. Ms. Wachenheim said the report includes:

1. An evaluation of the costs and benefits of North Dakota's 23 specified mandates.
2. An evaluation of the impact that premium levels (including the impact of mandated benefits) have on the uninsured in North Dakota.
3. An evaluation of the impact of mandated benefits on North Dakota's small employer basic and standard plans.
4. A tool which can be used to evaluate the costs and benefits of new mandates.

Ms. Wachenheim presented the following schedules identifying the estimated direct monthly premium impact by mandate type on representative health insurance plans in North Dakota:

Estimated Direct Premium Impact by Mandate Type

	Premium Impact	
Mandate Type	**Dollar**	**As a Percentage of Total Plan**
Service - All mandates	$8.26-$69.43	5.1%-27.2%
Service - All but NDCC Section 26.1-36-06 (drugs and chiropractic care)	$8.26-$20.57	5.1%-8.2%
Beneficiary	$6.09-$19.78	3.9%-8.1%
Provider	$0.44-$1.27	0.3%-0.7%
Administrative	$2.27-$3.73	1.4%-1.7%

Estimated Direct Premium Impact of Selected Mandates
Representative Plan: Individual - Indemnity
Monthly Premium for This Plan: $239.12

Mandate Type	Mandate Title	Monthly Premium	
		Dollars	As a Percentage of Total Plan
Service	Optional drugs and chiropractic care	N/A	N/A
	Off-label uses of drugs	$5.31	2.2%
	Substance abuse treatment	N/A	N/A
	Mental disorder treatment	N/A	N/A
	Mammogram examination	$1.13	0.5%
	Involuntary complications of pregnancy	$4.47	1.9%
	TMJ disorder	$0.52	0.2%
	Preventive health care (copayments for standard plan)	N/A	N/A
	Prostate-specific antigen test	$0.29	0.1%
	Foods and food products for inherited metabolic diseases	$0.04	0.0%
	Postdelivery care for mothers and newborns	$0.00	0.0%
	Dental anesthesia and hospitalization	$0.33	0.1%
	Prehospital emergency medical services	$0.21	0.1%
Beneficiary	Newborn and adopted children	$3.78	1.6%
	Incarcerated juvenile	$0.07	0.0%
	Incarcerated adult	$0.24	0.1%
	Covered dependents	$5.39	2.3%
	Continuation/conversion after termination of employment	N/A	N/A
	Continuation/conversion of former spouse/dependents	N/A	N/A
Provider	Advanced registered nurse practitioner	$0.93	0.4%
	Freedom of choice for pharmacy services	$0.00	0.0%
	Optometrist services	$0.30	0.1%
Administrative	Information disclosure	$3.24	1.4%

Estimated Direct Premium Impact of Selected Mandates
Representative Plan: Individual - PPO
Monthly Premium for This Plan: $157.79

Mandate Type	Mandate Title	Monthly Premium	
		Dollars	As a Percentage of Total Plan
Service	Optional drugs and chiropractic care	N/A	N/A
	Off-label uses of drugs	$3.13	2.0%
	Substance abuse treatment	N/A	N/A
	Mental disorder treatment	N/A	N/A
	Mammogram examination	$0.78	0.5%
	Involuntary complications of pregnancy	$3.21	2.0%
	TMJ disorder	$0.37	0.2%
	Preventive health care (copayments for standard plan)	N/A	N/A
	Prostate-specific antigen test	$0.16	0.1%
	Foods and food products for inherited metabolic diseases	$0.04	0.0%
	Postdelivery care for mothers and newborns	$0.22	0.1%
	Dental anesthesia and hospitalization	$0.22	0.1%
	Prehospital emergency medical services	$0.12	0.1%
Beneficiary	Newborn and adopted children	$2.50	1.6%
	Incarcerated juvenile	$0.05	0.0%
	Incarcerated adult	$0.16	0.1%
	Covered dependents	$3.39	2.1%
	Continuation/conversion after termination of employment	N/A	N/A
	Continuation/conversion of former spouse/dependents	N/A	N/A
Provider	Advanced registered nurse practitioner	$0.46	0.3%
	Freedom of choice for pharmacy services	$0.49	0.3%
	Optometrist services	$0.15	0.1%
Administrative	Information disclosure	$2.27	1.4%

Ms. Wachenheim discussed the consultant's evaluation of the impact of premium levels on the uninsured. She said the consultant's primary conclusions include:

1. The uninsured rate in North Dakota is lower than the national average.
2. The uninsured are less likely to seek necessary medical care.
3. The uninsured rate is dependent on multiple variables.
4. Premium increases, including those associated with the implementation of state mandates, could result in some employers and individuals dropping coverage.
5. Premium reductions, including those associated with the elimination of state mandates already implemented, will not necessarily result in uninsured individuals and employers purchasing coverage.

Ms. Wachenheim discussed the consultant's evaluation of the impact of mandated benefits on North Dakota's small employer basic and standard plans. She said North Dakota Century Code (NDCC) Section 26.1-36.3-06 requires carriers of small employer business to actively offer all plans being marketed to the small employer market in the state, including a state-defined basic and standard plan. She said the standard plan generally has fewer benefits than other marketed plans of insurance carriers and the basic plan has even fewer benefits.

Ms. Wachenheim said the purpose of the basic and standard plans is to provide small employers with lower-cost plan options to make it possible for employers who might not otherwise be able to afford to provide medical coverage to do so.

Ms. Wachenheim said based on the consultant's evaluation, the value of a basic plan should be 72.6 percent of the value of the standard plan. She said based on a review of basic and standard premiums charged by insurance companies in North Dakota, basic plan premiums range from 61 to 102 percent of standard plan premiums.

Ms. Wachenheim said based on the evaluation, initiatives that North Dakota could implement to ensure that affordable health insurance plans are available to all small employers who want to provide plans include:

1. Review benefit factors - The Insurance Department could enhance its monitoring of benefit factors to ensure that factors for the basic and standard plans have not been loaded to reflect adverse selection and also to ensure that they have not been artificially adjusted upward for the purpose of encouraging employers to choose other, more expensive plans.
2. Encourage development of alternative basic plans.
3. Review the possibilities of offering "consumer-driven health plans" such as a high-deductible plan that allows employers the opportunity to make catastrophic coverage available to employees at a fairly reasonable cost.
4. Develop scheduled plans - Scheduled plans pay fixed maximum dollar amounts for specified services and provide the opportunity to cover a specified portion of medical costs. These plans are generally more affordable since they are not intended to cover the full cost of services.

Representative Kasper expressed concern that the information provided by Milliman USA indicates that in some instances, North Dakota residents are being charged more for a basic plan than a standard plan even though the basic plan has fewer benefits. He asked Milliman USA to inform committee members if this occurs in other states as well. Ms. Wachenheim said she will review information available on other states and provide a response to committee members.

Ms. Wachenheim discussed the method of evaluating the costs and benefits of new mandates proposed in the future. She said the proposed tool for use in evaluating the costs and benefits of proposed mandated health insurance benefits is based on a point system that allows for a consistent evaluation of the proposed mandates. She said once a potential health insurance mandate has been identified, evaluation of the proposal may include:

1. A review of research information available on the costs and benefits of the mandate.
2. Completion of an evaluation form based on the information reviewed and personal beliefs.
3. Discussion and debate based on the completed evaluation forms.

Ms. Wachenheim said the evaluation process can be completed, generally within a month or less, and does not require specialized training for the evaluators. She reviewed the evaluation form. She said the evaluation form measures the evaluator's judgment of the impact of the mandate. She said the form includes the following nine criteria:

1. How prevalent is the underlying illness or condition?
2. What is the impact of treatment on health status?
3. What is the impact of treatment on sick days, disability, and worker productivity?
4. To what extent is this treatment or service already covered by health insurance?
5. How often will the mandated service be used?
6. What is the expected direct cost impact on insurance premiums?
7. What are the indirect costs and benefits to the insurance company?
8. What is the impact of this mandate on costs currently funded by North Dakota?
9. What is the impact of this mandate on individuals?

Ms. Wachenheim said a percentage should be applied to each of the nine criteria in relation to the other criteria as determined appropriate by the evaluator and each criteria then scored from 0 to 3 points. She said once the total weighted average is determined, the scores can be compared among the evaluators and can be used to stimulate discussion and debate on the proposed mandate.

A copy of the report is on file in the Legislative Council office.

Mr. Michael Fix, Actuary, Insurance Department, commented on the consultant's report. He said the report will be beneficial for evaluating mandates. He said the proposed tool is useful to stimulate

discussions on the costs and benefits of health insurance mandates.

Mr. McPhail said the Insurance Department reviewed the number of health insurance mandates considered by the most recent five Legislative Assemblies. He said based on the Insurance Department's review, a range of from 3 to 10 bills have been introduced in each session that included a health insurance mandate.

Representative Price asked for the anticipated cost of each new health insurance mandate evaluation by Milliman USA. Mr. Fix said based on information provided by Milliman, the first one or two analyses would cost from $5,000 to $15,000 per analysis and thereafter, the cost would range from $4,000 to $8,000 per analysis.

Mr. Richard Weber, Director of Operations, Mental Health Association in North Dakota, commented on the report. He said North Dakota has made tremendous progress over the years in treating mental health disorders. He expressed support for mental health mandates and believes these mandates are cost-effective. He said the association is interested in the state adopting mental health parity and stressed the importance of maintaining access to mental health care and insurance coverage for that care.

Senator J. Lee expressed concern with possible expansion of the definition of mental health disease. She referenced *Washington Post* and *Time* magazine articles discussing relational disorders which indicated that relationship problems between individuals was the result of a mental health disorder.

The Legislative Council staff presented a memorandum entitled *Review and Analysis of Legislative Measures Mandating Health Insurance Coverage*. The Legislative Council staff said current law provides that if a legislative measure mandates health insurance coverage, the measure may not be acted on by any committee of the Legislative Assembly unless accompanied by a cost-benefit analysis.

The Legislative Council staff said several issues may need to be considered by the committee to ensure that the review and analysis process for proposed health insurance mandates work in a timely and cost-effective manner. The issues include:

1. The timeframe required for completion of the review and analysis process.
2. The cost of preparing a cost-benefit analysis for each proposed legislative measure mandating health insurance coverage.

The Legislative Council staff reviewed the possible actions of the committee, including:

1. Adopting legislative rules which would require the Legislative Council or the Insurance Department to review bills introduced before referral to a committee and precluding bills mandating health insurance coverage from being introduced after the fifth legislative day. The Legislative Council staff said the Legislative Management Committee considered these legislative rule changes at its June 2002 meeting but deferred action.
2. Certain cost-limiting provisions in any contract between the Legislative Council and the actuarial consultant to provide for the preparation of a limited analysis when determined appropriate by the committee.
3. Statutory changes - The Legislative Council staff reviewed the following bill drafts:
   a. A bill draft [30095.0100] providing that any health insurance coverage mandate approved by the Legislative Assembly shall apply only to the state public employees group health insurance program for a period of two years. After the first year, the Public Employees Retirement System (PERS) shall prepare a report on the mandate's actual costs and benefits for consideration by the Legislative Council in determining if the mandate should be amended or repealed before becoming effective for other health insurance programs.
   b. A bill draft [30097.0100] providing that any health insurance coverage mandate approved by the Legislative Assembly may not be implemented until studied by the Legislative Council.
   c. A bill draft [30096.0100] providing that any health insurance coverage mandate approved by the Legislative Assembly must include an expiration date.

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, commented on the proposed bill draft. He expressed the following concerns relating to the bill draft involving PERS:

1. In the past, mandates have been incorporated into the PERS health plan the second biennium after being passed by the Legislative Assembly which have allowed funding for the enhanced benefits to occur with the renewal of the plan and become part of the premium budgeted for the subsequent biennium. He said the proposed bill requires the mandate to be effective during the first biennium after the mandate is passed which will require that funding also be attached for that biennium.
2. Current law requires that proposed enhancements to the PERS health plan to be considered during the next session must be presented to the legislative Employee Benefits Programs Committee for technical and actuarial review. He believes this same protocol would be beneficial for health insurance mandates as included in the proposed bill draft.

3. The bill draft requires PERS to report to the Legislative Council on the effect of the mandate after the first year of implementation. He said it will be difficult to develop meaningful information and determine clear conclusions with only one year of data. In addition, he said, complete first-year data may not be available until October which would make it difficult for PERS to report to the Legislative Council before it concludes its interim work in November.
4. Administrative costs of reviewing and evaluating the mandate would impact the cost of the PERS health insurance plan unless a general fund appropriation is provided for the cost of these reviews and analyses.

A copy of the testimony is on file in the Legislative Council office.

Representative Cleary asked whether PERS is supportive of the pilot project concept. Mr. Collins said that while the board has not taken formal action on the proposed bill draft, evaluating the costs and benefits of a health insurance benefit is difficult since quantitative information upon which to base the analysis is generally not available for these types of evaluations.

Mr. Rod St. Aubyn, Blue Cross Blue Shield of North Dakota, provided information on the company's "basic" and "standard" insurance policies and average premium rates for single and family policies.

Mr. St. Aubyn said as of August 31, 2002, Blue Cross Blue Shield has 29 "basic" health insurance contracts covering 38 subscribers and four "standard" contracts covering 13 subscribers. He said even though these plans are being offered, little interest exists for these plans in the market. He said Blue Cross Blue Shield's basic plan provides very basic benefits and does not provide prescription drug coverage, which is very much in demand among the public.

Mr. St. Aubyn reviewed Blue Cross Blue Shield's monthly premiums for select plans as follows:

Plan	Family Premium	Single Premium
"Basic" plan	$442.10	$170.10
"Standard" plan	$606.30	$233.20
Select choice 250 plan	$548.20	$210.80

A copy of the testimony is on file in the Legislative Council office.

Representative Niemeier asked whether Blue Cross Blue Shield's rates would be reduced if mandates were removed from law. Mr. St. Aubyn said Blue Cross Blue Shield was already providing a number of benefits before the benefit became mandated by the Legislative Assembly. He said many mandates would not be removed because of market demand for those types of coverages.

Representative Devlin expressed concern that Blue Cross Blue Shield has not marketed a very basic health insurance plan that excludes a number of health insurance mandates as authorized by the 2001 Legislative Assembly. If offered, he anticipates this would lower the number of North Dakota residents without health insurance. Mr. St. Aubyn said he does not believe North Dakota residents are interested in purchasing a very basic health insurance plan. He said most consumers want, at a minimum, prescription drug coverage in a health insurance plan.

Mr. McPhail commented on the proposed bill drafts. He said the Insurance Department believes the current statute will provide useful information and should remain unchanged for at least one legislative session. He said if problems are encountered during the session, they can be addressed before the 2005 legislative session.

Representative Berg suggested that in order to save time and resources, the standing committees could receive more limited cost and benefit information on bills mandating health insurance coverage.

Representative Keiser said the cost-benefit information is important but suggested a process similar to the Workers Compensation Bureau analysis process would be effective and timely.

Representative Price said legislators have historically received information on a mandate's cost or effect on premiums but limited information on benefit analysis.

The committee recessed for lunch at 12:10 p.m. and reconvened at 1:00 p.m.

It was moved by Representative Berg, seconded by Representative Keiser, and carried on a roll call vote that the bill draft providing that any health insurance coverage mandate approved by the Legislative Assembly apply only to the state public employees group health insurance program for a period of two years be approved and recommended to the Legislative Council with the following changes:

1. **Continue current statutory provisions requiring a cost-benefit analysis to be prepared.**
2. **Provide that the mandate expires at the end of the following biennium unless a bill is introduced to continue the mandate for all insurers.**
3. **Provide that PERS report to the Legislative Assembly rather than the Legislative Council and provide that the evaluation period may be for more than one year.**
4. **Require an appropriation for PERS to be attached to the bill providing for the mandate, if needed.**
5. **Add an emergency clause to the bill draft.**

Senators J. Lee, Bercier, and G. Lee and Representatives Berg, Devlin, Drovdal, Kasper, Keiser, Niemeier, Pollert, Porter, and Price voted "aye." Representative Cleary voted "nay."

Senator Solberg suggested that an interim committee receive periodic information from PERS on

the implementation and associated costs of the mandate during the interim period.

Senator Solberg suggested including a July 1, 2003, effective date rather than an emergency clause in the bill draft.

Representative Niemeier suggested a public survey be included as part of the cost-benefit analysis of proposed health insurance mandates.

COORDINATION OF MEDICAID AND HEALTHY STEPS PROGRAMS STUDY

Mr. David Zentner, Medical Services Director, Department of Human Services, provided information on the coordination of Medicaid and Healthy Steps programs. He said as of the end of August 2002, 699 children and 381 adults became eligible for Medicaid due to the elimination of the asset test for the children and families aid categories. He said of the 699 children with family assets exceeding the previous asset limits, 145 currently have some other health insurance coverage and 554 would have been eligible for the Healthy Steps program if the asset test had not been eliminated.

Mr. Zentner said if the net income level for the Healthy Steps program was raised to 150 percent of the federal poverty level, the department estimates an additional 394 children would be eligible for the program, of which 263 would actually enroll by the end of the next biennium. He estimated the fiscal impact of increasing the net income level for the Healthy Steps program to 150 percent of the federal poverty level at $606,000, of which $135,000 would be from the general fund for the 2003-05 biennium.

Mr. Zentner estimated the fiscal impact of increasing the income limit to 175 percent of the federal poverty level for the Healthy Steps program would be $2.4 million, of which $536,000 would be from the general fund for the 2003-05 biennium. He said this estimate assumes that an additional 1,568 children would be eligible for the program, of which 1,045 would actually enroll by the end of the next biennium.

Mr. Zentner estimated the fiscal impact of increasing the income limit to 200 percent of the federal poverty level for the Healthy Steps program at $5 million, of which $1.1 million would be from the general fund for the 2003-05 biennium. He said this estimate assumes that 3,273 children would be eligible for the program, of which 2,181 would become enrolled by the end of the 2003-05 biennium.

Mr. Zentner said as of September 1, 2002, a total of 2,329 children were enrolled in the Healthy Steps program.

Mr. Zentner reviewed North Dakota's federal funding allotment for the state children's health insurance program:

1998	$5,040,741
1999	$5,016,935
2000	$5,665,883
2001	$6,575,656
2002	$5,332,879

A copy of the report is on file in the Legislative Council office.

In response to a question from Representative Price, Mr. Zentner said six to eight individuals with developmental disabilities have now been enrolled in the Medicaid program as a result of the removal of the asset test. He said the cost of care for these individuals was previously paid for from the general fund.

Senator J. Lee asked whether any efficiencies have been experienced in combining the Medicaid and Healthy Steps applications. Mr. Blaine Nordwall, Economic Assistance Policy Director, Department of Human Services, said that county social service offices have experienced some administrative savings but not to the extent that has resulted in a reduction in staff.

PRESCRIPTION DRUG PRICES STUDY

Mr. Zentner provided information on Medicaid prescription drug coverage and costs. He said based on historic trends, the cost of prescription drugs in the Medicaid program will continue to increase at an estimated 15 to 20 percent per year. He said the number of individuals eligible for the Medicaid program increased from 44,524 in August 2001 to 51,495 in August 2002. He said compared to 1997, the weekly payment for prescription drugs in the Medicaid program has increased by 149 percent. He said part of this increase is due to the percentage of generic drug usage in the Medicaid program decreasing from approximately 50 percent in 1997 to 45 percent in 2002.

Mr. Zentner said the current growth in the Medicaid program is primarily attributable to the children and families eligibility categories. He said the number of children and adult caretakers in the program has increased by approximately 4,700 in 13 months. He said the largest increase is in the growth of transitional Medicaid. He said families can receive up to 12 additional months of coverage when they become ineligible for the regular Medicaid program due to increased income. He said the number of children and adults in this category has increased from 2,807 in August 2001 to 9,309 in September 2002.

Mr. Zentner reported on the current status of the Medicaid budget. He said as of August 2002 the Department of Human Services is projecting a general fund shortfall of $14.5 million in the Medicaid program. He said the department has made a number of program changes to reduce costs; however, actual savings will not appear for several months.

Mr. Zentner said the department is still hopeful that Congress will provide temporary relief to state Medicaid programs as a result of the change in the federal medical assistance percentage.

Mr. Zentner commented on congressional action relating to a prescription drug plan for Medicare recipients. He said the United States House of Representatives passed a bill earlier this year; however, the Senate was unable to reach consensus regarding drug coverage and therefore the future of Medicare drug coverage is unknown at this time.

A copy of the report is on file in the Legislative Council office.

Senator Solberg asked for the status of drug rebates compared to projections. Mr. Zentner said that actual prescription drug rebates have been approximately 20 percent compared to 16 percent as projected.

The Legislative Council staff presented a memorandum entitled *Prescription Drug Initiatives - Other States* which states that:

- A number of states have implemented or are in the process of implementing strategies to control prescription drug costs primarily for the state Medicaid program but also for other health insurance programs. States are also developing initiatives to improve consumer access to lower-cost prescription drugs.
- Strategies being discussed most recently among states to lower prescription drug costs have involved the development of preferred drug lists and negotiating supplemental rebates from prescription drug manufacturers. These strategies have been implemented in Florida, Maine, Michigan, and Vermont.
- 34 states have implemented or are in the process of implementing initiatives to improve consumer access to lower-cost prescription drug prices. Programs in Maine and Vermont offer their programs to the elderly and disabled with incomes of up to 400 percent of poverty and to others under 300 percent of poverty without prescription drug coverage or with inadequate prescription coverage.
- A national legislative organization has been formed to assist states in addressing issues involving prescription drug costs. It began as a collaborative effort among the New England states but has recently expanded to be available to all states. Its purpose is to share information among the states on strategies that are effective in controlling prescription drug prices and to consider the possibilities of developing state partnerships for purchasing prescription drugs.

OTHER RESPONSIBILITIES

Ms. Constance Kalanek, Director, Board of Nursing, presented a report on the status of the nursing needs study. She said the Board of Nursing contracted with the University of North Dakota Center for Rural Health to conduct the study at a cost of $110,000. She said the study is to address the issues of supply and demand for nurses as well as issues of recruitment, retention, and utilization of nurses.

Ms. Kalanek said the North Dakota registered nurse workforce is aging, is experiencing a shortage of specialty nurses, and is inequitably distributed across the state.

Ms. Kalanek said once the workforce project is complete, future studies may involve:

1. Periodic sampling of nurses to obtain trend data.
2. Surveys of male and minority interest in nursing.
3. Surveys and focus groups of part-time nurses.

Dr. Patricia Moulton, University of North Dakota Center for Rural Health, commented on the nursing needs study. She said the project began in June 2002 and has involved management surveys of hospitals, long-term care facilities, and clinics. She said surveys will also be sent to public health units, home health care providers, and individual nurses.

Dr. Moulton said the response rate of the initial management survey of hospitals and long-term care facilities was only 54 percent for hospitals and 38 percent for long-term care facilities. She said a second survey has been sent to those not responding to the first survey.

Dr. Moulton said the center is beginning to compile the survey results. She said preliminary conclusions include:

1. 33 percent of semirural and rural hospitals and 25 percent of long-term care facilities have difficulty recruiting registered nurses.
2. Reasons that registered nurses and licensed practical nurses resign their positions are for other nursing positions, other locations, or higher salaries.
3. Urban hospitals report the highest cost to deliver care due to registered nurse vacancies while semirural hospitals report the highest cost to deliver care as the result of licensed practical nurse vacancies.
4. Urban hospitals report the highest patient loads due to registered nurse vacancies while semirural hospitals report the highest patient loads due to licensed practical nurse vacancies.

A copy of the report is on file in the Legislative Council office.

Representative Devlin expressed concern regarding the low percentage of survey responses from hospitals and long-term care facilities. He said in order for the study to be useful, responses are needed from all facilities.

Mr. Chuck Johnson, General Counsel, Insurance Department, presented the department's report regarding motor vehicle insurance independent medical examinations.

Mr. Johnson said at times insurance companies hire physicians to conduct an independent medical examination to determine whether an individual who has been injured in an automobile accident is healed or requires further treatment. He said the issue of these examinations is to ensure that they are unbiased and impartial.

Mr. Johnson said while North Dakota has two reviews--the treating doctor and the independent medical examination physician--some states have implemented a form of no-fault alternative dispute mechanism, including arbitration, mediation, informal conciliation, or review panels.

Mr. Johnson said the Insurance Department does not have any specific recommendations; however, if the department were to make a recommendation, it would be that the Legislative Assembly consider authorizing an alternative dispute mechanism to be used rather than the formal legal process, especially for smaller claims.

A copy of the report is on file in the Legislative Council office.

Mr. Larry Maslowski, Senior Analyst, Insurance Department, reviewed the department's personal injury protection/no-fault closed claim study. He said the 2001-02 study was conducted with the cooperation of the top 25 automobile insurance writers in the state, which involves 82 percent of the market. Of the 4,371 total closed claims during the August 2001 to August 2002 time period, he said, 148 resulted in an independent medical examination and 54 in an independent records review. Based on the information reviewed, he said, the department developed the following conclusions:

1. Of all the claims involving some benefits being paid, relatively few require an independent medical examination to be performed.
2. For those claims in which an independent medical examination was performed, the majority tend to result in the termination of benefits.
3. Because of insufficient claim volume, the department is unable to make any credible observation regarding the average cost for providers of independent medical examinations.
4. Independent medical examinations and independent records reviews were performed more frequently in state than out of state.
5. The frequency in which an independent medical examination was requested when the primary medical provider was a chiropractor is equal to the frequency in which the primary medical provider was a physician.
6. Independent medical examinations and independent records reviews were requested more frequently on those claims in which a previous similar injury existed.

A copy of the report is on file in the Legislative Council office.

It was moved by Representative Keiser, seconded by Senator Bercier, and carried on a roll call vote that the committee recommend that, pursuant to NDCC Section 54-03-28, the Legislative Council contract with Milliman USA for cost-benefit analyses of legislative measures mandating health insurance coverage during the 2003 Legislative Assembly. Senators J. Lee, Bercier, G. Lee, and Solberg and Representatives Cleary, Devlin, Drovdal, Kasper, Keiser, Niemeier, Pollert, Porter, and Price voted "aye." No negative votes were cast.

It was moved by Representative Drovdal, seconded by Representative Devlin, and carried on a voice vote that the chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Council.

The committee adjourned sine die at 3:45 p.m.

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Allen H. Knudson
Assistant Legislative Budget Analyst and Auditor

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Jim W. Smith
Legislative Budget Analyst and Auditor

ATTACH:1