

**1999 SENATE HUMAN SERVICES
SB 2035**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2035

Senate Human Services Committee

Conference Committee

Hearing Date JANUARY 11, 1999

Tape Number	Side A	Side B	Meter #
1		X	360
2	X		
2, 1/12/99	X		824
Committee Clerk Signature	<i>Carol Kolodziej Chubb</i>		

Minutes:

The hearing on SB 2035 opened. SENATOR KRAUTER introduced the bill by giving some background on it (attached copy) from the report on interim committees.

PAUL KRAMER, Dept of Human Services further explained the bill. Section 1 adds language which provides the exclusion from case mix system for geropsychiatric unit at a nursing home.

What this will do is allow a nursing home to be paid a higher rate for those patients. Section 2 is limiting how many of these can be established; it provides one unit could be established in a home, up to 14 beds, and then at the end provides that once a separate unit is established in a nursing home, the state hospital can no longer offer these services through a separate geropsychiatric unit. They could provide services as needed on an overflow basis.

SENATOR DEMERS asked rather than providing the exception to the rate setting standards that are used now did the committee or dept consider adding a different category within the rate setting. Mr. KRAMER replied no. This is the only way the committee talked about doing it.

SENATOR DEMERS asked if we were establishing another state institution by saying only one can do this in our state. Mr. KRAMER looked at it as contracting a private institution rather than creating a state entity. SENATOR DEMERS asked why only one institution because it

says only one institution would get all the state's patients. Rep. KRAUTER explained that it is one of the services provided by the state hospital and this is one institution that has indicated an interest in expanding their services. It is close by and will be a pilot project and if it works we can look at another issue down the road. It was to find a way of utilizing beds better and would

be cost effective. SENATOR LEE asked about the availability of beds; the facility needs to be

geographically located to administer to the family. Rep. KRAUTER answered that the committee didn't specifically say it had to be in any location. They looked at the services being provided at the state hospital and if it can be provided at another facility we only looked at it

from that general area. There are certain skills for those individuals that aren't currently

available in other facilities, but maybe this one can provide that and maybe contract with some of the staff at the State hospital or somebody in the community hospital that can provide that.

DAVID ZENTNER, Director of Medical Services, Dept of Human Services, provided information to support this bill (written testimony).

SENATOR THANE asked if you foresee any problems with the appropriation. Mr. ZENTNER doesn't anticipate any. It is accounted for in our long-term care budget. SENATOR DEMERS

asked if this can be done by roll process instead of putting it into law. Mr. ZENTNER stated

that we looked at this issue and because of the behavioral problems and special needs of these individuals, the number of staff that you need is much greater; we thought the best way to approach this was the exception. These people don't fit into the classifications we currently have. SENATOR DEMERS asked if the Dept had the ability to add a classification. It could be possible, but it would raise the overall average cost and this way it separates it out.

SENATOR DEMERS asked about designating number of beds. Is it a mistake to putting that into law. Mr. ZENTNER stated that this is the number of beds in the state hospital unit. It cannot be determined how many we will have. We do not want to create a facility that has more beds than necessary and will want to fill them with patients that could utilize some other service. ALEX SCHWEITZER, Supt. of State Hospital, informed us that they currently have 12 patients.

This will vary but it is more beds than we need right now. SENATOR THANE asked about an alternative plan if you have 17 patients and only 14 beds. Can the state hospital divert them into some other area? Mr. SCHWEITZER answered is work very closely with this facility because they would require our support because of the needs of this population. We would treat them on a short term basis until there was an opening in the nursing home. SENATOR LEE asked if there was any discussion on using the Grafton facility. Mr. SCHWEITZER responded that the staff is not prepared to deal with the needs.

CRAIG CHRISTIANSON, Adm of Cheyenne Care Center, Valley City. For the past two years he has been working closely with Mr. Schweitzer on developing a private unit for individuals needing this type of service. I ask for your support on this bill. We have just contracted with the South Central Psychiatric Care unit, whereby they are coming into our facility one day a week and providing resident and community members services. SENATOR THANE asked if these

were existing beds. The answer was that an area of existing beds would be set aside. It will not create any problems with the rest of your facility. It is our responsibility to try to work with in a management program. SENATOR DEMERS asked about the South Central Human Services Psychiatric Services. Mr. CHRISTIANSON: They travel from Jamestown to Valley City once a week to provide the services. SENATOR DEMERS: Are you anticipating additional staff, and what about the training? Mr. CHRISTIANSON: We are looking at the state hospital. We need to access their training to our staff. They are the gatekeeper whereby any admissions would be tracked through them and therefore eliminate admitting inappropriate individuals. SENATOR DEMERS asked if you were certain you would get this contract? Mr. CHRISTIANSON: No, I'm not fairly certain of that, but I'm working on the Department to work it out. I would like to think that I am a forerunner in this request and I haven't heard a lot of interest from other nursing homes in my communication with them. SENATOR THANE stated that a facility like this must be geographically close to the state hospital.

No opposition to bill.

SENATOR LEE asked how the state hospital feels about this. Mr. SCHWEITZER answered the support of the individual involved. These patients should be in a community setting; not only psychiatric, but physically, like dressing, grooming, feeding. We are glad to have a facility that has come forward. Staff training is being supported.

SENATOR THANE asked what is the gender mix. Mr. SCHWEITZER answered the majority are male; currently 7 male, 5 female. SENATOR MUTZENBERGER asked what kind of behavioral problems do you deal with. Mr. SCHWEITZER answered that while being cared for by staff individuals will strike out, spit, curse, scream, aggressive type of behavior. They are

usually not dangerous to each other. SENATOR KILZER asked if there were a lot of physical plant remodeling for individuals. Mr. Schweitzer recommended single rooms work the best. Not beyond two in a room.

SHELLY PETERSON distributed testimony as she was unable to attend the hearing.

The hearing was closed.

Discussion was held on the bill. SENATOR THANE stated it would be cost effective for the state. SENATOR LEE moved a DO PASS on SB2035. SENATOR KILZER seconded it.

Discussion: concern of locking in a number of beds. Is the administrative rule in place or should it be stated in law. SENATOR LEE withdrew her motion and SENATOR KILZER withdrew his second until possible amendments could be put in place.

Mr. SCHWEITZER was called back. He stated that the intention is to screen patients at the State Hospital. They feel these special people need the state hospital to be the gatekeeper. The number of 14 beds is based on history. They have had from 10-16.

Amendments should be drawn by SENATOR LEE and SENATOR DEMERS to eliminate the number of beds and that the state hospital should be the entity of admission. The amendment is to be drawn up.

Discussion was resumed on 1/12/99 with all SENATORS present. An amendment was prepared and presented by SENATOR LEE and SENATOR DEMERS.

Page 1, line 22, replace the licensed with admission to

Page 1, line 23, remove capacity of a unit within

Page 1, line 24, replace may not exceed fourteen beds with may only be granted after the state hospital has performed an evaluation of the individual being admitted.

Page 6
Senate Human Services Committee
Bill/Resolution Number SB2035
Hearing Date JANUARY 11, 1999

Page 2, line 2, replace geopsychiatric with geropsychiatric.

SENATOR LEE moved acceptance of the amendment. SENATOR DEMERS seconded it.

The vote carried 6-0.

No further discussion on the bill or amendment.

SENATOR LEE moved DO PASS AS AMENDED. SENATOR DEMERS seconded.

Vote carried 6-0. The bill will be carried by SENATOR DEMERS .

FISCAL NOTE

Return original and 13 copies)

Bill / Resolution No.: SB 2035

Amendment to: _____

Requested by Legislative Council

Date of Request: 12/10/98

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

This bill eliminates the geropsychiatric unit at the State Hospital and allows geropsychiatric services to be provided at a nursing home facility. The savings to the State Hospital for the 1999-2001 biennium is estimated to be \$2,166,008 and the additional cost reimbursements to be made to the nursing home facility is estimated to be \$1,557,808. The net fiscal impact of this bill is estimated to be a \$608,200 savings which is reflected in the Department's budget request as contained in SB 2012.

2. State fiscal effect in dollar amounts:

	1997-1999		1999-2001		2001-2003	
	<u>Biennium</u>		<u>Biennium</u>		<u>Biennium</u>	
	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>
	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>
Revenues:						
Expenditures:	-0-		(683,290)	75,090	(684,080)	139,106

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

a. For rest of 1997-99 biennium:	-0-
b. For the 1999-01 biennium:	(608,200)
c. For the 2001-03 biennium:	(544,974)

4. County, City, and School District fiscal effect in dollar amounts:

	1997-1999			1999-2001			2001-2003		
	<u>Biennium</u>			<u>Biennium</u>			<u>Biennium</u>		
	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>
	-0-			-0-			-0-		

If additional space is needed, attach a supplemental sheet.

Signed

Brenda M. Weisz

Typed Name

Brenda M. Weisz

Date Prepared: January 7, 1999

Department

Human Services

Phone No.

328-2397

Date: 1/12/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2035

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90142.0301 - 0400

Action Taken Do Pass Amendment

Motion Made By Sen Lee Seconded By Sen DeMers

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

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

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

90142.0301
.0400

Date: 1/12/94
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2035

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 90142.0301 .0480

Action Taken Do pass as amended.

Motion Made By Sen Lee Seconded By Sen DeMers.

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

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen DeMers.

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

REPORT OF STANDING COMMITTEE

SB 2035: Human Services Committee (Sen. Thane, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2035 was placed on the Sixth order on the calendar.

Page 1, line 22, replace "the licensed" with "admission to"

Page 1, line 23, remove "capacity of a unit within"

Page 1, line 24, replace "not exceed fourteen beds" with "only be granted after the state hospital has performed an evaluation of the individual being admitted"

Page 2, line 2, replace "geopsychiatric" with "geropsychiatric"

Renumber accordingly

1999 SENATE APPROPRIATIONS

SB 2035

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2035

Senate Appropriations Committee

Conference Committee

Hearing Date January 26, 1999

Tape Number	Side A	Side B	Meter #
1	X		3933-end
		X	1-900
2-11-99 1		X	969-1112
Committee Clerk Signature <i>Kathy C. Kottelrock</i>			

Minutes:

SENATOR NETHING: Opened the hearing on SB2035; A BILL FOR AN ACT TO CREATE AND ENACT A NEW SECTION TO CHAPTER 50-24.4 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO LIMITS ON GEROPSYCHIATRIC NURSING FACILITIES; AND TO AMEND AND REENACT SECTION 50-24.4-13 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO EXCEPTIONS TO CASE MIX NURSING HOME RATES.

AARON KRAUTER: State Senator from District 35 to testify in support of SB2035 (tape 1, side A, meter 4024-4279). Last interim had the opportunity to finish out Chairing the Interim Committee, the Budget Committee on Long Term Care. We currently understand that in the State Hospital we have a Geropsychiatric unit; that is individuals that are elderly and our needing mental attention in their capabilities. They also understand there is a small population at the State Hospital that really don't succeed out in the community. It costs \$275 a day to care of these individuals at the Hospital. Looking at what we currently have at the State Hospital, we could close down one of those units and put those individuals into a existing facility as a Long Term Care Facility. By doing that we would reduce 26 FTE's at the State Hospital. The numbers given to us at the interim compared to those attached on the fiscal note are a little different but, the concept is still the same. By moving the care to a nursing facility, that would provide those types of care, would provide a savings of money to the State. Then by also matching the Medicaid dollars that are available in a nursing facility we can continue to maximize that. If you want to read in detail what that committee did, it's in the Legislative Interim Report.

SENATOR SOLBERG: How many homes in the State that are capable of doing this right now?

AARON KRAUTER: One facility near the State Hospital that has expressed an interest and has worked with the Department of Human Services.

SENATOR SOLBERG: Would this be additional beds?

AARON KRAUTER: This is not additional beds, it would be within the moratorium.

DAVE ZENTNER: Director of Medical Services for the Department of Human Services to testify in support of SB2035 (testimony attached (meter 4450-4945)).

SENATOR NETHING: The time I talked to the Director of a Care Center in Valley City, he didn't seem too firm in doing this.

DAVE ZENTNER: I thought so, he has certainly indicated interest and has had discussions with the State Hospital and I'm surprised he's not here today.

SENATOR ROBINSON: You bring up a good point. I think Mr. Christensen's concern is that the bill hasn't been approved or opened up a bidding process. He is very interested but not presumptuous that they are the only nursing home in the State that might be interested. They remain very interested and have a spot identified if in fact everything falls into place and the RFT is publicized and they're successful in that endeavor.

SENATOR NETHING: What bothers me is we are going to pass SB2012 out of here hopefully the first part of next week, and you haven't got money in here to keep these people at the State Hospital if the program doesn't flow right.

DAVID ZENTNER: That is correct.

SENATOR NETHING: I suggest you come back to the subcommittee with some kind of information indicating this is either a go or not so we can make the budget adjustments.

SENATOR BOWMAN: With the unit that is going to be transferred and if in deed this bill passes, then do you completely close down a section of the facility or is there going to be maintenance costs from that facility so we will be actually increasing the budget more than decreasing? Sometimes the intent is there but, they forget the other costs.

ALEX SCHWEITZER: The intent is to close an entire ward of sixteen beds. It will be a \$1.1M savings to the General Funds, across the board. This includes direct care staff as well as support and administrative staff.

SENATOR BOWMAN: Does that mean there is no extra cost to the building after you shut it down; no heat, no extra costs to incur?

ALEX SCHWEITZER: This program is in a building with several other services. The building would not be closed. There still is overhead costs but, there will not be staffing costs. That is where your reduction will come in, 26.5 positions that would be eliminated.

SENATOR NETHING: Talk about what you mean regarding a ward in this building.

ALEX SCHWEITZER: This is a two story building, the newest on campus. Over the last three years we've been moving as many services as possible into that building. It's on the first floor, a sixteen bed ward. There are a total of three care wards on that floor. We will be using the physical facility for other purposes. Our attempt is to move into a few buildings on the campus which is more efficient.

ALEX SCHWEITZER: Superintendent of the North Dakota State Hospital testified in support of SB2035 (testimony attached (meter 5875-end, tape 1, side B meter 1-215)).

SENATOR TOMAC: The real savings to the State is the fact that when they are in a Nursing Home, we get Medicaid funding.

ALEX SCHWEITZER: There is a net savings, even with the Medicaid dollars, it's because the cost of that facility is a lot less expensive than the Hospital.

SENATOR TOMAC: Currently if they are at the State Hospital they are not on Medicaid?

DAVID ZENTNER: The Federal Government with Mental Health Facilities, allow payment for individuals under twenty-one and over sixty-five. If we have someone over sixty-five, we are claiming the 70% Federal match. If we have someone under sixty-five and the individual has no other means of pay, the General Fund is handling 100% of that. If we move that out into the community where we can claim the Federal money, we're moving away from 100% General Funds to 30% General Funds.

SENATOR TOMAC: Is that the bulk of the \$600,000?

DAVID ZENTNER: The bulk is the difference between the \$145 a day in the Nursing Home versus the \$270 that we are now paying for the service at the State Hospital.

SENATOR TOMAC: I understand the cost of the operation is a little higher at the State Hospital but, sooner or later if the level of care for these patients is that high and demanding, isn't it going to cost us just as much in the country as it is at the State Hospital? How come the cost per day is twice as much at the State Hospital?

ALEX SCHWEITZER: It comes down to 58.5 acres of land and several buildings that we maintain. It's overhead costs, we have to take care of an entire campus.

SENATOR TOMAC: By reducing the number of patients and the number of services, unless you actually sell some of those buildings, destroy or quit maintaining them, have we gained anything or is our overhead still their.

ALEX SCHWEITZER: Our overhead can be decreased, by being able to consolidate buildings and taking buildings offline and that's what we are doing.

SENATOR NETHING: The \$270, will that figure go down after you move these geriatric patients out?

ALEX SCHWEITZER: With efforts to consolidate buildings, population drop and reduction of staff, hopefully we will see a reduction in our per diem. That's going to require work beyond this but, that's the intent. Eventually we can get ourselves into one building. If we were in that position we can really look at some significant savings. We are nit-picking away.

SHELLY PETERSON: President Long Term Care Association to testify in support of BS2035 (testimony attached (tape 1, side B, meter 665-895). Selection of the Nursing Facility and the method for selection will be determined by the Department of Human Services. Craig Christensen was unable to be here but, he remains committed and very interested in being the facility selected. It is anticipated that the department will put this out on an RFP rather than award it to the facility that is interested.

Craig Christensen has been working on this type of facility for three years. I think he has a lot of services that could be put in place easily and he wanted me to give the message this morning that he remains committed and very interested. We did a survey of existing Nursing Homes residents, not looking at the patients already in the State Hospital, of those that had a primary diagnosis of a psychiatric need and other complications, we came up with potential seventy individuals that would be immediately eligible for this unit.

The hearing was closed on SB2035.

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SENATOR NETHING: Reopened the hearing on SB2035 (tape 1, side B, meter 969-1112).

SENATOR ST. AUBYN: Explained that SB2035 was incorporated into SB2012; Section 13.

SENATOR NETHING: Called for the motion on SB2035.

SENATOR ST. AUBYN: Moved a Do Not Pass.

SENATOR KRAUTER: Seconded the motion.

ROLL CALL: 14 YEAS; 0 NAYS; 0 ABSENT & NOT VOTING.

CARRIER: SENATOR BOWMAN

SENATOR NETHING: Closed the hearing on SB2035.

Date: 2/11/99
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2035

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. St. Aubyn Seconded By Sen. KRAUTER

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓	1			
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Sen. BOWMAN ~~Sen. KRAUTER~~

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

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 10:07 a.m.

Module No: SR-29-2689
Carrier: Bowman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2035, as engrossed: Appropriations Committee (Sen. Nething, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2035 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

SB 2035

Testimony on SB 2035
Senate Human Services Committee
January 11, 1999

Chairman Thane and members of the Senate Human Services Committee, thank you for the opportunity to testify on SB 2035. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. Our Association represents basic care and nursing facility providers. I am here today to testify on their behalf.

SB 2035 allows the development of one fourteen bed geropsychiatric unit within an existing nursing facility. The nursing facility chosen to create this unit must do so within their current licensed bed capacity and will not be given additional beds.

It is anticipated these patients can be served at a cost of \$142 per day. Currently these patients are being cared for at a cost of \$288 per day at the State Hospital. In the Governor's Budget Address he said this transferring of fourteen elderly patients to a community geriatric nursing facility unit will eliminate twenty six positions (from the State Hospital) and save \$1.1 million from the general fund.

Selection of the nursing facility and the method for selection would be determined by the Department of Human Services. It is anticipated professional support services for management of patient psychiatric needs would be provided by the State Hospital.

SB 2035 allows for an exception to the case mix reimbursement system for these fourteen patients. Currently the average rate in a nursing facility is \$97.68 and this is not sufficient to care for this specialized group. SB 2035 allows the Department of Human Services to establish a specialized rate.

SB 2035 will allow the development of a more appropriate and cost effective service setting for a population that is elderly and severely mentally ill. Community placement of this population has not been successful and has resulted in permanent placements at the State Hospital. Nursing facilities are very supportive of this legislation and the opportunity one will have at creating a successful geropsychiatric unit.

Thank you for your positive consideration of this legislation. I would be happy to answer any questions you may have.

Shelly Peterson, President
North Dakota Long Term Care Association
120 West Thayer Avenue
Bismarck, ND 58501
(701) 222-0660

TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING SENATE BILL 2035

JANUARY 11, 1999

Chairman Thane, members of the committee, I am David J. Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information and to support this bill.

The State Hospital in Jamestown currently operates a geropsychiatric unit that cares for individuals with physical conditions and severe behavioral problems. The physical conditions of the residents qualify them for the Medicaid level of care to reside in a nursing facility, however, their behavioral problems are such that nursing facilities are unable to provide the services necessary to meet both the physical and mental health needs of these residents. Placements that are tried outside the State Hospital generally fail and result in a return of the resident to the hospital unit.

The Task Force on Long Term Care Planning examined this issue and concluded that a small, but consistent, number of elderly and disabled individuals that are severely mentally ill fail to thrive in community placements, resulting in virtually permanent State Hospital placement. The Task Force report recommended the Legislature provide an exception to the case-mix system to allow establishment of a 14-bed geropsychiatric unit to serve clients that are elderly or physically disabled and severely mentally ill. This geropsychiatric nursing unit, which will use existing nursing facility beds, will provide a more appropriate and cost effective setting for these individuals.

pg 20

The exception to the case mix system is necessary because of the higher costs

associated with providing care to these individuals. The number of staff needed to care for individuals with both physical conditions and severe mental illness is greater than the normal staffing needs of a nursing facility. In addition, the staff must have experience, knowledge, special skills and training to care for this special group of individuals. This results in costs that are not comparable to the routine care costs incurred by a nursing facility, and is estimated to be about \$145 per day or about 150% higher than the standard nursing facility rate.

The fiscal note attached to this bill indicates that the cost of nursing facility care through the Medicaid Program is estimated at \$1,557,808. With the closure of the State Hospital Unit, the State Hospital estimate to save \$2,166,008 for a net savings of \$608,200. The cost to the Medicaid program and savings to the State Hospital have been incorporated into the budget request in the Department's appropriation, Senate Bill 2012.

Section 1 of the bill authorizes an exception to the case mix limit rates for the facility serving this population. An exception already exists for facilities that serve non-geriatric individuals with physical disabilities.

Section 2 limits the number of facilities providing this service to one, with a bed capacity that is no more than fourteen beds. Since the need for this service is limited, the Task Force and the Department believes it is important to limit the number of beds in the private sector to the estimated need.

If the bill is passed, the Department will issue a Request for Proposal inviting nursing facilities to submit a proposal to provide these services to this special population. The proposals will be reviewed and the most appropriate proposal will be selected based on criteria established by the Department.

The Department is in support of this bill and respectfully requests that the committee recommend passage.

I would be happy to answer any questions you may have at this time.

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE

REGARDING SENATE BILL 2035

JANUARY 26, 1999

Chairman Nething, members of the committee, I am David J. Zentner, Director of Medical Services for the Department of Human Services. I appear before you today to provide information and to support this bill.

The State Hospital in Jamestown currently operates a geropsychiatric unit that cares for individuals with physical conditions and severe behavioral problems. The physical conditions of the residents qualify them for the Medicaid level of care to be placed in a nursing facility, however, their behavioral problems are such that nursing facilities are unable to provide the services necessary to meet both the physical and mental health needs of these residents. Placements that are tried outside the State Hospital generally fail and result in a return of the resident to the hospital unit.

The Task Force on Long Term Care Planning examined this issue and concluded that a small, but consistent, number of elderly and disabled individuals that are severely mentally ill fail to thrive in community placements, resulting in virtually permanent State Hospital placement. The Task Force report recommended the Legislature provide an exception to the case-mix system to allow establishment of a 14-bed geropsychiatric unit to serve clients that are elderly or physically disabled and severely mentally ill. This geropsychiatric nursing unit, which will use existing nursing facility beds, will provide a more appropriate and cost effective setting for these individuals.

The exception to the case mix system is necessary because of the higher costs associated with providing care to these residents. The number of staff needed to care for individuals with both physical conditions and severe mental illness is greater than the normal staffing needs of a nursing facility. In addition, the staff must have experience, knowledge, special skills and training to care for this group of residents. This results in costs that are not comparable to the routine care costs incurred by a nursing facility, and is estimated to be about \$145 per day or about 150% higher than the standard nursing facility rate.

The fiscal note attached to this bill indicates that the cost of nursing facility care through the Medicaid Program is estimated at \$1,557,808. With the closure of the State Hospital Unit, the State Hospital is estimated to save \$2,166,008 for a net savings of \$608,200. The cost to the Medicaid program and savings to the State Hospital have been incorporated into the budget request in the Department's appropriation, Senate Bill 2012.

Section 1 of the bill authorizes an exception to the case mix limit rates for the facility serving this population. An exception already exists for facilities that serve non-geriatric individuals with physical disabilities.

Section 2 limits the number of facilities providing this service to one and requires that admissions be limited to those where the State Hospital has performed an evaluation of the individual being admitted to the unit. The Task Force and the Department believes it is important to limit the number of beds in the private sector to the estimated need and therefore it is likely that the size of this facility will be between 12 and 16 beds.

If the bill is passed, the Department will issue a Request for Proposal inviting nursing facilities to submit a proposal to provide these services to this special

population. The proposals will be reviewed and the most appropriate proposal will be selected based on criteria established by the Department.

The Department is in support of this bill and respectfully requests that the committee recommend passage.

I would be happy to answer any questions you may have at this time.

**The Senate Appropriations Committee
Senator David Nething, Chairman
Senate Bill 2035**

January 26, 1999

Mr. Chairman and members of the Committee, my name is Alex C. Schweitzer and I am the Superintendent of the North Dakota State Hospital. Thank you for the opportunity to testify on Senate Bill 2035.

I am here today to provide the committee with background on the geropsychiatric program at the State Hospital and our efforts to locate appropriate community alternatives for this special population of patients. This is a special population of individuals who are both aged and have severe physical and behavioral problems. This means that these individuals have a psychiatric diagnosis, need for assistance in two to three activities of daily living (e.g.; bathing, dressing, eating, toileting and ambulation), several medical problems and display severe behaviors (e.g.; sexual acting out, spitting, hitting, kicking and yelling out). These individuals are currently cared for on a special unit at the hospital (L-200), with staff that are highly trained to provide for their needs. The current population on L-200 is 15 patients, with 8 females and 7 males, with a total capacity of 16 beds on this special unit.

As indicated by Mr. Zentner, the physical conditions of these patients qualify them for the Medicaid level of care to reside in a nursing facility, however, their behavioral problems are such that the typical nursing facility is unable to provide the services necessary to meet both the physical and mental health needs of these patients. Most of these patients have failed in several outside placements and the result is return to the hospital's special unit.

Two years ago, the management and clinical staff of the adult psychiatric service, raised concerns about the inability to successfully place these individuals in a traditional nursing facility. Senior management at the hospital began to discuss approaches to help these individuals achieve successful community placement. It was decided that these individuals needed to reside in a special unit within a community nursing home that was similar to the State Hospital unit and that the staff of that facility would require special training on the care of these individuals.

In December of 1997, the administrator of the Sheyenne Care Center of Valley City offered to locate such a program within his facility. This was especially attractive to the management of the hospital as the facility was close to Jamestown and would facilitate our efforts to provide staff education and psychiatric care. In the interim, preparations were made to develop such a program. The hospital recommended the possible relocation of the hospital's geropsychiatric program to a community facility in our 95% budget request to Department of Human Services. The Governor added the change to his 99-01 budget.

The State Hospital's budget request to the Senate Appropriations Committee recommended transferring 14 elderly psychiatric patients from the State Hospital to a community nursing home which eliminates 26.5 positions and \$1.1 million from the general fund. This community facility must submit a proposal to provide these services to this special population. This facility must have accessibility to psychiatric services, a separate unit for the care of this population and staff trained to provide appropriate care.

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The Senate Human Services Committee heard this bill on January 11, 1999 and amended the bill to remove bed limits and requiring the State Hospital to perform an evaluation of the patient before they could be admitted to such a community facility. The hospital would suggest that the bill be further amended to read; page 1, line 24, "only be granted after the Department of Human Services has performed an evaluation of the individual being admitted". This change would make the requirement more generic and would allow the Department the flexibility of assigning the evaluation to either the State Hospital or a human service center.

This concludes my testimony and I would be happy to answer any questions the committee may have!

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON LONG-TERM CARE

Monday and Tuesday, June 29-30, 1998
Kenmare High School Auditorium
Kenmare, North Dakota

Representative Bill Oban, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Bill Oban, Grant C. Brown, Mike Callahan, Ron Carlisle, James O. Coats, Jeff W. Delzer, Gereld F. Gerntholz, Shirley Meyer; Senators Bill L. Bowman, Aaron Krauter, Evan E. Lips, Harvey Sand, Russell T. Thane

Member absent: Representative Lynn J. Thompson

Others present: See attached appendix

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

Ms. Mary Stroud, Administrator, Baptist Home of Kenmare, welcomed the committee to Kenmare.

Mr. David Zentner, Director, Medical Services Division, Department of Human Services, presented statistical data on institutional and home and

community-based services available to individuals in need of long-term care services. A copy of his presentation is on file in the Legislative Council office.

Mr. Zentner said the highest nursing facility Medicaid occupancy percentage for 1997 was 84.27 percent at the Kenmare Community Nursing Facility and the lowest Medicaid occupancy percentage was 38.13 percent at the North Central Good Samaritan Center in Mohall. He said the state-wide average Medicaid occupancy was 57.17 percent of total occupied beds and 54.6 percent of licensed bed capacity on June 30, 1997. He said the overall average occupancy was 95.47 percent on June 30, 1997. Mr. Zentner reviewed a comparison of appropriations and numbers of clients served for the Medicaid waiver, service payments for elderly and disabled (SPED) program, expanded SPED program, and traumatic brain-injured (TBI) waiver as follows:

	Medicaid Waiver	SPED	Expanded SPED	TBI Waiver
1995-97 biennium appropriation	\$4,243,740	\$7,370,437	\$1,423,266	\$1,745,826
Actual 1995-97 expenditures	\$4,296,156	\$6,576,195	\$1,249,041	\$532,658
1997-99 biennium appropriation	\$5,671,608	\$8,886,923	\$1,522,417	\$1,778,356
1997-99 biennium increase (decrease) from 1995-97 actual expenditures	\$1,375,452	\$2,310,728	\$273,376	\$1,245,698
Number of clients served from August 1995 through May 1996	194	871	248	11
Number of clients served from August 1997 through May 1998	207	1,197	106	12

Ms. Carol K. Olson, Executive Director, Department of Human Services, presented information on the work of the Task Force on Long-Term Care Planning. A copy of her presentation is on file in the Legislative Council office. Ms. Olson said the task force report contains 37 recommendations for consideration by this committee. She said 18 of the 37 recommendations also need to be acted on by the 56th Legislative Assembly. She said the remaining 19 recommendations do not require legislative action. She said the recommendations are designed to foster the development of alternative home and community-based long-term care services and provide incentives

for further reductions in the number of nursing facility beds in North Dakota.

Mr. Murray G. Sagsveen, State Health Officer, Department of Health, commented on the work of the Task Force on Long-Term Care Planning. He said if more extensive home health care services existed, local health units could spend less time providing that type of service. He said this would allow local health units to focus their resources on their main purpose.

BASIC CARE RATE EQUALIZATION

Ms. Barb Fischer, Department of Human Services, presented information on the task force

recommendations regarding basic care rate equalization. A copy of her presentation is on file in the Legislative Council office. She said the task force recommended that rate equalization for basic care facilities be repealed. Ms. Fischer said the reason for the recommendation is that the task force considers basic care services as an alternative to nursing facility care. She said with anticipated changes in funding streams for basic care and the impetus to move to alternatives, implementation of rate equalization would have an adverse impact or prevent needed changes in the basic care industry.

The Legislative Council staff presented a bill draft repealing basic care rate equalization. The bill draft also amends the definition of a private pay resident to include managed care entities as being exempt from rate equalization and provides that the rate charged by managed care organizations may not be less than the rate approved for medical assistance recipients in the same classification.

Ms. Shelly Peterson, North Dakota Long Term Care Association, Bismarck, testified in support of the bill draft to repeal basic care rate equalization. She said she also supports the recommendations of the task force which include an operating margin of three percent of direct care costs, subject to an 80th percentile limitation, in the rates established for basic care assistance recipients and the inclusion of property costs as passthrough costs, not subject to limitations, in the rates established for basic care assistance recipients.

In response to a question from Senator Bowman, Ms. Fischer said the recommendation regarding property costs as passthrough costs would cost approximately \$97,000 of general fund moneys, and the recommendation for a three percent operating margin would cost approximately \$50,000 of general fund moneys.

EXPANDED CASE MANAGEMENT SYSTEM PILOT PROJECTS

Ms. Linda Wright, Director, Aging Services Division, Department of Human Services, presented information on the task force recommendation regarding the expanded case management system pilot projects. A copy of her presentation is on file in the Legislative Council office. She said to evaluate the effectiveness of the expanded case management pilot projects, it will be necessary to continue the pilot projects into the next biennium. Ms. Wright said the task force recommended that the Department of Human Services continue to monitor the progress of the pilot projects and prepare a final report on the results no later than June 30, 2000. She said the continued funding is planned to come from within the Department of Human Services budget.

The committee recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

Ms. Gayle Wisnewski, Director, Senior Meals and Services, Inc., Devils Lake, presented information regarding the expanded case management system pilot project in the Lake Region Human Service Center area. A copy of her presentation is on file in the Legislative Council office. She said the pilot project has received 20 referrals, 15 of which are for persons residing in their own home, four for individuals residing in nursing homes, and one for an individual in a crisis situation. She said there are currently five clients receiving expanded case management services.

In response to a question from Representative Delzer, Ms. Wisnewski said the 15 referrals which are not receiving services under the expanded case management system pilot project are due to the fact that people have the right to choose whether or not they want to receive services under the program.

Senator Krauter asked what needs to be done to implement the task force recommendation relating to reimbursing facilities at rates based on the type of service being provided even if that is not the type of care for which the facility is licensed. Mr. Zentner said there is nothing in the North Dakota Century Code preventing the department from doing this. He said he thinks it could be accomplished through rulemaking authority. He said the department could look into changing the current policies to allow nursing facilities to provide and receive payment for other care up to the level of a skilled nursing facility. He said he does not believe it would come under the emergency administrative rulemaking provisions which would allow for it to be accomplished in a six-month process.

Ms. Peterson expressed her support for the provision of options to pay facilities based upon the type of care being provided rather than strictly upon the license of that facility.

In response to a question from Senator Krauter, Ms. Peterson said by providing for that type of reimbursement option, it allows individuals to age within a facility rather than having to move between facilities as their care needs increase.

It was moved by Senator Krauter, seconded by Senator Thane, and carried that the Budget Committee on Long-Term Care support the Task Force on Long-Term Care Planning's recommendation that payment options be provided for nursing facilities and that the Budget Committee on Long-Term Care request that the chairman of the Legislative Council urge the Department of Human Services to make the necessary rule changes to implement the recommendation, and that any necessary rule changes be pursued under the emergency rulemaking authority, and that the Department of Human Services report to the Budget Committee on Long-Term Care at its

next meeting on the status of any necessary rule changes regarding the recommendation to provide options for payments to nursing facilities. Voting "aye" were Representatives Oban, Brown, Callahan, Carlisle, Coats, Delzer, Gerntholz, and Meyer and Senators Bowman, Krauter, Lips, Sand, and Thane. No negative votes were cast.

It was moved by Representative Coats, seconded by Representative Callahan, and carried that the Budget Committee on Long-Term Care express its support for the continuation of the expanded case management system pilot projects into the 1999-2001 biennium and that the committee adopt the recommendation of the Task Force on Long-Term Care Planning to have the Department of Human Services continue monitoring the progress of the pilot projects and prepare a report on the results no later than June 30, 2000, and that the continued funding for the pilot projects come from within the Department of Human Services budget. Voting "aye" were Representatives Oban, Brown, Callahan, Carlisle, Coats, Gerntholz, and Meyer and Senators Bowman, Krauter, Lips, Sand, and Thane. Voting "nay" was Representative Delzer.

ALZHEIMER'S AND RELATED DEMENTIA POPULATION PILOT PROJECT AND DELIVERY OF ALTERNATIVE SERVICES

Mr. Zentner presented information on the task force recommendations regarding the pilot projects for Alzheimer's and related dementia population. A copy of his presentation is on file in the Legislative Council office. He said due to delays in the start of the pilot projects, it will not be possible to fully evaluate the effectiveness of the projects during the current biennium. He said the task force concluded that the projects need to be extended beyond the current biennium in order to determine if this concept is financially viable and is an appropriate setting for the delivery of services.

Mr. Zentner said the task force recommended that the Department of Human Services be authorized to continue the Alzheimer's and related dementia population pilot projects into the 1999-2001 biennium and that the department be required to monitor the progress of the projects and to prepare a report for the Legislative Assembly that provides conclusions and recommendations regarding the future of these pilot projects. He said the report is to be prepared no later than June 30, 2000. He said in addition, the task force had two recommendations which do not require action by the Legislative Assembly. He said these recommendations were that the Department of Human Services allow other entities the opportunity to develop alternative residential services for Alzheimer's and related dementia or other populations that meet quality

and financial standards established by the department. He said the other recommendation is that the funding for these projects come from existing appropriations for the Medicaid home and community-based services waiver or the expanded SPED program.

The Legislative Council staff presented a bill draft to provide for the continuation of the pilot projects and to provide for the Department of Human Services to monitor the projects and to report to the Legislative Council by June 30, 2000.

Mr. John Vastag, Waterford at Harvard Groves, Fargo, commented in support of the task force recommendation regarding alternative services. He said educating the citizens of North Dakota about long-term care service options is an important aspect of long-term care. He said alternative services can be very cost-effective in comparison to traditional nursing facility care.

The committee recessed and traveled to the Kenmare Community Hospital.

Mr. Verlin Buechler, CEO, Kenmare Community Hospital, welcomed the committee to the Kenmare Community Hospital and provided the committee with a tour of the swing-bed and skilled nursing units of the Kenmare Community Hospital. He said the Kenmare Community Hospital has a total of 42 beds, 26 of which are swing beds, four of which are acute care beds, and 12 of which are nursing home beds.

The committee recessed and traveled to the Baptist Home of Kenmare.

Ms. Stroud welcomed the committee to the Baptist Home of Kenmare and provided the committee with a tour of the assisted living units, basic care facility, and the Alzheimer's pilot project unit. The committee attended the dedication ceremony for the Alzheimer's pilot project unit located at the Baptist Home of Kenmare.

The committee recessed at 4:15 p.m. and reconvened at 9:05 a.m. on Tuesday, June 30, 1998.

ADULT PROTECTIVE SERVICES

Ms. Wright presented information on the task force recommendation on adult protective services. A copy of her presentation is on file in the Legislative Council office. She said the recommendation is that North Dakota Century Code Chapter 50-25.2 be amended to require implementation of the vulnerable adult protective services statute. She said the recommendation also provides that the legislation should permit assignment within the existing administrative structure with clear direction for cooperation and collaboration with existing programs that serve adults in North Dakota.

Ms. Wright said the cost of providing adult protective services on a statewide basis would be approximately \$572,400 per biennium. She said the estimated cost is based on 1,908 complaints per

biennium at an average of 12 hours per complaint and a rate of \$25 per hour. She said the cost is less than projected in previous bienniums due to the concept of building adult protective services into existing systems rather than creating a separate system.

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, presented a memorandum entitled *Actions to Enforce Statutory Provisions*. He said the memorandum provides that an agency may not be relieved from potential liability because a specific appropriation was not provided for a statutorily mandated program. He said the courts could find that an agency, such as the Department of Human Services, should be able to fund such a program from within its budget.

The Legislative Council staff presented a bill draft relating to the implementation of vulnerable adult protective services.

Mr. Dan Richter, Ward County Social Services, Minot, testified in support of the vulnerable adult protective services program. He said although he supports the concept of a vulnerable adult protective services program, he does not support the bill draft. He said the bill draft is an unfunded mandate and does not give clear direction to the department as to how to implement the program. Mr. Richter said counties are not prepared to provide vulnerable adult protective services within the current structure, and the current structure is not cost-effective for the provision of vulnerable adult protective services.

Ms. Wright said the Aging Services Division of the Department of Human Services would be responsible for the training and education of vulnerable adult protective services staff. She said the human service center director in Minot was very favorable to the vulnerable adult protective services concept. Ms. Wright said the 1,908 cases used as a basis for the cost estimate was derived from existing data received from Cass County and the Devils Lake area.

Mr. Jim Jacobson, Protection and Advocacy Project, Bismarck, testified in support of the task force recommendation regarding vulnerable adult protective services. He said the Protection and Advocacy Project works with other agencies and is currently developing a memorandum of understanding with the Aging Services Division of the Department of Human Services.

HOME AND COMMUNITY-BASED SERVICES AVAILABILITY, QUALIFIED SERVICE PROVIDER TRAINING, AND GEROPSYCHIATRIC SERVICES

Ms. Wright presented information regarding the task force recommendations on home and community-based services availability and qualified service provider training. A copy of her presentation is on file

in the Legislative Council office. She said in regard to the service availability portion of the task force report, the recommendation is for the Aging Services Division of the Department of Human Services to contract for an assessment of home and community-based services to determine the extent of the current and future service delivery systems needs for persons aged 60 and older and for persons with physical disabilities ages 18 through 59. Ms. Wright said a request for proposal for an assessment has been drafted. She said the assessment will require a budgetary commitment from the Department of Human Services to the extent that outside financial participation is not secured.

Ms. Wright said the recommendation of the task force relating to the training of in-home care providers is that the Department of Human Services coordinate with the State Board for Vocational and Technical Education to establish a statewide model curriculum for in-home care certification. She said the task force also recommended the Department of Human Services explore statewide funding options through welfare-to-work programs and Work Force 2000 and monitor the development of the pilot project for training in-home service providers in Benson County. Ms. Wright said the recommendation includes the expansion of the customized training network to make programs available regionally throughout the state.

Ms. Wright said the other recommendations of the task force relating to the training of in-home care providers are that the task force investigate the impact of a formalized in-home care training program on service availability and quality service delivery and that a market analysis be commissioned to determine the financial resources needed to support the in-home care provider system.

Ms. Wright said during the next couple of months, the Aging Services Division will be meeting with the State Board for Vocational and Technical Education, UND-Lake Region, and Bismarck State College to discuss a training curriculum for in-home care providers.

Mr. Fred Larson, State Department of Health, presented information on the task force recommendations relating to geropsychiatric services. A copy of his presentation is on file in the Legislative Council office. He said the task force made two recommendations requiring legislative action. He said the first recommendation relates to a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. He said the second recommendation is a provision for an exception to the case mix system of nursing home reimbursement to allow for the establishment of a 14-bed geropsychiatric nursing unit to

serve clients who are elderly or physically disabled and severely mentally ill.

Mr. Larson said the task force bill draft presented at this committee's May 21, 1998, meeting relating to the exception to the case mix system for the establishment of a 14-bed geropsychiatric nursing unit failed to establish a limit on the number of such special care units or on the total number of beds that could be established. He presented an amendment to the committee which corrected those items in the bill draft. He said the changes contained in the proposed amendment will make the bill draft consistent with the recommendations of the task force.

Mr. Larson said in addition to the task force recommendations which require legislative action, the task force also recommended that the Department of Health and the Department of Human Services work to expand the continuing education opportunities in psychiatric and geropsychiatric care for rural North Dakota primary care providers in cooperation with the state's medical, psychiatric, and nursing associations. He said the task force also recommended the expansion of networking models for the provision of services to the elderly, including geropsychiatric services to all human service centers and the integration of the human service centers and the State Hospital into telemedicine networks to enhance access in rural North Dakota to psychiatric and geropsychiatric services. Mr. Larson said the task force also recommended that the Department of Human Services contract with an existing nursing facility for the establishment of a 14-bed geropsychiatric nursing unit.

The Legislative Council staff presented a study resolution providing for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. The Legislative Council staff also presented a bill draft providing for an exception to the case mix system for a geropsychiatric unit to be located within a nursing facility.

Mr. Alex Schweitzer, Administrator, State Hospital, Jamestown, presented information regarding a cost analysis of establishing a geropsychiatric unit in a nursing facility located outside the State Hospital. A copy of his presentation is on file in the Legislative Council office. He said the cost to treat these individuals is approximately \$275 per day when they are treated in a hospital setting. He said if the unit is closed at the State Hospital and moved to a nursing facility located outside the State Hospital, the State Hospital could reduce approximately 26 FTEs. He said the current general fund dollars required for the geropsychiatric unit at the State Hospital are \$1,146,685 per biennium. He said if a geropsychiatric unit is established outside the State Hospital and the nursing facility in which it is established is subsidized

to cover the additional cost of the geropsychiatric unit, the additional cost would be approximately \$602,020 per biennium, leaving a general fund savings of approximately \$544,665 per biennium. Mr. Schweitzer said through the use of Medicaid dollars the state could save an additional \$422,000 for a total savings of approximately \$967,000.

In response to a question from Senator Krauter, Mr. Schweitzer said the cost to provide services to these individuals at the State Hospital is approximately \$275 per day compared to \$144 per day for a unit established at the Sheyenne Care Center in Valley City.

Mr. Craig Christianson, Administrator, Sheyenne Care Center, Valley City, presented information regarding the establishment of a geropsychiatric unit outside the State Hospital. He distributed a copy of a geropsychiatric unit proposal prepared by the Sheyenne Care Center. A copy of the proposal is on file in the Legislative Council office. Mr. Christianson said the Sheyenne Care Center has been trying to establish a geropsychiatric unit for approximately four years. He said it was originally contemplated through an expansion in the number of beds. He said the Sheyenne Care Center would look into employing some of the people currently employed in the geropsychiatric unit at the State Hospital if a unit is established within the Sheyenne Care Center.

Mr. Christianson said the benefit of locating a geropsychiatric unit in Valley City is that it would be close enough to Jamestown to use the expertise provided by professionals at the State Hospital. He said the proposal developed by the Sheyenne Care Center is based on the State Hospital's current geropsychiatric unit.

In response to a question from Senator Bowman, Mr. Christianson said the protection of other residents within the Sheyenne Care Center would be no different from facilities containing an Alzheimer's unit.

It was moved by Senator Lips, seconded by Senator Krauter, and carried on a voice vote that the bill draft presented by the Legislative Council staff relating to the exception to the case mix system for the establishment of a geropsychiatric unit be amended to include a limit of one on the number of geropsychiatric care units which may be established and a limit of 14 on the number of geropsychiatric care beds which may be established.

The committee recessed for lunch at 11:30 a.m. and reconvened at 12:40 p.m.

Representative Oban said it is his understanding there has not been an agreement worked out between the Sheyenne Care Center and the Department of Human Services regarding the establishment of a geropsychiatric unit. He asked what the process would be if this concept is given approval by the

Legislative Assembly. Mr. Larson said it would be up to the Department of Human Services as to how it would proceed. He said he would expect that it would proceed with a request for proposals.

Ms. Susan Arneson, North Dakota Association for Home Care, Langdon, presented information regarding home care services. A copy of her presentation is on file in the Legislative Council office. She reviewed information on Medicare-certified agencies, utilization rates, and reimbursement provisions. She said the average number of visits per beneficiary for North Dakota during 1997 was 36, compared to a national average of 60.

Ms. Liz Overlie, North Dakota Association for Home Care, Minot, commented on home care provider rates. She said charges for home care providers are based on the costs of providing the services. She said the reimbursement rates are determined based on the Medicare cost reports.

INCENTIVES FOR FINANCING ISSUES RELATING TO REDUCING THE NUMBER OF LONG-TERM CARE BEDS AND THE DEVELOPMENT OF ALTERNATIVE SERVICES

Ms. Fischer presented information regarding the task force recommendations relating to incentives for financing issues relating to reducing nursing facility beds and information relating to the need for a TBI facility in western North Dakota. A copy of her presentation is on file in the Legislative Council office. She said the task force recommendations for financing issues and reducing the number of nursing facility beds are that the definition of a private pay resident be amended to include managed care entities as payers which are exempt from rate equalization and for a study of an incentive package to assist rural communities and nursing facilities to close or significantly reduce bed capacity and provide alternative long-term care services.

Ms. Fischer said the task force also had the following four recommendations which do not require legislative action:

1. Increase limit rates by two and one-half percent for nursing facilities with high case mix averages and decrease limit rates by two and one-half percent for nursing facilities with low case mix averages.
2. Waive the 90 percent occupancy limitation for facilities delicensing beds before the beginning of, or during, a rate year in which the limitation would apply.
3. Provide an increase of up to three percent of direct care, other direct care, and indirect care rates (subject to limits) for facilities with

an annual average length of stay of 200 or fewer days per occupied bed.

4. Discontinue feasibility studies of managed care for long-term care clients until North Dakota has gained experience in managed care for the population at large, alternatives to institutional and long-term care have been more fully developed, and the pilot projects for expanded case management for long-term care clients have been concluded.

Ms. Fischer said the task force is also recommending an exception to the moratorium on basic care facilities. She said the exception would allow for the provision of services in the western part of the state to individuals with traumatic brain injuries who are in need of a supervised or structured living arrangement. She said payment for services provided to TBI individuals would be available under the Department of Human Services TBI waiver.

Ms. Fischer said the High Soaring Eagle Ranch located near Valley City is the only residential TBI facility in the state. She said the waiting list for admission to the ranch is approximately two to four years.

Ms. Fischer said TBI individuals who have been receiving services at the Dacotah Alpha nursing facility are unable to move to a less restrictive setting because of the lack of alternative residential services. She said some of these individuals who have improved and no longer need nursing facility care cannot make the transition directly into an apartment setting without being at risk. She said a TBI facility in western North Dakota would fill the gap between the nursing facility and total independence.

Ms. Fischer said eight individuals who could benefit from a TBI facility in the western part of the state have been identified. She said the eight individuals are from a limited area surrounding Bismarck and Dickinson with some of the individuals currently residing at Dacotah Alpha. She said it is possible that individuals from other parts of the state could also use this residential service.

Ms. Fischer said TBI-waivered services cost on average \$2,200 per month as compared to the TBI services being provided at Dacotah Alpha which are approximately \$7,300 per month. She said basic care services are currently payable at a maximum of \$1,300 per month including room and board.

The Legislative Council staff reviewed a bill draft presented earlier providing for a change in the definition of private pay resident to include a managed care organization as being exempt from rate equalization. The bill draft also provides that rate charges by managed care organizations may not be less than the rate approved for a medical assistance recipient in the same classification. The Legislative Council staff also presented a bill draft to provide an exception to the basic care bed moratorium for the establishment of a

10-bed TBI facility in the western part of North Dakota. The Legislative Council staff also presented a study resolution providing for a study of the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services.

Chairman Oban told the committee members that the recommendations of the task force will be reviewed again at the September meeting, and at that time the committee will need to decide which recommendations it wishes to accept and which recommendations, if any, it wishes to reject.

Mr. Zentner presented information on the task force recommendations regarding the development of alternative services, including the expansion of care coordination for individuals at risk of nursing facility placement and the need to further study the use of swing-bed hospital services in the delivery of long-term care services. A copy of his presentation is on file in the Legislative Council office. He said the task force recommendations relating to the development of alternative services are as follows:

- Repeal existing law relating to the definition of assisted living facilities and the definition, regulatory oversight, and payment requirements for basic care facilities.
- Define a new category of residential facility that includes facilities formally classified as basic care facilities or assisted living facilities to include facilities that provide 24-hour health, social, or personal care services to five or more individuals who are not related by blood or marriage to the owners or operators.
- Require the development of a fire safety standard for the above-defined group of facilities.
- Require the development of rules that will designate the state agency responsible for the enforcement of the above standards.
- Require the Department of Human Services to develop rules, policies, and procedures that will establish minimum standards for the delivery of personal care services to individuals residing in residential facilities, including regulatory remedies for noncompliance subject to approval by the 57th Legislative Assembly.
- Require the Department of Human Services to develop payment rules, policies, and procedures that will allow program payments to follow eligible clients irrespective of the housing options chosen.
- When feasible, allow clients to select the care provider of their choice to provide personal care services in the various available housing options.

- Require the Department of Human Services, the Department of Health, the long-term care industry, and consumers of the long-term care industry to develop, during the period July 1, 1999, through December 31, 2000, payment rules, policies, and procedures necessary to implement the proposed changes in the current delivery system for alternative long-term care services.

Mr. Zentner said the task force recommendation relating to case management is that any individual eligible for the Medicaid program must, prior to entering a nursing facility or accessing other long-term care services, obtain a preadmission needs assessment to determine the type of services necessary to maintain the individual and to determine what long-term care alternatives, if any, could meet those needs. He said the task force also recommended that the Department of Human Services be authorized to implement a targeted case management program for elderly and disabled individuals at risk of entering a nursing facility or needing other long-term care services. Mr. Zentner said the final recommendation relating to case management is for the monitoring of the results of these programs to determine if the above policy should be extended to all individuals wishing to enter nursing facilities.

Mr. Zentner said the task force recommendation relating to funding sources is that the task force did not consider any restructuring of the Department of Human Services due to the current study of the department being conducted by the Legislative Council's Budget Committee on Human Services.

Mr. Zentner said the task force recommendation relating to swing-bed facilities is for a study of the swing-bed process to determine if any changes are necessary in the current requirements for providing services for swing-bed residents.

Mr. Zentner said the cost of the case management recommendation would be approximately \$980,000 per biennium of which \$294,000 would be from the general fund. He said this estimate is based on 1,400 individuals per year qualifying for case management services and receiving 10 hours of service at a cost of \$35 per hour. He said it is anticipated that approximately 40 percent of the individuals would ordinarily receive case management services under the SPED or expanded SPED programs. He said based on that assumption, the general fund offset for those services would be approximately \$274,000, leaving an estimated cost to the general fund of approximately \$20,000.

The Legislative Council staff presented a bill draft to remove basic care and assisted living from the North Dakota Century Code and to create an adult residential care facility definition. The bill draft also provides that the Department of Human Services may

pay for any service provided to an eligible beneficiary out of any source of funds available to the department unless expressly precluded from doing so by law. The bill draft provides that the repeal of basic care and assisted living and the creation of adult residential care facilities are effective July 1, 2001.

The Legislative Council staff presented a bill draft providing that targeted case management services for disabled and elderly individuals at risk of entering nursing facilities or hospital swing-bed facilities be provided by the Department of Human Services to ensure the individual's care alternatives are evaluated and considered. The bill draft also provides that each nursing facility and hospital swing-bed facility shall ensure that each individual requiring an assessment receives that assessment before admission and that the assessment must be used to determine the type of services necessary to maintain each individual and to determine which long-term care alternatives, if any, can meet those needs. The bill draft provides that the assessment may not be used as a condition of admission to a long-term care facility.

The Legislative Council staff presented a study resolution providing for a Legislative Council study of the swing-bed process to determine if changes are necessary in the current requirements for providing services to swing-bed residents, including the need for a standard assessment process and whether any limits, such as length of stay or number of available swing beds, should be implemented.

Mr. Greg Armitage, Administrator, Hill Top Home of Comfort, Inc., Killdeer, presented testimony opposing the task force recommendation for a disincentive program for low case mix facilities. A copy of his presentation is on file in the Legislative Council office. He said Hill Top Home of Comfort, Inc., has a five-year plan to develop alternative services, including outpatient therapy, home health, meals on wheels, multi-generation day care, and hospice programming. He said the development of these alternative services agrees with the Department of Human Services goals. He said if revenues are reduced by the disincentive program, Hill Top Home of Comfort, Inc., will not have sufficient revenues to establish these alternative services. Mr. Armitage said because a facility has a low case mix does not mean the cost of services are lower. He said staff costs are shifted from nursing to activities and social services as the staff is challenged to help the residents find ways to attain their highest level of functioning. He said costs related to the basic necessities, such as food and shelter, clean clothes, and living facilities, do not necessarily decrease in relation to the individual's case mix level.

Mr. Kirk Greff, Administrator, Dacotah Alpha, Mandan, presented information regarding the need for an additional residential facility to serve TBI individuals. A copy of his presentation is on file in the

Legislative Council office. He said he surveyed basic care facilities regarding available beds for a TBI facility in western North Dakota. He said he received no responses from facilities regarding open beds. Mr. Greff said Dacotah Alpha's goal would be to keep the facility as noninstitutional as possible. He said it would differ from a basic care facility because it would offer a training component which is not offered at basic care facilities.

Mr. Greff said Dacotah Alpha currently has a case manager position funded by a Developmental Disabilities Council grant. He said the position serves the southwest portion of the state and has identified 79 individuals with brain injuries. He said of the 79 individuals, 53 are Medicaid or Medicare recipients. Mr. Greff said this number does not include residents at Dacotah Alpha. He said the case manager has identified eight individuals who would be immediate candidates for this type of facility.

In response to a question from Representative Oban, Mr. Greff said he would be willing to contact the TBI support group in the Bismarck/Mandan area and coordinate that group coming to the next meeting of this committee and talking about the need for a TBI facility in western North Dakota.

Mr. Steve Skauge, Executive Director, HIT, Inc., Mandan, distributed comments regarding the need for a TBI facility in western North Dakota. A copy of his handout is on file in the Legislative Council office. He invited the committee to tour the Dacotah Alpha facility during its next meeting.

SENIOR CITIZENS' MILL LEVY MATCH FUNDING

Mr. Brian Arett, Project Director, Fargo Senior Commission, Inc., presented information regarding the task force recommendation on the senior citizens' mill levy match funding. A copy of his presentation is on file in the Legislative Council office. He said the task force recommended a Legislative Council study on the use and effectiveness of the senior citizens' mill levy match funds to determine whether the program should be expanded as a means of enhancing home and community-based service availability. He said the recommendation recognizes the importance of the senior citizens' mill levy match funding as an integral part of the continuum of long-term care services in the state of North Dakota.

The Legislative Council staff presented a study resolution providing for a Legislative Council study of the mill levy match program for senior citizens to determine if the program could be expanded to enhance home and community-based service availability.

AMERICAN INDIAN LONG-TERM CARE NEEDS

Mr. Larson presented information regarding the task force recommendation concerning the American Indian long-term care needs issues. A copy of his presentation is on file in the Legislative Council office. He said the task force was to study American Indian long-term care and case management needs, access to services, and the functional relationship between state service units and the American Indian reservation service systems. The task force was unable to establish a committee comprised of representatives of each reservation and non-American Indians to study these issues. He said because a different approach is called for, the task force has directed him to attempt to establish a working group on each of the reservations to carry out the study during the next interim.

The Legislative Council staff presented a study resolution calling for a Legislative Council study of American Indian long-term care and case management needs, access to appropriate services, and the functional relationship between state service units and the North Dakota American Indian reservation service systems.

Representative Gerntholz presented a bill draft relating to requirements for family foster homes for adults. He said the bill relates to an issue Representative Wentz brought to this committee at one of its earlier meetings.

Chairman Oban said because this was the first meeting at which this bill draft was heard, the committee would hold the bill draft until the next meeting and include it on the agenda for the September meeting.

Representative Coats suggested that the committee express its appreciation to Mr. Greg Haugland, Superintendent of Schools, Kenmare Public Schools, and Ms. Mary Stroud, Administrator, Baptist Home of Kenmare, for all the work they did to host this committee meeting. Chairman Oban indicated that he had thanked both of those individuals on behalf of the committee.

The committee adjourned at 3:15 p.m.

Paul R. Kramer
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:1

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

BUDGET COMMITTEE ON LONG-TERM CARE

Friday, September 18, 1998
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Aaron Krauter, Chairman, called the meeting to order at 8:05 a.m.

Members present: Senators Aaron Krauter, Evan E. Lips, Harvey Sand, Russell T. Thane; Representatives Grant C. Brown, Mike Callahan, Ron Carlisle, Jeff W. Delzer, Gereld F. Gerntholz, Shirley Meyer, Lynn J. Thompson

Members absent: Senator Bill L. Bowman; Representative James O. Coats

Others present: See attached appendix

Chairman Krauter read a prayer written by Representative Coats in remembrance of the late committee chairman Representative Bill Oban.

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

Ms. Barb Fischer, Department of Human Services, presented the committee with an update on the policies and procedures which have been implemented by the Department of Human Services to allow for payment of basic care services in nursing facilities. A copy of her presentation is on file in the Legislative Council office. She said the department was able to implement procedures for the payment of basic care services in a nursing facility without rule changes. Ms. Fischer said the department issued guidelines and procedures to nursing facilities on August 20, 1998. She said the guidelines and procedures issued to the nursing facilities outline the criteria which allow for the payment of basic care services in nursing facilities.

Ms. Fischer said the policies are intended to assist residents who have been residing in a nursing facility and no longer meet the level of care criteria necessary to have Medicaid pay for nursing facility services. She said the individuals are usually either private pay when they were first admitted to the facility or they experience an improvement in their health to the point where they no longer need nursing facility care. Ms. Fischer said the policies are not intended to allow nursing facilities to admit basic care individuals. She said that is why the department included the requirement that an individual must have been in the facility for at least six months before payment can be made under the basic care assistance program. She said there is no

assurance that everyone in a nursing facility will have a payment funding source because if an individual does not meet nursing facility care criteria, that individual must still meet the basic care eligibility criteria, and the facility must be willing to accept the basic care payment as payment in full. She said the policy does provide a means of paying for basic care in a nursing facility for most of the individuals who no longer meet nursing facility level of care criteria after having lived in the facility.

BASIC CARE RATE EQUALIZATION AND RATESETTING METHODS

Ms. Fischer presented information on the task force recommendations regarding basic care rate equalization and ratesetting methods. A copy of her presentation is on file in the Legislative Council office. She said the task force recommended that rate equalization for basic care facilities be repealed. Ms. Fischer said two additional recommendations from the task force, which do not require statutory changes, are for the implementation of a three percent operating margin on direct care costs and the inclusion of allowable property costs in their entirety rather than subjecting property costs to the 80th percentile limitations.

The Legislative Council staff presented a bill draft repealing basic care rate equalization. The bill draft also amends the definition of a private pay resident to include managed care entities as being exempt from rate equalization and provides that the rate charged by managed care organizations may not be less than the rate approved for medical assistance recipients in the same classification.

Ms. Shelly Peterson, North Dakota Long Term Care Association, Bismarck, testified in support of the bill draft to repeal basic care rate equalization and the two task force recommendations regarding an operating margin of three percent of direct care costs and the inclusion of property costs as passthrough costs.

Representative Delzer asked if the Department of Human Services agrees with the recommendations contained in the task force report. Ms. Fischer said the cost of implementing the recommendations of the task force have not been included in the department's

budget or in the optional adjustments. She said the costs were excluded because it was not known if this committee would formally support the recommendations contained in the task force report.

In response to a question from Senator Krauter, Ms. Fischer said the cost of the three percent operating margin is \$150,000. She said there is currently \$100,000 in the department's budget for a two percent operating margin which sunsets at the end of the biennium. Therefore, the incremental cost of going from a two percent operating margin to a three percent operating margin is \$50,000.

LONG-TERM CARE FINANCING AND INCENTIVES, ALTERNATIVE SERVICES, CASE MANAGEMENT, MORATORIUM ON NURSING FACILITY AND BASIC CARE BEDS, AND SWING-BED FACILITIES

Ms. Fischer presented information regarding the task force recommendations relating to financing incentives to reduce the number of long-term care beds and the development of alternative services. A copy of her presentation is on file in the Legislative Council office. She said the task force made seven recommendations relating to the creation of incentives and disincentives, and the encouragement for facilities to reduce occupancy or licensed capacity or develop alternative home and community-based services for individuals at risk of institutionalization. She said three of the seven recommendations require action by the Legislative Assembly. Ms. Fischer reviewed the recommendations as follows:

Recommendations Requiring Action by the Legislative Assembly

- Change the definition of a private pay resident to exclude managed care organizations as an entity subject to rate equalization, thereby allowing managed care organizations to negotiate rates higher than the established rate.
- Study various incentive packages which could be used to assist rural communities and nursing facilities to close or reduce licensed capacity and provide alternative services.
- Study the use and effectiveness of the senior mill levy match funds to determine if the program should be expanded as a means of enhancing alternative services.

Recommendations Not Requiring Legislative Action

- Create a disincentive for facilities with a low case mix average and an incentive for facilities with a high case mix average by decreasing or increasing rates two and one-half percent.

- Provide an exception to the 90 percent occupancy limitation which would provide an incentive for a facility to delicense beds without having its rates negatively impacted by application of the limitation.
- Provide an incentive of a one to three percent increase in the daily rates for facilities that have an annual average length of stay below 200 days.
- Discontinue the study of managed care in the long-term care industry until North Dakota has gained experience with managed care in other health care environments, a case management system is developed, and alternatives to nursing facility care are developed or expanded.

The Legislative Council staff reviewed a bill draft presented earlier providing for a change in the definition of private pay resident to include a managed care organization as being exempt from rate equalization. The bill draft also provides that rates charged by managed care organizations may not be less than the rate approved for a medical assistance recipient in the same classification.

The Legislative Council staff presented a resolution draft providing for the study of the possibility of creating an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services and a resolution draft providing for the study of the mill levy match program for senior citizens to determine if the program could be expanded to enhance home and community-based service availability.

In response to a question from Senator Sand, Ms. Linda Wright, Department of Human Services, said the mill levy match was originally intended to be a dollar-for-dollar match. She said it is currently matching approximately 40 cents on the dollar.

Mr. Brian Arett, Fargo Senior Commission, Inc., testified in support of the resolution draft providing for the study of the mill levy match program for senior citizens. He said this funding goes to support in-home services.

Mr. David Giessinger, Pembilier Nursing Center, Walhalla, testified in support of the bill and resolution drafts before the committee. He said no matter how good the reimbursement system is, if a facility does not have sufficient occupancy to maintain itself, it will be in financial trouble. He said his facility has gone from 60 skilled care beds to 41 skilled care beds in the past few years. Mr. Giessinger said the facility further reduced its number of beds by six in 1995. He said in 1996 the facility purchased 13 basic care beds from a facility which had closed and reduced its number of skilled care beds by 13 in order to create a basic care

unit. He said more recently the facility has added a 16-unit congregate care unit.

Mr. Giessinger said what the Pembilier Nursing Center is attempting to do is retain people who will someday need skilled care. He said without offering these alternative services, individuals in need of lower levels of care leave the community in order to obtain the proper level of care and then as their care needs progress the individuals do not return to the community.

Mr. Dave Zentner, Department of Human Services, presented information regarding the task force recommendations relating to the development of alternative services, case management, the continuation of the moratorium on nursing facility and basic care bed expansion, and the need to further study the swing-bed process. A copy of his presentation is on file in the Legislative Council office. He said the task force recommended that changes be made to repeal current service definitions and licensing standards for assisted living and basic care. He said, in addition, new definitions, licensing requirements, and payment policies would be developed to ensure that the elderly and disabled in need of long-term care services have an opportunity to remain in their homes or communities, if that is their choice, and appropriate care can be provided. He said because of the extensiveness of these changes and the amount of time needed to develop the rules, procedures, and policies necessary to implement the recommendations, it is recommended that the legislation allow for a two-year transition period for the implementation of the changes.

Mr. Zentner said the task force also recommended that the targeted case management Medicaid service option be used to provide care management services to individuals at risk of placement in a nursing facility. He said the cost of this new program would be minimal because it is anticipated that Medicaid clients currently receiving service payments for elderly and disabled (SPED) or expanded SPED case management services, with 100 percent state funds, would qualify to receive approximately 70 percent federal funding through this optional service. He said, in addition, the task force recommended that individuals eligible for the Medicaid program be required to obtain a preadmission assessment prior to entering a nursing facility to ensure that all available service options are considered.

Mr. Zentner said the task force also recommended that the current moratorium on nursing facility and basic care bed capacity remain in effect, but with one exception. He said the exception would allow for the operation of a specialized basic care facility to meet the needs of the traumatic brain-injured (TBI) in western North Dakota.

Mr. Zentner said the task force also examined the use of swing-bed facilities in the delivery of long-term

care services. He said the task force concluded that further study is necessary before any recommendations can be made regarding any changes to the current policies for the operation of swing beds in the hospitals in the state.

The Legislative Council staff presented a bill draft to remove basic care and assisted living from the North Dakota Century Code and to create an adult residential care facility definition. The bill draft also provides that the Department of Human Services may pay for any service provided to an eligible beneficiary out of any source of funds available to the department unless expressly precluded from doing so by law. The bill draft provides that the repeal of basic care and assisted living and the creation of adult residential care facilities would be effective July 1, 2001.

The Legislative Council staff presented a bill draft providing that targeted case management services for disabled and elderly individuals at risk of entering nursing facilities or hospital swing-bed facilities be provided to assure that the individual's care alternatives are evaluated and considered. The bill draft also provides that each nursing facility and hospital swing-bed facility shall assure that each individual requiring an assessment receives that assessment before admission and that the assessment must be used to determine the type of services necessary to maintain each individual and to determine which long-term care alternatives, if any, can meet those needs. The bill draft provides that the assessment may not be used as a condition of admission to a long-term care facility.

The Legislative Council staff presented a bill draft to continue the current moratorium on nursing facility and basic care beds and to provide an exception to the basic care bed moratorium for the establishment of a TBI facility in the western part of North Dakota.

The Legislative Council staff presented a resolution draft providing for a Legislative Council study of the swing-bed process to determine if changes are necessary in the current requirements for providing services to swing-bed residents, including the need for a standard assessment process, and whether any limits, such as length of stay or number of available swing beds, should be implemented.

Mr. Murray Sagsveen, State Health Officer, State Department of Health, commented on the department's approval of a pilot project TBI facility in western North Dakota. He said based on a 1991 law (North Dakota Century Code (NDCC) Section 23-01-04.3), the State Health Council approved an alternative health care services pilot project for Housing Industry and Training (HIT), Inc., in Mandan, to provide a TBI facility in western North Dakota. He said the State Health Council followed the provisions of Section 23-01-04.3 and approved the application after the completion of a public hearing. He said the approval

of the project will expire at the end of a five-year period or upon the Legislative Assembly passing the legislation being considered by this committee, relating to the exception to the basic care bed moratorium for a TBI facility in western North Dakota.

Mr. Kirk L. Greff, Administrator, Dacotah Alpha, Mandan, presented information regarding the task force recommendation for a TBI facility in western North Dakota. A copy of his presentation is on file in the Legislative Council office. He said HIT, Inc., has proposed to address the shortage of TBI designated beds by either locating or building an 8- to 12-bed facility in the western portion of the state. He said the facility would meet, at a minimum, basic care programming, construction, and Life Safety Code requirements. Mr. Greff said unlike basic care facilities, the facility would specifically address the needs of the TBI population who are most commonly younger adults. He said this facility would help ensure that this special group would receive the necessary and appropriate services near their homes. He said a decision has not yet been made as to the location of the facility.

In response to a question from Senator Krauter, Mr. Greff said this type of facility provides the missing link in the care continuum for TBI individuals. He said currently TBI individuals are expected to go from a long-term care facility to independent living without an in-between transitional care step. He said the facility by Valley City is full and very difficult to get into. He said this would provide a similar facility in the western part of the state.

Ms. Tamara Will, TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of her presentation is on file in the Legislative Council office. She expressed support for this type of residential facility so that TBI individuals have an alternative to living in nursing homes. She said most TBI individuals are not elderly and, therefore, should not be in nursing homes.

Mr. Jeff Mattern, TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of his presentation is on file in the Legislative Council office. He said a facility for TBI individuals is needed in order to provide help to TBI individuals, give them a better start at living independently, and provide them with the support and retraining needed to adjust to the effects of the brain injury.

Ms. Wilma A. Ellingson, parent of a TBI survivor, Bismarck, testified in support of the bill providing an exception to the basic care bed moratorium for the establishment of a TBI facility in western North Dakota. A copy of her presentation is on file in the Legislative Council office. She said a residential

facility in western North Dakota for TBI individuals is long overdue. She said there are many TBI individuals living in apartments without any support or in skilled nursing homes or group homes. She said TBI individuals do not belong in nursing homes because they are generally much younger than the other residents. She said they also do not belong in group homes for people with developmental disabilities. She said TBI individuals are very different and require services and residential needs specific to their type of disability.

In response to a question from Senator Krauter, Mr. Sagsveen said the State Department of Health had contacted the Attorney General's office regarding its approval of an alternative health care services pilot project. He said the response from the Attorney General's office was that the section relating to alternative health care services pilot projects was not in conflict with the basic care bed moratorium. He said based on the response of the Attorney General's office, the State Health Council went ahead and approved the request from HIT, Inc.

Senator Krauter asked how this type of facility could be considered an alternative health care service when there is already a facility providing this type of service within the state. Mr. Sagsveen said the section provides that anytime the health care needs of a city, township, or other geographic area are not being adequately met, any person may apply to the State Health Council for approval to conduct an alternative health care services pilot project. He said based on that, it was determined that although a facility exists near Valley City, it is not adequately serving the health care needs of the western portion of the state.

Ms. Peterson presented information regarding the task force's recommendations relating to financing incentives, alternative services, case management, the moratorium on the number of beds, and swing beds. A copy of her presentation is on file in the Legislative Council office. She said the North Dakota Long Term Care Association is embracing the task force recommendations of downsizing by aggressively working with its members to diminish nursing facility capacity by the end of the next biennium. She said the association supports the Department of Human Services application for federal funds available under intergovernmental transfer provisions. She said under such a provision, grants could be made available to nursing facilities willing to decrease their bed size and transition into other services. She said it is her understanding that the department is exploring this option and believes it holds potential.

Ms. Peterson said the North Dakota Long Term Care Association opposes the recommendation relating to penalizing low case mix nursing facilities. She said if it is determined that a person needs

nursing facility placement but the individual is in a low case mix classification, the nursing facility should not be penalized. She said under the targeted case management system proposed by the task force, an individual will know all of their options. She said if other options are available and the case manager helps an individual access those options, the system should prevent low case mix individuals from entering nursing facilities. Ms. Peterson said the majority of low case mix individuals are people with Alzheimer's or some type of dementia. She said these individuals are low case mix because many of them can dress and feed themselves; nevertheless, they require 24-hour supervision, frequent staff intervention, and very close monitoring. She said many times these individuals are the most difficult to care for even though they are not the residents with the highest medical needs.

Ms. Peterson said the North Dakota Long Term Care Association supports rebasing for nursing facilities. She said many facilities are struggling because of limits and occupancy problems. She said it is not feasible to plan for transition to alternative services if the facilities do not have the financial resources to do so. She said nursing facilities need to have their current costs recognized so they have the financial flexibility to look and plan for the future.

Mr. Darwin Lee, Administrator, Westhope Home, Westhope, and Chairman, North Dakota Long Term Care Association, presented information regarding nursing home rate rebasing. A copy of his presentation is on file in the Legislative Council office. He said the North Dakota Long Term Care Association supports the rebasing of the limits used to establish nursing home rates and the use of at least an average of the DRI/CPI inflation indexes in establishing inflators for nursing home rates.

Mr. Lee said the limits for three of the four cost categories were established based on 1992 costs. He said the direct care cost limit was established at the 99th percentile, the other direct care cost limit was established at the 85th percentile, and the indirect care cost limit was established at the 75th percentile. He said property costs basically have no limit.

Mr. Lee said when the system was created, it was recommended by the department, consumers, and providers that inflation for expenses be properly recognized and funded. He said if the inflators were accurate, then the number of nursing homes getting their costs back should have stayed in line with the percentile limits or increased if the facilities were able to increase the efficiency of their operations. He said the inflators used the past four or five years have not kept up with actual increases in costs and because of that, the rates for 1998 reflect the following:

- In the direct care category, 16 percent or 13 nursing facilities are not recovering their costs.

- In the other direct care category, 26 percent or 32 nursing facilities are not recovering their costs.
- In the indirect cost category, 51 percent or 42 nursing facilities are not recovering their costs.

Mr. Lee said the North Dakota Long Term Care Association encourages the Department of Human Services to request funding within its 1999-2001 biennium budget for rebasing the cost limits and using an average of the DRI/CPI inflation indexes. He said the Department of Human Services has estimated the cost of rebasing at approximately \$7 million. He said since this figure represents only 56 percent of the occupancy, the shortage to nursing homes is \$12 million to \$13 million. Mr. Lee said since federal dollars cover approximately \$4.9 million of the \$7 million, the cost to the state general fund would be \$2.1 million for the next biennium.

Mr. Lee said the estimated cost to maintain the average of the DRI/CPI inflation indexes is approximately \$1.5 million. He said overall the impact to nursing homes is \$2.7 million. He said the \$2.7 million is comprised of \$450,000 of state general fund moneys, \$1,050,000 in federal funds, and \$1.2 million generated by the private pay individuals.

Senator Krauter expressed concern regarding earlier comments relating to the banking of beds. He said he is concerned that the State Department of Health has interpreted the law passed by the 1997 Legislative Assembly as allowing for "bed banking." Ms. Peterson said the North Dakota Long Term Care Association interprets the law the same as the Legislative Assembly had intended which would not allow bed banking. Mr. Zentner said the Department of Human Services also interpreted the law to not allow bed banking. He said he reviewed his testimony from the prior session and nowhere in his testimony did he refer to bed banking. Mr. Zentner said because the State Department of Health is interpreting the law differently, the Department of Human Services has requested a formal Attorney General's opinion on this subject to determine if bed banking is allowed.

In response to a question from Senator Krauter, Mr. Zentner said there is no provision in law requiring the Department of Human Services to rebase the cost reimbursement system. He said during the last few years is when there has been a significant increase in the number of facilities reaching the limits. He said funding for rebasing has not been included in the 95 percent budget or the optional adjustment request for the 1999-2001 biennium.

It was moved by Senator Thane, seconded by Senator Lips, and carried that the bill draft to repeal basic care rate equalization and change the definition of private pay resident be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane

and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

It was moved by Senator Lips, seconded by Senator Thane, and carried that the bill and resolution drafts providing for the removal of basic care and assisted living and the creation of an adult residential care facility, the continuation of the nursing facility and basic care bed moratoriums and the exception to the basic care bed moratorium for a TBI facility, the study of the swing-bed process, the study of an incentive package to assist rural communities and nursing facilities in closing or significantly reducing bed capacity and providing alternative long-term care services, and the study of the senior citizens mill levy match be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

It was moved by Senator Lips, seconded by Representative Callahan, and carried that the bill draft providing for the implementation of targeted case management be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Callahan, Carlisle, Gerntholz, and Thompson. Voting "nay" were Representatives Brown, Delzer, and Meyer.

The committee recessed for lunch at 11:50 a.m. and reconvened at 12:55 p.m.

ALZHEIMER'S AND RELATED DEMENTIA POPULATION PILOT PROJECT AND THE DELIVERY OF ALTERNATIVE SERVICES

Mr. Zentner presented information on the task force recommendations regarding the pilot projects for Alzheimer's and related dementia populations. A copy of his presentation is on file in the Legislative Council office. He said due to delays in the start of the pilot projects, it will not be possible to fully evaluate the effectiveness of the projects during the current biennium. He said the task force concluded that the projects need to be extended beyond the current biennium in order to determine if this concept is financially viable and is an appropriate setting for the delivery of services.

Mr. Zentner said the task force recommended that the Department of Human Services be authorized to continue the Alzheimer's and related dementia population pilot projects into the 1999-2001 biennium and that the department be required to monitor the progress of the projects and prepare a report for the Legislative Assembly that provides conclusions and recommendations regarding the future of the pilot projects. He said in addition, the task force had two

recommendations which do not require action by the Legislative Assembly. He said these recommendations were that the Department of Human Services allow other entities the opportunity to develop alternative residential services for Alzheimer's and related dementia populations that meet quality and financial standards established by the department. He said the other recommendation is that the projects be funded from existing appropriations for the Medicaid home and community-based services waiver or the expanded SPED program.

The Legislative Council staff presented a bill draft providing for the continuation of the pilot projects and for the Department of Human Services to monitor the projects and report to the Legislative Council by June 30, 2000.

It was moved by Senator Lips, seconded by Representative Gerntholz, and carried that the bill draft providing for the continuation of the Alzheimer's and related dementia population pilot projects be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

GEROPSYCHIATRIC SERVICES, HOME AND COMMUNITY-BASED SERVICES AVAILABILITY, AND TRAINING OF IN-HOME CARE PROVIDERS

Mr. Fred Larson, State Department of Health, presented information on the task force recommendations relating to geropsychiatric services. A copy of his presentation is on file in the Legislative Council office. He said the task force made two recommendations requiring legislative action. He said the first recommendation is for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. He said the second recommendation is for an exception to the case mix system of nursing home reimbursement to allow for the establishment of a 14-bed geropsychiatric nursing unit to serve clients who are elderly or physically disabled and severely mentally ill.

Mr. Larson said in addition to the task force recommendations which require legislative action, the task force also recommended that the State Department of Health and the Department of Human Services expand the continuing education opportunities in psychiatric and geropsychiatric care for rural North Dakota primary care providers, in cooperation with the state's medical, psychiatric, and nursing associations. He said the task force also recommended the expansion of networking models for the provision of services

to the elderly, including geropsychiatric services to all human service centers and the integration of the human service centers and the State Hospital into telemedicine networks to enhance access in rural North Dakota to psychiatric and geropsychiatric services. Mr. Larson said the task force also recommended that the Department of Human Services contract with an existing nursing facility for the establishment of a 14-bed geropsychiatric nursing unit.

The Legislative Council staff presented a resolution draft providing for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians at the University of North Dakota School of Medicine and Health Sciences. The Legislative Council staff also presented a bill draft providing for an exception to the case mix system for a geropsychiatric unit to be located within a nursing facility.

In response to a question from Representative Delzer, Mr. Larson said the State Hospital intends on closing its geropsychiatric unit if this bill is passed and a separate unit is established in a nursing facility.

In response to a question from Representative Delzer, Mr. Larson said it would not be a problem to add language regarding the closing of the unit at the State Hospital. He said the budget submitted by the State Hospital for the 1999-2001 biennium is based on the unit being closed and the services being provided elsewhere.

It was moved by Representative Delzer, seconded by Senator Sand, and carried on a voice vote that the bill draft providing for an exception to the case mix system for a geropsychiatric unit be amended to include language relating to the State Hospital at Jamestown no longer maintaining a geropsychiatric unit.

It was moved by Representative Delzer, seconded by Representative Brown, and carried that the bill draft, as amended, providing for an exception to the case mix system for a geropsychiatric unit and the resolution draft providing for a study of the expansion of psychiatric and geropsychiatric training for general practice and family practice physicians be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Carlisle, Delzer, Gerntholz, Meyer, and Thompson. No negative votes were cast.

Mr. Chester E. Nelson, Jr., Legislative Budget Analyst and Auditor, Legislative Council, said the additional language to be added to the bill draft would be a sentence at the end of the second section stating that the State Hospital may no longer offer these services once the beds are occupied.

Ms. Mary Evanson, Task Force on Long-Term Care Planning, presented information on the task

force's recommendations on home and community-based services availability and qualified service provider training. A copy of her presentation is on file in the Legislative Council office. She said in regard to the service availability portion of the task force report, the recommendation is for the Aging Services Division of the Department of Human Services to contract for an assessment of home and community-based services to determine the extent of the current and future service delivery systems needs for persons aged 60 and older and for persons with physical disabilities ages 18 through 59.

Ms. Evanson said the task force recommendations relating to the training of in-home care providers are as follows:

- That the Department of Human Services coordinate with the State Board for Vocational and Technical Education for the establishment of a statewide model curriculum for in-home care certification and competency.
- That the Task Force on Long-Term Care Planning investigate the impact of a formalized in-home care training program on service availability and quality service delivery.
- That competitive reimbursement rates be developed in order to retain in-home care providers and that a market analysis be done in order to determine the financial resources needed to support the in-home care provider system.

ADULT PROTECTIVE SERVICES

Ms. Wright presented information on the task force recommendation on adult protective services. A copy of her presentation is on file in the Legislative Council office. She said the recommendation of the task force is that NDCC Chapter 50-25.2 be amended to require implementation of the vulnerable adult protective services statute. She said the recommendation also provides that the legislation should permit assignment within the existing administrative structure with clear direction for cooperation and collaboration with existing programs which serve adults in North Dakota.

Ms. Wright said the Aging Services Division of the Department of Human Services has submitted a budget request for adult protective services for the 1999-2001 biennium totaling \$572,400 of general fund moneys. She said the changes to the vulnerable adult statute as contained in the bill draft being considered by this committee will create a very difficult situation in regard to the implementation of the statute unless the financial resources are provided for the 1999-2001 biennium and future bienniums. She said the legal advisory unit of the Department of Human Services has informed her that the repeal of Section 50-25.2-14 without the necessary funding to provide the program would expose the staff of the department and the

county social service boards to possible liability for civil money damages.

The Legislative Council staff presented a bill draft relating to the implementation of the vulnerable adult protective services statutes.

Representative Delzer said he does not support the bill draft because it forces future Legislative Assemblies into funding this program or removing the program from the statutes. He said the best alternative is to not change the statutes because if funding is provided, the current statute does not hinder the implementation of the program, and if funding is not provided, it does not put the department or county social service agencies at jeopardy of lawsuits.

Mr. Clarence Daniel, Director, Stutsman County Social Service Board, and Cochair of the Adult Services Committee of the North Dakota Association of Social Service Directors, Jamestown, presented information on adult protective services. A copy of his presentation is on file in the Legislative Council office. He said the county social service directors support the implementation of the adult protective services statutes, and most would intend that their staff be involved in the provision of some of those services. Mr. Daniel said he does not support the bill draft in its current form. He said the language in the statute relating to the subject of legislative appropriations should be left in the statute in order to protect the Department of Human Services and county social service boards from possible lawsuits.

Chairman Krauter said this bill draft follows the direction of the study conducted by the committee throughout the interim. He said the bill draft should be approved by this committee and recommended to the Legislative Council and from there to the Legislative Assembly so the issue can be decided by the entire Legislative Assembly.

It was moved by Representative Meyer, seconded by Senator Thane, and failed that the bill draft to implement the vulnerable adult protective services statutes be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, and Thane and Representatives Callahan and Meyer. Voting "nay" were Senator Sand and Representatives Brown, Carlisle, Delzer, Gerntholz, and Thompson.

AMERICAN INDIAN LONG-TERM CARE NEEDS

Mr. Larson presented information regarding the task force recommendation relating to American Indian long-term care needs. A copy of his presentation is on file in the Legislative Council office. He said because the task force was unable to establish a committee comprised of representatives of each reservation and non-American Indians to study these issues, a different approach is needed. He said the

task force is recommending the study be continued and that a working group be established on each reservation to carry out the study during the next interim.

The Legislative Council staff presented a resolution draft calling for a Legislative Council study of American Indian long-term care and case management needs, access to appropriate services, and the functional relationship between state service units and the North Dakota American Indian reservation service systems.

It was moved by Senator Lips, seconded by Senator Thane, and carried that the resolution draft for a Legislative Council study of American Indian long-term care and case management needs be approved and recommended to the Legislative Council. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Delzer, Gerntholz, and Thompson. No negative votes were cast.

Chairman Krauter said the committee needs to make a decision regarding the task force report. He said he would intend that the committee would accept the report of the Task Force on Long-Term Care Planning without specifically addressing every nonstatutory recommendation contained in the report. He said if there is a recommendation the committee does not agree with or would like to modify, that recommendation or recommendations should be specifically mentioned as not being accepted or specifically amended through a separate motion.

It was moved by Senator Thane, seconded by Representative Brown, and carried that the Budget Committee on Long-Term Care accept the June 1998 report of the Task Force on Long-Term Care Planning except for the recommendation relating to the Department of Human Services increasing limit rates by two and one-half percent for nursing facilities with high case mix averages and decreasing limit rates by two and one-half percent for nursing facilities with low case mix averages. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Delzer, Gerntholz, and Thompson. No negative votes were cast.

Representative Gerntholz presented a bill draft relating to requirements for family foster homes for adults. He said the bill relates to an issue Representative Wentz brought to this committee at one of its earlier meetings.

It was moved by Representative Gerntholz, seconded by Representative Brown, and failed that the bill draft relating to the requirements for family foster homes for adults be approved and recommended to the Legislative Council. Voting "aye" was Representative Gerntholz. Voting "nay" were Senators Krauter, Lips, Sand, and Thane and

Representatives Brown, Callahan, Delzer, Meyer, and Thompson.

It was moved by Senator Lips, seconded by Representative Brown, 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 and resolution drafts recommended by the committee and to present the report and the recommended bill and resolution drafts to the Legislative Council.

Chairman Krauter expressed his thanks and appreciation to the staff and committee members for the fine job done throughout the interim. He also thanked the Department of Human Services and the State Department of Health and the Task Force on Long-Term Care Planning members for the time and effort they put toward the studies and recommendations and for the preparation of the task force report. Chairman Krauter also recognized Senator Lips and expressed appreciation and congratulations to him on his long and distinguished career in the North Dakota Legislative Assembly and wished him well on his retirement from the North Dakota Senate.

It was moved by Representative Callahan, seconded by Representative Meyer, and carried that the Budget Committee on Long-Term Care include a recommendation in its report to the Legislative Council that the Department of Human

Services is encouraged to rebase the long-term care payment reimbursement system and to develop a regular rebasing schedule for the long-term care payment reimbursement system. Voting "aye" were Senators Krauter, Lips, Sand, and Thane and Representatives Brown, Callahan, Gerntholz, Meyer, and Thompson. Voting "nay" was Representative Delzer.

It was moved by Representative Brown, seconded by Senator Lips, and carried on a voice vote that the meeting be adjourned sine die. The meeting was adjourned at 2:35 p.m.

Paul R. Kramer
Senior Fiscal Analyst

Chester E. Nelson, Jr.
Legislative Budget Analyst and Auditor

ATTACH:1