

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1196

2001 HOUSE HUMAN SERVICES

HB 1196

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

House Human Services Committee

Conference Committee

Hearing Date January 17, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		0 to 6000
Tape 1		X	0 to 6000
Tape 2	X		0 to 1000
Tape 3	X		390 to 630
Tape 3	X		1120 to 1200
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig.

Lt. Governor Dalrymple: Governor Hoeven was responsible for suggesting any revisions to Governor Schafer's budget, and as he looked at figures for nursing homes it became clear it wasn't going to be possible in a couple of days time to determine proper amounts to propose for the different areas that nursing facilities would need for additional financial support, whether it would be for wages, or facilities, or loans. Obviously, putting together any real numbers on short notice was impossible. The Hoeven administration is committed to working with the legislature and working with this committee to provide the appropriate services to the people who need care in their homes or at a long term care facility. Nursing homes, especially in rural areas, are

experiencing increasing costs and severe decline in their client numbers. The Hoeven administration will be fully supportive in regard to employee's salaries, and is also supportive in providing low-cost financing for appropriate nursing home renovations. Administration also is aware and supportive of technology as a part of our statewide plan to provide a network throughout our state. We agree with the Devlin-Solberg bill that we need to study the issue of how to efficiently provide the appropriate level of service, including where and how bed numbers should be arranged. In summary, this bill does provide the most appropriate vehicle to institute these changes. We would suggest that you proceed with that bill and, consequently, ask that HB 1179 would be withdrawn.

Vice Chairman Devlin: Thanked Lt. Governor Dalrymple for his cooperation the interim committee has with the Governor's Office.

Chairman Price: Because HB 1179 has already been scheduled, I'm going to ask if there are any objections from the committee if I go to the floor this afternoon and ask that this bill be withdrawn and we will only proceed forward with the second bill HB 1196. Any objections? (No objections from committee). Then that is our intent. As a result of that, members of the audience we will not have a hearing on HB 1179. Those of you who want to testify on HB 1196 we are going to pen for that, but the procedure will be that I will talk to the Speaker and just request that HB 1179 will be withdrawn, it will never be heard and it will never be voted on. At this point I will open the hearing on HB 1196.

Vice Chairman Devlin: I am here today to open the testimony on HB 1196. I urge your support and a DO PASS recommendation on this bill. This bill is one of the most critical pieces of legislation this session. (See written testimony.)

Minority Leader Merle Boucher: This may not be a perfect bill or perfect legislation in front of you, but the process of getting this bill here was American democracy at its best. You had legislators, community people, industry people, and also state government people sitting down together and putting a lot of effort in putting forth what you have in front of you today. Long term care is one of the most fragile and one of the most important parts of our total population. You can always measure the quality of a society at how well they take care of their elderly and the young people of their society. We have concerns with over capacity, making transitions in long term care, and the wage issues.

Senator Solberg: In an earlier meeting with the communities of Dunseith and McVille, it was discussed what was happening with the IGT. We put together a task force to get some understanding of the process. We did this. We worked in close harmony with the task force, the Legislative Council, and the Governor's Office. We developed communication with the community, the industry, and government. This bill is a vehicle we can use to provide services to the people of North Dakota, and certainly the senior citizens of North Dakota.

Rep. Severson: HB 1196 is probably the most comprehensive bill, to my knowledge, that deals with problems with long term care in North Dakota. I have about 150 letters from constituents in my district that say we need HB 1196. In my opinion, HB 1196 is a starting point. I encourage this committee to provide a DO PASS recommendation.

Shelly Peterson: President of the North Dakota Long Term Care Association. She read Senator Tom Fischer's written comments. She also addressed two issues of concern on this bill: What is the federal government's position on the IGT transfer, and the staffing crisis. (See her written testimony.)

Darwin Lee: Chairman of the North Dakota Long Term Care Association. Specifically addressed IGT funding. He stated there is a tremendous and widespread need across the state, and that HB 1196 is fundamentally and ethically right. (See written testimony.)

Vice Chairman Deylin: I think some of our freshman committee members maybe wouldn't understand fully why it is important that we have the up front cash money. Can you explain the time table of reimbursement before you actually give money back?

Darwin Lee: The way our payment system works, is that the cost we have during this 12 month period, those costs are the basis for the rates that we charge in a 6 month period starting 6 months after the end of this 12 months. In order to make significant improvement in wages and benefits for our employees, which is about 70 to 75% of our costs, it would take cash flow money to do that because that wouldn't get into our rate out here. It would create a financial crunch and cash flow short comings that most nursing companies couldn't stand. It would get us cash flow broke before we got out there. The other thing that relates to this is the limits that are currently set when our rates are determined, and that would have to be dealt with right along with these other considerations - our limits have to be adjusted upward.

Rep. Niemeier: It says this would have to be built into rates - does this mean the reimbursement rates or the resident rates resulting in a general fund increase? I need that explained to me.

Darwin Lee: The intent of the IGT funding HB 1196 would provide the cash to make these salary adjustments. That would take care of the additional expense for this biennium, however, when we get to the next biennium those costs then would be established in this category and then would become part of the inflated costs, from here to here, in the next biennium. That money comes out of money from the general fund through the department. Is it key for me to ask Dave Zentner to help?

Dave Zentner: Director of Medical Services for the Department of Human Services. What this bill would do would basically in the first 6 months would put about \$2,000,000 of the general fund into the overall rates. Plus the 70% additional federal money into the process. So you are looking at about \$10 a day increase in rates, and that will be layered on to the upper limits that are in effect right now. So we would add that to the process. Those \$10 will be basically passed on. The last 6 months of the biennium there would be another \$2,000,000 to maintain this process. There would be about a \$10 a day raise in everybody's rates. Medicaid would pay that additional dollars out, and also the private pay would also pay. To maintain that we would have to continue to put the additional general dollars into the rates, because this \$6,000,000 is coming out of the IGT fund.

Jim Opdahl: Administrator of Nelson County Health System. (See written testimony.) The successful passage of HB 1196 is essential, if not critical, to ensure not only our future, but the future of all long-term care providers in providing for the long-term needs of the people and the communities serviced.

Rep. Niemeier: Are your staffing problems as a result of low wages or of the availability of qualified employees?

Jim Opdahl: I think it would probably be both. We didn't give any raises this year. I believe that by giving a living wage it is going to be a very positive thing. I am concerned if we don't have the funds we simply won't be able to hire the people to provide the care. If you make \$6.00 per hour, it is pretty hard to raise a family. We have some wonderful people out there that are going a great job, but the resources of the facility just can't pay them what they deserve to be paid.

Rep. Porter: What is going to happen in a community like yours where you have hospital and clinics and nursing facilities, when you're going to spot raise within the skilled nursing facility

for those employees but not have any increase reimbursement coming for the same type of position in the hospital setting?

Jim Opdahl: You essentially go back to a cost-based reimbursement system. We are designated as one. By passage of this, adding the emergency clause there, we feel that we can do both for both facilities. We would not be able to do that if we did not have critical access hospital designation.

Rep. Porter: Do you see that for other communities in the same situation that haven't chosen to go to the critical access hospital scenario, that this will also force them into going to critical access status because they won't be able to capture on a cost basis of the hospital side?

Jim Opdahl: I can't answer that. I can only respond for our situation.

Chairman Price: Rep. Porter, that topic has come this past summer because there are other communities that have institutions in that situation, and there has been a question from the ND Health Care Association. There may be amendments forthcoming, because that is one area that is going to be discussed.

Jerry Peak: Administrator of the Dunseith Community Nursing Home. (See written testimony.) Spoke on focusing on relieving any frustration and focus on the needs of important players. Focus on the needs of the old and frail members of our society and of the State of North Dakota. Focus on the good that can come through your support of HB 1196.

Jerry Jurena: CEO of Heart of America Medical Center. I was asked by Senator Solberg to submit a proposal regarding a bed reduction process. I proposed to Senator Solberg to purchase beds back at one half of the value of an annual rate at the lowest level. After discussion we settled on an amount of \$15,000. (See written testimony.)

Arnold Thomas: President of the North Dakota Health Care Association. In 1996, 1997, and 1998 there was a significant amount of discussion about the issue of long term care. The nursing home community was under extraordinary pressure to come with solutions to address the issues. The only alternative they saw was bed reduction with no access to capital. We need capital access whether it be in grants or loans in order to readjust services in our organizations to accommodate the changes. What you have in front of you is an opportunity to establish a capital trust fund. Please keep in mind the capital needs that your institutions have with respect from getting from point A to point B.

Wade Peterson: Administrator for Med-Center One in Mandan. Skilled nursing facilities care for chronically ill and the work that people do in these facilities is hard, it is heavy lifting. They deal with many difficult residents and situations, including new diseases.

Jessica McDowell: Certified Nurses Assistant at Med-Center One Care Center in Mandan. Discussed diseases CNA's are exposed to. Discussed lifting and dealing with combative residents.

The bill is a huge benefit to herself and other people in the profession.

Rep. Niemeier: How long and how extensive was your training?

Jessica McDonnell: I went through a class that lasted about a month. I had to take a test, and then the Board of Nursing test. You are required to get a 100% on the test.

Sue Fastener: CNA at Med-Center One Care Center. I work two jobs to make ends meet. Doesn't have enough time to spend with her child.

Rep. Cleary: Just wanted to thank the CNA's for the hard work they do.

Peg Dailey: Nursing home employee. We deserve something.

Rep. Niemeier: Have you had raises beyond the cost of living increases?

Peg Dailey: Cost of living.

Gary Kreidt: Farmer from New Salem and nursing home administrator. As many years as I've been in the business I've never seen my staff members as excited as they are right now. They see a light at the end of the tunnel. Maybe we are going to be able to have health insurance. Maybe we're going to see a significant impact on their needs. Many of the staff are the main bread winners in their household. They need these dollars. I ask for your support on HB 1196 and help for all nursing home employees across the state of North Dakota to make this a profession instead of a stepping stone.

Chairman Price: I am going to take the right as a chairman to make a couple of comments at this point. I would like to express my thanks that we have one bill to look at as opposed two that this bill is going to be the vehicle we're going to move forward on. The legislature in 1999 had no idea the amount of money that was going to come in the IGT. Obviously, we went based on the projections that were given us and we moved forward a bill based on that. In hindsight we would have done a lot of things different given that opportunity or given the information. The legislators that I have talked to, some members of this committee, some senators and those on Human Service subsection on appropriations we view this as our one chance to do some meaningful proactive things in the long term care industry. It is our intention to be very careful, and maybe we are going to move a little slower than some people want to, but we do not want to make a mistake with these dollars. We do not want to use them unwisely. We want to look at all the areas and we would ask that this not be the last contact we have with most of you, that as you have ideas you contact us. Spread that message among your industry. We'd like to use it, obviously, for the wages that we're looking at. We also would like to look at ways to cut your cost. Some things that have been brought to me are can we use technology to cut windshield

time for some of the consultants you need in smaller nursing homes, be it pharmacist or someone else. Can we use it for other ways to bring you up into the world that is going to allow you to survive, 5 years or 10 years down the road, because we aren't going to get this opportunity to do these types of things again. We know the money is going down in the next few years and then it will be cut off. I think in establishing the criteria for how the funds are going to be used we are going to be much more involved than we were in the past because we have some definite ideas and we would like to make sure we express the department and to the industry before we move forward. We are moving forward with the education process. Every day we are dealing with other people's money. We're not spending our money, we're spending the tax payer's money and there may be the federal tax payer's money too. We are very caution as to how we spend this money. We appreciate your input on that. This is our chance to make a difference. I thank everyone for coming today. We welcome you any time, and don't let this be your last trip to the legislature. If there is nothing else, I will close the hearing on HB 1196.

**COMMITTEE WORK:**

Chairman Price: Go to the bill we heard this morning, 1196. Do you want to work this one through strictly as a committee, or do you want a subcommittee to start and then bring it back to committee? We've got a number of proposed amendments and a variety of issues. I would like to see some work sheets prepared on the funding. I would like some suggestions on some language with some flexibility that I think we would like to have. I would like to work with the industry. I think this bill is going to require many, many hours. Seeing there is no objection, there will be a subcommittee on HB 1196 - Rep. Devlin, Rep. Weisz, and Rep. Metcalf.

Rep. Pollert: I will volunteer to help with the subcommittee if they need me.

Chairman Price: If anyone wants to sit in subcommittee meetings, that is public.

Page 10  
House Human Services Committee  
Bill/Resolution Number HB 1196  
Hearing Date January 17, 2001

**MORE COMMITTEE WORK:**

Chairman Price: I'm going to back up on something I just did. I'm going to change the subcommittee on 1196 - it is going to be Devlin, Pollert, and Metcalf.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196 A

House Human Services Committee

Conference Committee

Hearing Date January 30, 2001

Tape Number	Side A	Side B	Meter #
Tape 3		X	420 to 2620
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

**COMMITTEE WORK:**

CHAIRMAN PRICE: Committee let's go to 1196.

VICE CHAIRMAN DEVLIN: The subcommittee met and went through the things everybody wanted in. We've had five or six redrafts of this bill. Highlights were added in Sections 2 and the largest change was in Section 7. (Explained changes in amendments.)

DAVID ZENTNER: Department of Human Services. (Explained the \$13,000,000 minimum balance requirement.)

VICE CHAIRMAN DEVLIN: (Continued explaining amendments.) I will move a DO PASS on these amendments.

REP. POLLERT: Second

CHAIRMAN PRICE: Section 26 on the study - do we need to put in language about things we want them to study? I want to make sure we get the items in and covered that we are concerned about.

VICE CHAIRMAN DEVLIN: Appropriations is fully aware of the study they want to do. They plan on fine tuning it and I don't think we have to do that here.

REP. NIEMEIER: There really hasn't been time to digest this.

CHAIRMAN PRICE: We do have a motion, but if committee would allow I would let the subcommittee make a report.

REP. POLLERT: It looks good.

REP. METCALF: I have complete faith in Rep. Devlin.

CHAIRMAN PRICE: Appropriations are pushing pretty hard to get this bill and are very concerned about this. (More committee discussion.)

VICE CHAIRMAN DEVLIN: Whatever the committee wants to do is fine with me.

CHAIRMAN PRICE: (Took vote on moving the amendment - all said Aye.) I still have concerns because I am not completely happy with the way the criteria came up in the last bill that we did and how they looked at some of those loan type things, but instead of holding this bill up now and I think that is something we need to take a look at that those loans are exactly what we intended. Anyone interested in making a motion?

REP. PORTER: I move DO PASS as amended and be rereferred to Appropriations.

REP. POLLERT: Second.

CHAIRMAN PRICE: The clerk will read the roll for a **DO PASS as amended and rereferred to Appropriations.**

**13 YES 0 NO 1 ABSENT CARRIED BY REP. DEVLIN**

Page 3  
House Human Services Committee  
Bill/Resolution Number HB 1196  
Hearing Date January 30, 2001

CHAIRMAN PRICE: I really want to thank the subcommittee and especially Rep. Devlin. This has been a year long project for him and I know it has not been an easy situation to be in. We know this isn't going to be the final form regardless of how much we would like it to be.

VICE CHAIRMAN DEVLIN: (Thanked Dave Zentner for his help.)



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

The expenditures are:

- \$800,000 additional transaction fees for McVile and Dunseith - payable in the 1999 - 2001 biennium
- The initial pool payment to McVile and Dunseith
- Loans
- Previously committed loans and grants
- Service payments for elderly and disabled (SPED)
- HIPAA computer project
- Bank of North Dakota fees
- Compensation enhancements for Nursing Home and Basic Care Facilities
- Incentives for nursing home bed reductions
- Nursing Facility rebasing
- Nursing Facility, Intermediate Care Facility for the Mentally Retarded, and Basic Care personal care allowances
- Long Term Care need assessment
- Nursing Facilities Nurses Student Loan Payment Fund
- Administrative costs
- QSP training
- Senior citizen mill levy match
- Medical assistance - Targeted Case Management
- Independent living center grants
- \$13 million reserved until final resolution of issues raised by the Federal government
- \$489,500 for nursing student loan payments

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill provides an appropriation for the expenditures detailed in Section 3B above, including an appropriation of \$489,500 for the Health Department to make nursing student loan payments.

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	04/16/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/05/2001

Bill/Resolution No.:

Amendment to:            Reengrossed  
    HB 1196

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$11,618,355	\$90,386,953		
<b>Expenditures</b>		\$800,000	\$11,618,355	\$107,685,694		
<b>Appropriations</b>		\$800,000	\$11,618,355	\$107,685,694		

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
	\$800,000			\$200,000				

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill re-establishes the Intergovernmental Transfer (IGT) Program, which was established by Senate Bill 2168 of the 1999 Legislative Assembly. Senate Bill 2168 contained a sunset date of June 30, 2001. This bill, if passed, would continue the Long Term Care Loan Fund and the Health Care Trust Fund. This bill changes the rate of interest on the current and future loans to two percent, and identifies the purposes for which the loans can be used. This bill also indicates the intended uses of the moneys in the Health Care Trust Fund, while providing a minimum balance of \$13 million as a contingency relating to the first year payment issues with the Federal government (Health Care Financing Agency).

Additionally, the Department would be required to pay \$400,000 **each** to the McVile and Dunseith facilities during the 1999 - 2001 biennium for catch-up payments. Both cities would receive additional revenue of \$100,000 **each** during the 2001 - 2003 biennium, to be retained from the pool payment.

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

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

Revenues would be generated from the following sources:

- Federal government - Medicaid program
- IGT payments returned to the Department from the McVile and Dunseith facilities
- Principal and interest from loan payments
- Interest earned on the balance of the fund

Revenues cannot be estimated for the 2003 - 2005 biennium as the Federal government is limiting the amount of revenue available through the Intergovernmental Transfer Program, and interest earning cannot be anticipated until the Legislature approves the use of the funds for the 2001 - 2003 biennium.

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

The expenditures are:

- \$800,000 additional transaction fees for McVile and Dunseith - payable in the 1999 - 2001 biennium.
- The initial pool payment to McVile and Dunseith
- Loans
- Previously committed loans and grants
- Service payments for elderly and disabled (SPED)
- HIPAA computer project
- Bank of North Dakota fees
- Compensation enhancements for Nursing Home and Basic Care Facilities
- Incentives for nursing home bed reductions
- Nursing Facility rebasing
- Nursing Facility, Intermediate Care Facility for the Mentally Retarded, and Basic Care personal care allowances
- Long Term Care need assessment
- Nursing Facilities Nurses Student Loan Payment Fund
- Administrative costs
- QSP Training
- Senior citizen mill levy match
- Medical assistance - Targeted Case Management
- Independent living center grants
- \$13 million reserved until final resolution of issues raised by the Federal government
- \$489,500 for nursing student loan payments

Expenditures cannot be estimated for the 2003 - 2005 biennium until the remaining balance of the fund for the 2001 - 2003 biennium is known, along with the intent of the Legislature and the Executive Budget recommendations.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill provides an appropriation for the expenditures detail in Section 3B above, including an appropriation of \$489,500 for the Health Department to make nursing student loan payments.

<b>Name:</b>	Brenda M. Welsz	<b>Agency:</b>	Department of Human Services

Phone Number: 328-2397

Date Prepared: 04/06/2001

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Revenues would be generated from the following sources:

- Federal government - Medicaid program
- IGT payments returned to the Department from the McVile and Dunseith facilities
- Principal and interest from loan payments
- Interest earned on the balance of the fund

Revenue cannot be estimated for the 2003 - 2005 biennium as the Federal government is limiting the amount of revenue available through the Intergovernmental Transfer Program, and interest earnings cannot be anticipated until the Legislature approves the use of the fund for the 2001 - 2003 biennium.

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

The expenditures are:

- \$800,000 additional transaction fees for McVile and Dunseith - payable in 1999 - 2001
- The initial pool payment to McVile and Dunseith
- Loans
- Previously committed loans and grants
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- \$13 million reserved until final resolution of issues raised by the Federal government
- \$200,000 for nursing student loan payments

Expenditures cannot be estimated for the 2003 - 2005 biennium until the remaining balance of the fund for the 2001 - 2003 biennium is known, along with the intent of the Legislature and the Executive Budget recommendation for the future.

*C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill provides an appropriation for the expenditures detailed in Section 3B above, including an appropriation of \$200,000 for the Health Department to make nursing student loan payments.

<b>Name:</b>	Brenda M. Welsz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	03/13/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/20/2001

Bill/Resolution No.:

Amendment to:           Engrossed  
                                   HB 1196

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$11,618,355	\$89,171,091		
<b>Expenditures</b>		\$800,000	\$11,618,355	\$102,543,176		
<b>Appropriations</b>		\$800,000	\$11,618,355	\$102,543,176		

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
	\$800,000			\$200,000				

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill re-establishes the Intergovernmental Transfer (IGT) Program, which was established by Senate Bill 2168 of the 1999 Legislative Assembly. Senate Bill 2168 contained a sunset date of June 30, 2001. This bill, if passed, would continue the Long-term Care Loan Fund and the Health Care Trust Fund. This bill changes the rate of interest on the current and future loans to two percent, and identifies the purposes for which loans can be used. This bill also indicates the intended uses of the moneys in the Health Care Trust Fund, while providing a minimum balance of \$13 million as a contingency relating to the first year payment issues with the Federal government (Health Care Financing Agency). Additionally, the Department would be required to pay \$400,000 each to the McVile and Dunseith facilities during the 1999 - 2001 biennium for catch-up payments. Both cities would receive additional revenue of \$100,000 each during the 2001 - 2003 biennium, to be retained from the pool payment.

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

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

Revenues would be generated from the following sources:

- Federal government - Medicaid program
- IGT payments returned to the Department from the McVile and Dunseith facilities
- Principal and interest from loan repayments
- Interest earned on the balance of the fund

Revenue cannot be estimated for the 2003 - 2005 biennium as the Federal government is limiting the amount of revenue available through the Intergovernmental Transfer Program, and interest earnings cannot be anticipated until the Legislature approves the use of the funds for the 2001 - 2003 biennium.

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

The expenditures are:

- \$800,000 additional transaction Fees for McVile and Dunseith - Payable in 99-01
- The initial pool payments to McVile and Dunseith
- Loans
- Previously committed loans and grants
- Service payments for elderly and disabled (SPED)
- HIPAA computer project
- Bank of North Dakota fees
- Compensation enhancements for Nursing Homes and Basic Care Facilities
- Incentives for nursing home bed reductions
- Nursing Facility Rebasing
- Nursing Facility and Basic Care personal allowances
- Long Term Care needs assessment
- Nursing Facility Nurses Student Loan Payment Fund
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- \$200,000 for nursing student loan payments

Expenditures cannot be estimated for the 2003 -2005 biennium until the remaining balance of the fund after the 2001- 2003 biennium is known, along with the intent of the Legislature and the Executive Budget recommendation for the future.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This bill provides an appropriation for the expenditures detailed in Section B. above, including an appropriation of \$200,000 for the Health Department to make nursing student loan payments.

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	02/21/2001

# FISCAL NOTE

Requested by Legislative Council  
02/02/2001

Bill/Resolution No.:

Amendment to:            HB 1196

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>				\$82,106,458		
<b>Expenditures</b>		\$800,000	\$11,618,355	\$117,931,746		
<b>Appropriations</b>		\$800,000	\$43,466,719	\$44,384,726		

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
	\$800,000			\$200,000				

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill re-establishes the Intergovernmental Transfer (IGT) Program, which was established by Senate Bill 2168 of the 1999 Legislative Assembly. Senate Bill 2168 contained a sunset date of June 30, 2001. This bill, if passed, would continue the long-term Care Loan Fund and Health Care Trust Fund. This bill changes the rate of interest on current and future loans to two percent and identifies the purposes for which loans can be used. This bill also indicates the intended uses of the moneys in the Health Care Trust Fund while providing a minimum balance of \$13 million as a contingency relating to the first year payment issues with the Federal Government (Health Care Financing Agency). Additionally, the Department would be required to pay \$400,000 each to the McVile and Dunseith facilities during the 1999 - 2001 biennium for catch up payments. Both cities would receive additional revenue of \$100,000 each during the 2001 - 2003 biennium, to be retained from the pool payment.

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

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

Revenue would be generated from the following sources:

- Federal government - Medicaid program - for the initial pool payments
- IGT payments returned to the Department from the McVile and Dunseith facilities
- Principal and interest from loan repayments
- Interest income earned on the balance of the fund

Revenue cannot be estimated for the 2003 - 2005 biennium as the Federal government is limiting the amount of revenue available through the Intergovernmental Transfer Program and interest earnings cannot be anticipated until the Legislature approves the use of the funds for the 2001 - 2003 biennium

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

The expenditures are:

- The initial pool payments to McVille and Dunseith
- Loans and previously committed grants
- Bank of North Dakota fees
- Compensation enhancements for Nursing Homes and Basic Care Facilities
- Training grants
- Incentives for nursing home bed reductions
- Nursing Facility Rebasing
- Nursing Facility and Basic Care Personal Allowances
- Long Term needs assessment
- Nurses Loan Repayment Fund
- Quick Response Unit
- QSP Training
- \$13 million reserved until final resolution of issues raised by the Federal Government

The expenditures cannot be estimated for the 2003 - 2005 biennium until the remaining balance of the fund after the 2001 - 2003 biennium is known, along with the intent of the Legislature and the Executive Budget recommendation for the future.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**The general fund appropriation for the Department of Human Services will be impacted since certain services currently funded with moneys from the Health Care Trust Fund in HB 1012 have not been included as intended uses under this bill.** The amount for these services left without funding total \$31,848,364. Additionally, the bill calls for general funds to be used as match when making pool payments. These general funds are not included in HB 1012 and total \$11,618,355. **The two amounts combine for an overall general fund shortfall of \$43,466,719.**

**As the bill is proposed, HB 1012 would also have a shortage of \$44,384,726 in other fund authority**

The emergency clause contained in Section 33 provides \$800,000 in appropriation authority for the 1999-2001 biennium for the purpose of making an additional transaction fee payment to the two government nursing facilities.

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	02/06/2001

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/02/2001

Bill/Resolution No.: HB 1196

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>			\$7,957,358	\$39,969,255		
<b>Expenditures</b>		\$400,000	\$7,957,358	\$87,828,294		
<b>Appropriations</b>			\$37,680,479	(\$12,638,726)		

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
	\$400,000			\$400,000				

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill re-establishes the Intergovernmental Transfer (IGT) Program, which was established by Senate Bill 2168 of the 1999 Legislative Assembly. Senate Bill 2168 contained a sunset date of June 30, 2001. This bill, if passed, would continue the long-term Care Loan Fund and the Health Care Trust Fund. This bill changes the rate of interest on current and future loans to two percent and identifies the purposes for which loans can be used. The bill also indicates the intended uses of the moneys in the Health Care Trust fund while providing a minimum balance of \$13 million as a contingency relating to the first year payment issues with the Federal Government (Health Care Financing Agency). Additionally, the Department would be required to pay \$200,000 each to the McVile and Dunseith facilities during the 1999 - 2001 biennium for catch up payments. Both cities would receive additional revenue of \$200,000 each during the 2001 - 2003 biennium to be retained from the pool payments.

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

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

Revenues would be generated from the following sources:

- Federal government - Medicaid program - for the initial pool payments
- IGT payments returned to the Department from the McVile and Dunseith facilities
- Principal and interest from loan repayments
- Interest income earned on the balance of the fund

Revenues cannot be estimated for the 2003 - 2005 biennium as the federal government is limiting the amount of revenue available through the Intergovernmental Transfer Program and interest earnings cannot be anticipated until the legislature approves the use of the funds for the 2001 - 2003 biennium.

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

The expenditures are:

- The initial pool payments to McVile and Dunseith
- Loans and previously committed grants
- Bank of North Dakota fees
- Compensation enhancements
- Training grants
- Incentives for nursing home bed reductions
- \$13 million reserved until final resolution of issues raised by the Federal Government

The expenditures for the 2003 - 2005 biennium cannot be estimated until the remaining balance of the fund after the 2001 - 2003 biennium is known along with the intent of the legislature and executive budget recommendation for the future.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**The general fund appropriation for the Department of Human Services will be impacted since certain services currently funded with moneys from the Health Care Trust fund in HB1012 have not been included as intended uses under this bill. The amount for these services left without funding total \$29,723,121. Additionally, the bill calls for general funds to be used as match when making the pool payments. These general funds are not included in HB 1012 and total \$7,957,358. **The two amounts combine for an overall general fund shortfall of \$37,680,479.** As the bill is proposed, HB 1012 would have an excess of \$12,638,726 of other authority as the use of the funds for loans would be made pursuant to a continuing appropriation. Under Governor Hoeven's budget, the appropriation authority does exist to make the catch up payments.**

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	Department of Human Services
<b>Phone Number:</b>	328-2397	<b>Date Prepared:</b>	01/15/2001

Date: 1-30-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1196

House Human Services Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 10131.0304

Action Taken Do Pass  
Voted on Amendment - all Aye.

Motion Made By Rep. Devlin Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Audrey Cleary		
William Devlin - V. Chairman			Ralph Metcalf		
Mark Dosch			Carol Niemeier		
Pat Galvin			Sally Sandvig		
Frank Klein					
Chet Pollert					
Todd Porter					
Wayne Tieman					
Dave Weiler					
Robin Weisz					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 1-30-01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1196

House Human Services Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended & referred to Appropriations

Motion Made By Rep. Porter Seconded By Rep. Pollert

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	✓		Audrey Cleary	✓	
William Devlin - V. Chairman	✓		Ralph Metcalf	✓	
Mark Dosch	✓		Carol Niemeier	✓	
Pat Galvin	✓		Sally Sandvig	✓	
Frank Klein	✓				
Chet Pollert	✓				
Todd Porter	✓				
Wayne Tieman	✓				
Dave Weiler	✓				
Robin Weisz					

Total (Yes) 13 No \_\_\_\_\_

Absent 1

Floor Assignment Rep. Devlin

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

REPORT OF STANDING COMMITTEE

HB 1196: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1196 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 23-27-04.5 and a new chapter to title 43 of the North Dakota Century Code, relating to the nursing facility nurses loan repayment program and a quick-response unit service pilot program; to amend and reenact sections 6-09.16-01, 6-09.16-02, 6-09.16-03, 6-09.16-04, 6-09.16-05, 6-09.16-06, 23-09.3-01.1, 50-24.4-30, 50-30-01, 50-30-02, and 50-30-04 of the North Dakota Century Code, relating to the nursing facility alternative loan fund, the moratorium on the expansion of basic care bed capacity, the government nursing facility funding pool, and nursing facility loans; to provide for a transfer from the nursing facility alternative grant fund; to provide for a transfer from the health care trust fund; to provide an appropriation; to provide a continuing appropriation; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.16-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-09.16-01. ~~(Effective through June 30, 2001)~~ Definitions. Terms defined in chapter 50-30 have the same meaning when used in this chapter.

SECTION 2. AMENDMENT. Section 6-09.16-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-09.16-02. ~~(Effective through June 30, 2001)~~ Revolving Long-term care facility loan fund -Appropriation Continuing appropriation. A revolving loan fund must be maintained in the Bank of North Dakota for the purpose of making loans to nursing:

1. Nursing facilities, basic care facilities, or assisted living facilities, or other entities providing alternatives to nursing facility care, to encourage and support conversion of nursing facilities for construction or renovation projects.
2. Technology projects relating to the delivery of long-term care or medical care.

All moneys transferred into the fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund are hereby appropriated for disbursement pursuant to the requirements of this chapter.

SECTION 3. AMENDMENT. Section 6-09.16-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6-09.16-03. ~~(Effective through June 30, 2001)~~ Nursing Long-term care facility alternative loan fund.

1. There is hereby created a nursing long-term care facility alternative loan fund. The fund ~~shall include~~ consists of revenue transferred from the North Dakota health care trust fund, interest upon moneys in the fund, and collections of interest and principal on loans made from the fund.

2. The Bank of North Dakota shall administer the loan fund. Funds in the loan fund may be used for:
  - a. Loans as provided in this chapter and as approved by the department under chapter 50-30; and
  - b. The costs of administration of the fund; ~~and~~
  - e. ~~Repayment of federal funds if the United States department of health and human services determines that funds were inappropriately claimed under section 50-24.4-30.~~
3. Any money in the fund not required for use under subsection 2 must be transferred to the North Dakota health care trust fund.

**SECTION 4. AMENDMENT.** Section 6-09.16-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-09.16-04. (~~Effective through June 30, 2001~~) Loan application - How made.** All applications for loans under this chapter must be made to the department. The department may approve the applications of qualified applicants ~~who~~that propose projects that conform to requirements established under chapter 50-30. ~~Applications approved by the department must be forwarded to the Bank of North Dakota. Upon The Bank of North Dakota shall review and approve or reject all loan applications forwarded to the Bank by the department. For applications approved by the Bank and upon final approval of the application by the Bank of North Dakota department,~~ loans may be made from the revolving long-term care facility loan fund in accordance with the ~~provisions of~~ this chapter.

**SECTION 5. AMENDMENT.** Section 6-09.16-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-09.16-05. (~~Effective through June 30, 2001~~) Amount of loans - Terms and conditions.** Loans in an amount not exceeding ~~eighty~~ ninety percent of project costs may be made by the Bank of North Dakota from the fund maintained pursuant to this chapter. Such loans must bear interest at a rate ~~determined by the Bank of North Dakota to be two percentage points less than the market rate for similar commercial loans, provided that no loan may bear interest at a rate less than one-half of one~~ two percent, ~~or more than seven percent,~~ of the outstanding principal balance of the loan. In consideration of the making of a loan under this chapter, each borrower shall execute a contract with the department to operate the project in accordance with standards established under chapter 50-30. The contract must also provide that if the use of the project is discontinued or diverted to purposes other than those provided in the loan application without written consent of the department, the full amount of the loan provided under this chapter immediately becomes due and payable. The Bank of North Dakota may annually deduct, as a service fee for administering the ~~revolving~~ loan fund maintained under this chapter, one-half of one percent of the principal balance of the outstanding loans from the ~~revolving~~ fund.

**SECTION 6. AMENDMENT.** Section 6-09.16-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**6-09.16-06. (~~Effective through June 30, 2001~~) Powers of Bank of North Dakota.** The Bank of North Dakota may do all acts or things necessary to negotiate loans and preserve security under this chapter, including the power to take such security as deemed necessary, to exercise any right of redemption, and to bring suit in order to collect interest and principal due ~~therefrom~~ the revolving loan fund under mortgages,

contracts, and notes executed to obtain loans under the provisions of this chapter. If the applicant's plan for financing provides for a loan of funds from sources other than the state of North Dakota, the Bank of North Dakota may take a subordinate security interest. The bank may recover from the revolving loan fund amounts actually expended by it for legal fees and to effect a redemption.

**SECTION 7. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-09.3-01.1. Moratorium on expansion of basic care bed capacity.** Except when existing beds are converted for use by nursing facilities are converting licensed nursing facility bed capacity to basic care bed capacity or the alzheimer's and related dementia population under the pilot projects provided for in established under section 50-06-14.4 are requesting licensure of their existing beds as basic care bed capacity, or unless the applicant can demonstrate to the department that a need for additional basic care bed capacity exists in the immediate geographic area, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001, and July 31, 2001-2003. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 1999 2001, to July 31, 2001-2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility. A nursing facility may designate up to twenty percent of its licensed bed capacity as both nursing care bed capacity and basic care bed capacity under rules promulgated by the department. This designation as basic care bed capacity is not subject to the basic care bed capacity limit.

**SECTION 8.** Section 23-27-04.5 of the North Dakota Century Code is created and enacted as follows:

**23-27-04.5. (Effective through June 30, 2003) Quick-response unit service pilot program.** The department shall create and implement a pilot program that creates incentives for basic life support ambulance services and advanced life support ambulance services to convert to quick-response unit services or create quick-response units in areas not already served. During the first year of the program, a maximum of five new quick-response units may receive a one-time five thousand dollar grant under this program and a maximum of twenty converting ambulance services may receive grants in the amount of five thousand dollars each year for a two-year period. During the second year of the program, the department shall distribute any remaining funds to converting ambulance services or to ten additional newly created quick-response units.

**SECTION 9.** A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Nursing facility nurses loan repayment program - State health council - Powers and duties. The state health council, in cooperation with the North Dakota long term care association, shall administer the nursing facility nurses loan repayment program. The state health council shall adopt rules necessary to administer the nursing facility nurses loan repayment program.

Nurse selection criteria - Eligibility for loan repayment program.

1. The state health council shall adopt rules establishing criteria regarding nurse selection for loan repayment funds under this chapter. The criteria must give priority to nurses employed by rural facilities and must give priority to nurses with previous long-term care experience.
2. In addition to meeting the selection criteria, an applicant for loan repayment under this chapter shall establish that the applicant:
  - a. Is licensed as a nurse under chapter 43-12.1;
  - b. Is employed as a nurse by a licensed nursing facility; and
  - c. Has an outstanding education loan balance.

Distribution of funds. The state health council shall distribute funds to applicants who meet the criteria standards and eligibility standards. The amount of repayment is based on the amount of the outstanding balance of the educational loan on the date of application plus any interest incurred during the period of repayment under this chapter. A nurse approved to receive loan reimbursement under this chapter shall receive direct payments equal to:

1. Thirty percent of the amount of the outstanding balance of the loan on the date of application plus the amount of any interest incurred since the date of application after one year of employment following application;
2. Thirty percent of the amount of the outstanding balance of the loan on the date of application plus the amount of any interest incurred since the first repayment after two years of employment;
3. Twenty-five percent of the amount of the outstanding balance of the loan on the date of application plus the amount of any interest incurred since the second repayment after three years of employment following application; and
4. Fifteen percent of the amount of the outstanding balance of the loan on the date of application plus the amount of any interest incurred since the third repayment after four years of employment following application.

Nursing facility nurses loan repayment fund - Continuing appropriation. The nursing facility nurses loan repayment fund is created in the state treasury. The fund consists of revenue transferred from the North Dakota health care trust fund and interest earned on moneys in the fund. Moneys in the fund are appropriated and may be spent by the state health council for defraying the expenses of the nursing facility nurses loan repayment program in accordance with this chapter.

**SECTION 10. AMENDMENT.** Section 50-24.4-30 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.4-30. ~~(Effective through June 30, 2001)~~ Government nursing facility funding pool --Appropriations.**

1. For purposes of this section:
  - a. "Fiscal period" means a twelve-month period determined by the department; and

- b. "~~Governmental~~ Government nursing facility" means ~~any~~ a nursing home administered by any political subdivision of this state for which a rate is set under this chapter.
2. The department shall establish a pool consisting of an amount annually calculated by multiplying the total of all resident days of all nursing homes during the fiscal period during which a resident was eligible for and received benefits under chapter 50-24.1 times an amount that does not exceed the amount that can reasonably be estimated to be paid under payment principles established under title XVIII of the Social Security Act [42 U.S.C. 1395, et seq.], reduced by the payment rates set for each such resident, for each such day, during the fiscal period.
3. In addition to any payment made pursuant to a rate set under this chapter, and notwithstanding any other provision of this chapter, the department shall pay to each ~~governmental~~ government nursing facility an amount determined by:
  - a. Dividing that facility's total inpatient days for the fiscal period by the total inpatient days of all governmental nursing facilities for the fiscal period; and
  - b. Multiplying a decimal fraction determined under subdivision a times the pool amount determined under subsection 2.
4. Each ~~governmental~~ government nursing facility, ~~immediately upon~~ within one business day of receiving a payment under subsection 3, shall remit the amount of that payment, less a ~~ten~~ fifty thousand dollar transaction fee, to the state treasurer for credit to:
  - a. The North Dakota health care trust fund in an amount equal to the federal medical assistance percentage for the fiscal period times the total remittance to the state treasurer, less ~~ten~~ fifty thousand dollars; and
  - b. The general fund for all remaining amounts. The amounts deposited in the general fund are to be considered the first moneys spent pursuant to legislative appropriations for medical assistance or medical assistance-related expenses.
5. A government nursing facility is not entitled to receive transaction fees totaling more than fifty thousand dollars during any calendar year. Each government nursing facility shall use its transaction fee revenues for long-term care-related services.
6. Notwithstanding any other provision of this code, or of any ordinance or code governing the operation of a ~~governmental~~ government nursing facility, a ~~governmental~~ government nursing facility is ~~authorized~~ entitled to receive and, upon receipt, is required to remit payments provided under this section.
- 6- 7. No payment is required under this section for any period in which the funds otherwise appropriated under subdivision b of subsection 7 8 are unavailable due to action by the secretary of the United States department of health and human services.

7. 8. The department of human services, subject to legislative appropriation, may make the payments described in subsection 3 for the pool amount annually determined under subsection 2, as follows:
- a. From special funds derived from federal funds and other income, the pool amount determined under subsection 2 reduced by the amount determined under subdivision b; and
  - b. From the general fund, the "state percentage" as that term is used in defining the term "federal medical assistance percentage" for purposes of title XIX of the Social Security Act [42 U.S.C. 1396, et seq.], multiplied times the pool amount determined under subsection 2.

**SECTION 11. AMENDMENT.** Section 50-30-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-01. (~~Effective through June 30, 2001~~ See notes) Definitions.** For purposes of this chapter:

1. ~~"Alternative to nursing facility care" means services described in the home and community based services waiver for aged persons under medical assistance.~~
2. "Assisted living facility" has the meaning provided in section 50-24.5-01, but if the term is not defined in that section, the term means a facility that:
  - a. Makes response staff available at all times;
  - b. Provides housing and:
    - (1) Congregate meals;
    - (2) Kitchen facilities in each resident's living quarters; or
    - (3) Any combination of congregate meals and kitchen facilities in each resident's living quarters sufficient to assure each resident adequate access to meals;
  - c. Assures provision of:
    - (1) Personal care, therapeutic care, and social and recreational programming;
    - (2) Supervision, safety, and security;
    - (3) Medication services; and
    - (4) Transportation services;
  - d. Fosters dignity, respect, and independence by allowing, to the maximum extent feasible, each resident to determine the resident's service providers, routines of care provision, and service delivery; and
  - e. Services five or more adult residents, unrelated to the proprietor, on a specified premises not licensed under chapter 23-20 or 25-16, which

meets the requirements of the national fire protection association 101 Life Safety Code, as applicable.

3. 2. "Basic care facility" has the meaning provided in section 23-09.3-01.
4. "Conversion" means:
- a. ~~The remodeling of existing space and, if necessary, the construction of additional space required to accommodate basic care facility services, assisted living facility services, or other alternatives to nursing facility care; or~~
  - b. ~~New construction of a basic care facility, assisted living facility, or other alternative to nursing facility care if existing nursing facility beds are no longer licensed and the department determines that new construction is more cost effective than the conversion of existing space.~~
5. 3. "Department" means the department of human services.
6. 4. "Medical assistance" means a program established under title XIX of the Social Security Act [42 U.S.C. 1396, et seq.] and chapter 50-24.1.
7. 5. "Nursing facility" has the same meaning as provided in section 50-24.4-01 for the term "nursing home".

**SECTION 12. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. ~~(Effective through June 30, 2001 - See notes)~~ North Dakota health care trust fund created - Appropriation Uses - Continuing appropriation.** There is hereby created in the state treasury a special fund known as the North Dakota health care trust fund. ~~The fund shall include~~ consists of revenue received from ~~governmental~~ government nursing facilities for remittance to the fund under section 50-24.4-30. The department shall administer the fund and shall adopt procedures for participation by ~~governmental~~ government nursing facilities. ~~All moneys designated for the fund from whatever source derived must be deposited with the state treasurer in the North Dakota health care trust fund.~~ The state treasurer shall invest such funds in interest-bearing accounts, as designated by the department, and the interest earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department, ~~subject to legislative appropriation, for disbursement pursuant to the requirements of this chapter.~~

- 1. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
- 2. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
- 3. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under section 50-24.4-30.

**SECTION 13. AMENDMENT.** Section 50-30-04 of the North Dakota Century Code is amended and reenacted as follows:

~~50-30-04. (Effective through June 30, 2001 - See notes) Department to award grants or make loan guarantees, long-term care facility loans.~~

1. ~~The department may award grants from the nursing facility alternative grant fund or approve loans from the nursing long-term care facility alternative loan fund established under chapter 6-09.16 for capital or one-time expenditures, including startup and training expenses and operating losses for the first year:~~
  - a. ~~To any Construction or renovation projects involving a nursing facility which has been approved for at least three years as a provider under the medical assistance program to convert all or a portion of the facility licensed to provide such care to a, basic care facility, or assisted living facility, or other alternative to nursing facility care; or~~
  - b. ~~To any other entity meeting conditions established by the department to develop a basic care facility, assisted living facility, or other alternative to nursing facility care. Technology projects relating to the delivery of long-term care or medical care.~~
2. ~~A nursing facility or other entity may be eligible for a grant or loan only if the basic care facility, assisted living facility, or other alternative to nursing facility care is located in an underserved area as determined by the department.~~
3. ~~To be eligible for a grant or loan under this section, the nursing facility or other entity approved by the department shall provide at least twenty percent of the total cost of any conversion. The department shall establish policies and procedures for certification of the required matching funds. The department's share of the total cost of any conversion project is limited to one million dollars or eighty percent of the project cost, whichever is less.~~
4. ~~The department shall annually establish a calendar for receiving and evaluating proposals and awarding grants or approving loans.~~
5. ~~No grant or loan application may be approved by the department unless the applicant can demonstrate that:~~
  - a. ~~Conversion of the nursing facility or portion of the facility to a basic care facility, assisted living facility, or other alternative to nursing facility care may offer efficient and economical care to individuals requiring long term care services in the area;~~
  - b. ~~Basic care, assisted living services, or other alternatives to nursing facility care are unlikely to be available in the area for individuals eligible for services under the medical assistance program; and~~
  - c. ~~The resulting reduction in the availability of nursing facility services is not expected to cause undue hardship on those individuals requiring nursing facility services.~~
3. The department shall give preference for loan approval to an applicant that is converting nursing facility bed capacity to basic care bed capacity.
6. 4. No grant may be awarded or loan may be approved unless the applicant agrees:

- a. ~~To maintain a minimum occupancy rate by individuals eligible for supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1382, et seq.); and~~
- b. ~~To refund to repay to the nursing facility alternative grant fund or the nursing long-term care facility alternative loan fund, on an amortized basis, the amount outstanding balance of the grant or loan and any accrued interest if the applicant or its successor in interest ceases to operate a basic care facility, assisted living facility, or other alternative to nursing facility care the project or facility financed by the loan proceeds during the ten-year period after the date the applicant began operation of the project or facility as a basic care facility, assisted living facility, or other alternative to nursing facility care ceases to maintain the agreed minimum occupancy rate or fails to commence operations within a reasonable time.~~

7. 5. In addition to other remedies provided by law or contract, the department may deduct the amount of any refund due from a recipient of ~~grant or a loan guarantee funds~~ from any money owed by the department to such recipient or the recipient's successor in interest.

**SECTION 14. NURSING FACILITY ALTERNATIVE GRANT FUND - TRANSFER - GRANTS ADMINISTRATION.** The state treasurer shall transfer any remaining balance in the nursing facility alternative grant fund on June 30, 2001, to the health care trust fund. The department of human services may continue making grant payments relating to grants approved during the 1999-2001 biennium under the nursing facility alternative grant fund. The department may spend moneys in the health care trust fund pursuant to legislative appropriations for the purpose of making these grant payments, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 15. NURSING FACILITY ALTERNATIVE LOANS - 1999-2001 BIENNIUM - INTEREST RATE ADJUSTMENT.** The Bank of North Dakota and the department of human services shall adjust the rate of interest charged on nursing facility alternative loans approved during the biennium beginning July 1, 1999, and ending June 30, 2001, to a rate equivalent to two percent effective July 1, 2001, taking into consideration any grants approved in conjunction with the loan.

**SECTION 16. APPROPRIATION - GOVERNMENT NURSING FACILITY FUNDING POOL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds, to the department of human services for the purpose of making government nursing facility funding pool payments under section 50-24.4-30, for the biennium beginning July 1, 2001, and ending June 30, 2003.

Total all funds	\$26,700,000
Less estimated income	<u>18,700,000</u>
Total general fund appropriation	\$8,000,000

**SECTION 17. ADDITIONAL GOVERNMENT NURSING FACILITY FUNDING POOL PAYMENTS - CONTINUING APPROPRIATION - GENERAL FUND REPAYMENT.** Any estimated income in excess of the \$18,700,000 appropriated in section 16 of this Act which becomes available based on the calculation provided for in section 50-24.4-30 is appropriated and may be spent by the department of human services for the purpose of making the additional government nursing facility fund pool payments for the biennium beginning July 1, 2001, and ending June 30, 2003. Any

additional state matching funds required are appropriated and may be spent from the general fund by the department of human services for the purpose of making the additional payments, for the biennium beginning July 1, 2001, and ending June 30, 2003. Any general fund amounts spent pursuant to this section must be returned to the general fund within two days.

**SECTION 18. APPROPRIATION - 1999-2001 BIENNIUM GOVERNMENT NURSING FACILITY TRANSACTION FEE.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$800,000, or so much of the sum as may be necessary, to the department of human services for the purpose of making an additional transaction fee payment to the government nursing facilities, for the period beginning with the effective date of this Act and ending June 30, 2001. Notwithstanding section 50-24.4-30, the department of human services shall make a transaction fee payment of \$400,000 to the government nursing facility in Dunseith and a transaction fee payment of \$400,000 to the government nursing facility in McVille by June 30, 2001. The additional payment relates to government facility funding pool payments made before the effective date of this Act. Each government nursing facility shall use its transaction fee revenue for long-term care-related services.

**SECTION 19. APPROPRIATION - LONG-TERM CARE FACILITY LOANS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$35,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of making transfers to the long-term care facility loan fund for loans approved under chapter 50-30, for the biennium beginning July 1, 2001, and ending June 30, 2003. Of the amounts available in the health care trust fund for loans, the department of human services may not approve loans for technology projects that exceed an aggregate total of \$3,000,000, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 20. APPROPRIATION - NURSING HOME BED REDUCTION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$4,100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing incentives to nursing homes to reduce licensed nursing facility bed capacity for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of human services may pay incentives of up to \$10,000 per bed to nursing facilities that reduce licensed nursing facility bed capacity by at least eight beds and incentives of up to \$2,500 per bed to nursing facilities that reduce licensed nursing facility bed capacity by fewer than eight beds.

**SECTION 21. APPROPRIATION - NURSING HOME COMPENSATION ENHANCEMENT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$8,189,054, or so much of the sum as may be necessary, and from special funds derived from federal funds the sum of \$19,107,793, or so much of the sum as may be necessary, to the department of human services for the purpose of providing salary and benefit enhancements to nursing facility employees, or if a facility is combined with a hospital, to nursing facility and hospital employees, for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of human services shall increase nursing facility payment rates to provide for these increases beginning July 1, 2001.

**SECTION 22. APPROPRIATION - BASIC CARE COMPENSATION ENHANCEMENT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$202,080, or so much of the sum as may be necessary, and from special funds derived from federal funds the sum of \$471,520, or so much of the sum as may be necessary, to the department of

human services for the purpose of providing salary and benefit enhancements to basic care facility employees, for the biennium beginning July 1, 2001, and ending June 30, 2003. The department of human services shall increase basic care facility payment rates to provide for these increases beginning July 1, 2001.

**SECTION 23. APPROPRIATION - NURSING HOME REBASING.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$1,165,303, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$2,719,040, or so much of the sum as may be necessary, to the department of human services for the purpose of recognizing increased costs as a result of rebasing nursing facility limits based on cost reports for the year ending June 30, 2000, for the period beginning January 1, 2002, and ending June 30, 2003.

**SECTION 24. APPROPRIATION - PERSONAL CARE ALLOWANCE FOR NURSING FACILITY RESIDENTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$266,400, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$621,600, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal care allowance for nursing home residents by \$10 per month, from \$40 to \$50 per month, for the period beginning January 1, 2002, and ending June 30, 2003.

**SECTION 25. APPROPRIATION - PERSONAL CARE ALLOWANCE FOR BASIC CARE RESIDENTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$180,000, or so much of the sum as may be necessary, to the department of human services for the purpose of increasing the personal care allowance for basic care residents by \$15 per month, from \$45 to \$60 per month, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 26. APPROPRIATION - LONG-TERM CARE NEEDS STUDY.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$241,006, or so much of the sum as may be necessary, to the department of human services for the purpose of conducting a statewide needs assessment study for long-term care, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 27. TRANSFER - NURSING FACILITY NURSES LOAN REPAYMENT FUND.** The office of management and budget shall transfer \$1,000,000 from the health care trust fund to the nursing facility nurses loan repayment fund on July 1, 2001.

**SECTION 28. APPROPRIATION - QUICK-RESPONSE UNIT SERVICE PILOT PROGRAM.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$225,000, or so much of the sum as may be necessary, to the state department of health for the purpose of funding the quick-response unit service pilot program, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 29. APPROPRIATION - TRAINING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$140,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to organizations for training qualified service providers, for the biennium beginning July 1, 2001, and ending June 30, 2003. A qualified service provider means a county agency or independent contractor that agrees to meet standards for services and operations

established by the department of human services for the provision of services to individuals receiving long-term care services in a home or community-based setting.

**SECTION 30. HEALTH CARE TRUST FUND - MINIMUM BALANCE REQUIRED.** Except for making payments under subsection 3 of section 50-30-02, the state treasurer may not allow expenditures or transfers from the health care trust fund that would reduce the unobligated balance in the fund below \$13,000,000 until the director of the department of human services certifies to the state treasurer that the federal health care financing administration's claim for the return of \$13,000,000 of the state's first-year payment has been resolved, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 31. DEPARTMENT OF HUMAN SERVICES - EMERGENCY RULEMAKING AUTHORITY.** Notwithstanding subsection 6 of section 28-32-02, the department of human services may adopt interim final rules to implement this Act for the biennium beginning with the effective date of this Act and ending June 30, 2003. The department shall take appropriate measures to make the interim final rules known to every person who may be affected by them. The interim final rules are ineffective one hundred eighty days after its declared effective date unless first adopted as final rules.

**SECTION 32. EXPIRATION DATE.** Section 7 of this Act is effective through July 31, 2003, and after that date is ineffective.

**SECTION 33. EMERGENCY.** Sections 18, 30, and 31 of this Act are declared to be an emergency measure."

Renumber accordingly

2001 HOUSE APPROPRIATIONS

HB 1196

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1196

House Appropriations Committee  
Human Resources Division

Conference Committee

Hearing Date THURSDAY, FEBRUARY 15TH, 2001

Tape Number	Side A	Side B	Meter #
2-15-01 #1196	X		2592-6238
		X	00-1173
Committee Clerk Signature <i>Mickie Schmidt</i>			

Minutes: CHAIRMAN KEN SVEDJAN, VICE-CHAIRMAN JEFF DELZER,  
REP. KEITH KEMPENICH, REP. JAMES KERZMAN,  
REP. AMY KLINISKE, REP. JOHN M. WARNER

**Chairman Svedjan:** We will call this section back to order. We will take up **HB 1196 : IGT- Intergovernmental Transfer**. We've distributed some information to you. A couple of spread sheets and also a copy of the amendments that will reflect what is shown in the spread sheets.  
(attachments #1, 2, & 3)

**Vice-Chairman Delzer:** How do you want to do that? Do you want me to move the amendments before we discuss them, or you want me to go through them and then move them or?

**Chairman Svedjan:** Typically we move the amendments and then get into discussion.

**Vice-Chairman Delzer:** Mr. Chairman, I would move amendment 1031.0403, dated February 14th, 2001.

**Rep. Klincksieck:** I second it.

**Chairman Svodjan:** We're open for discussion. If you will, go ahead and give the explanation of the amendment.

**Vice-Chairman Delzer:** Mr. Chairman, I think first off we'll go through the spreadsheets. (refer to attachments #1 and #2)

**Chairman Svodjan:** If you would just address the medical assistance state matching and the logic for that.

**Vice-Chairman Delzer:** In the Hoeven budget, they had proposed to use \$25,000,000 of IGT funds to take the place of general fund money for Medicaid. We propose instead to use some of that for the \$3,000,000, some of the costs there but we also propose in the end, and we'll get to it when we get down to the bottom. Setting aside some of this money to pay for the increased costs that we're going to incur because of the #1196, paying more money to the nursing homes. We're going to try and set that money aside so it's there to pay for it when the IGT funds do not. (refer to attachment #2)

**Rep. Warner:** When you run it through the State Investment Board, which risk management plan are we attaching it to?

**Vice-Chairman Delzer:** It would be the same one that most of those are all grouped together with, the billion dollars and something.

**Allen : LC:** I believe the SIB would work with the department to find out what the cash flow needs are.

**Chairman Svodjan:** What's reflected in these two spreadsheets I think is really an acknowledgment of the fact that these funds are derived from 2 publicly owned nursing homes. If it were not for those we would not even be eligible for these funds. Some refer to it as a wind

fall. What we're trying to show here is the wise use of those funds, and to use them to help replicate the long term care industry based on all of the discussions that we've had up to this point, replicating the conversion from skilled to basic, the conversion from double to single rooms, the conversion from more costly levels of care to less expensive levels of care and to dedicate the use of some of these funds to what we call alternatives to long term care.

**Rep. Kerzman:** The nursing facility employee compensation will remain flat through the 07' biennium? Why would that remain flat? The senior mill, did you drop that down from \$150 back down to \$101?

**Vice-Chairman Delzer:** This is a flat, there's no inflators in any of these with the exception of the rebasing. And that's what it is, it's just a number. The senior citizens mill levy, that actually should go to "0" because that's going to be a problem of the general fund in the next biennium. The \$101 originally from the information we were given would have gotten us to 50 cents on a dollar on a match.

**Chairman Svedjan:** Do you want to proceed with the amendments?

**Vice-Chairman Delzer:** OK. We have to work off the blue sheet. (refer to HB 1196 blue sheets and #3, p 5)

**Rep. Warner:** Is there any further money in HB #1012 for the HIPAA conversion?

**Vice-Chairman Delzer:** We haven't addressed that yet. The HIPAA money, the IGT money that's in there from the executive budget, about \$3.9 of IGT money.

**Sheldon Wolf:** The 1.9 million was based on the \$35 million that was put into the bill that was considered part of the loan payments. So that number would be significantly less along with the Bank of ND payment.

**Vice-Chairman Delzer:** What was the 563 bill?

Sheldon: I think that was based on the \$3.9 million #.

Vice-Chairman Delzer: A closer number would be around \$800,000. We do need the number for balancing.

Rep. Kerzman: I'm going to oppose the amendments right now for several reasons. It's a lot to digest in a few minutes. The transition fees are too high, that \$800,000 is excessive. I don't have a figure to put in there at this time. I'm more in favor of the Gov.'s recommendation.

Chairman Syedjan: We're making the payment for the current and next biennium in one month.

Rep. Kerzman: I think we're coming up short on HIPAA. The senior mill match at \$150,000. I think we're short there.

Rep. Warner: I'm going to support the amendments, although I have some concern about so much of this being done in caucus rather than committee. I will take your word that it was done in good faith. I would like to echo Rep. Kerzman's concerns about the senior mill levy match.

**After we pass this amendment I'll further move to amend \$400,000.**

Chairman Syedjan: Any further discussion? **Hearing none, we'll try it on a voice vote. All in favor of these amendments say I. The motion carries, 5-1.**

Rep. Warner: **I move to further amend the senior mill levy match to reflect the \$400,000.**

Chairman Syedjan: **OK, you've heard the motion, is there a second?**

Rep. Kerzman: **I second it.**

Chairman Syedjan: **OK, you're wanting a full \$400,000 even though the executive budget was speaking in terms of \$300,000? OK, you've heard the amendment, it's moved and seconded, is there any discussion?**

Page 5  
Human Resources Division  
Bill/Resolution Number 1196  
Hearing Date THURSDAY, FEBRUARY 15TH, 2001

Vice-Chairman Delzer: I'm going to oppose this, especially at this time. I think with the IGT funds, I'm not sure that we would want to spend more than that.

Rep. Warner: I just like to voice my support for the program. It's very much seniors helping other seniors, so I have a great deal of support for the senior mill levy.

Chairman Svedjan: Further discussion on the amendments? The amendment is to change the \$150,000 figure up to \$400,000. We'll try a voice vote: All in favor of the amendment, say I, opposed say nay. The motion falls 2-4. Any other requested amendments?

Vice-Chairman Delzer: I would like the committee to look at the blue bill, p 1, sub section #2. I would move to remove that, the language.

Chairman Svedjan: Is there a second?

Rep. Kempenich: I second 't.

Vice-Chairman Delzer: The reason for that is, I think the 3 million for HIPAA or computer projects, when you look at it, it seems like the institutions out there would be able to take a loan to put in technology.

Chairman Svedjan: For clarification, are you saying that by removing sub section 2, it will accomplish what you want in the change of language, which would state HIPAA or Technology project?

Vice-Chairman Delzer: No, I'm not sure if that takes any amendment change in the amendment, I think it's probably just the change on the spread sheet.

Allen: LC: Regarding the HIPAA project, that's in your amendment, section 34.

Vice-Chairman Delzer: Mr. Chairman, let's take these separate then. Let's go with just the removal of #2 on page 1 of the blue bill.

Chairman Svedjan: OK, so you're withdrawing your earlier motion?

Vice-Chairman Delzer: Yes.

Chairman Svedjan: Second's withdrawn?

Rep. Kliniske: Yes.

Chairman Svedjan: So the new motion is to remove sub section 2 on page 1 of the House amendments, 10131.0304. Is there a second?

Rep. Warner: I second it.

Chairman Svedjan: Is there further discussion on the motion? Hearing none, I'll try a voice vote on that amendment to remove sub section 2 of the House amendments, #10131.0304, all in favor of that motion say I - 4, opposed say nay-2. OK, the motion carries. Other amendments?

Vice-Chairman Delzer: I would further move to amend to section 34 on page 4 of the amendments. I would like to amend that to after the accountability act and before the comma, the words " for technology projects.

Chairman Svedjan: So you're adding three words after the word act, but before the comma, that says "for technology projects. Is that clear to everyone? There's a motion on the floor, is there a second?

Rep. Kliniske: I second.

Chairman Svedjan: Further discussion? Hearing none, we have a motion to add the three words after the word act, but before the comma, "for technology projects. That would be an amendment to the amendments we approved earlier, #10131.0403 section 34. All in favor of that motion say I-4, opposed say nay-2. The motion carries. Are there any other amendments?

Vice-Chairman Delzer: On page 3 of the white amendments, the intent language for setting this money aside, seemed to be a little bit hard to understand. We could add some language after the word "act".

Chairman Svedjan: I would find the language helpful. Would you read again what you would insert? And it would be inserted immediately after the word act in the second to the last line of section 17.

Vice-Chairman Delzer: Actually, it would be inserted right after the word authorized. It would say authorized during the 2001-03 biennium by this act, subsequent to the 2003-05 biennium. I would so move.

Rep. Kempenich: Second it.

Chairman Svedjan: OK, it's been seconded. The insertion of that wording, immediately following the word authorized on the second to the last line. Everyone understands the motion? Any further discussion on the motion? Hearing none, all in favor of the motion to amend, as was just stated, say I-6, opposed say nay-0. The motion is carried unanimously. Any other requested amendments to HB 1196? Hearing none, what are your wishes?

Vice-Chairman Delzer: I move a do pass as amended.

Rep. Kempenich: Second it.

Chairman Svedjan: Any further discussion? Hearing none, we'll take the roll call vote of Do pass as amended recommendation on HB 1196.

Chairman Svedjan: Yes.

Vice-Chairman Delzer: Yes.

Rep. Kempenich: Yes.

Rep. Kerzman: Yes.

Rep. Kliniske: Yes.

Rep. Warner: Yes.

Page 8

Human Resources Division

Bill/Resolution Number 1196

Hearing Date THURSDAY, FEBRUARY 15TH, 2001

Chairman Syedjan: OK, that motion carried. Rep. Delzer will carry the bill. We will close  
on HB 1196.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

House Appropriations Committee

Conference Committee

Hearing Date February 16, 2001

Tape Number	Side A	Side B	Meter #
02-16-01 tape #2		1620 - 3050	
Committee Clerk Signature <i>[Handwritten Signature]</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1196.

Rep. Delzer: Checks on which amendment the committee has. The last amendment is .0404. There were some last minor changes made to this version of the amendment. Moves to adopt the amendment. Seconded by Rep. Svedjan.

Rep. Delzer: Look at the statement of purpose on the amendment. They remove references in the bill concerned with 1202, quick response system. HB 1202 was passed, and this does not need to be in both bills. The second paragraph refers to the student nurse loan payment fund. The fund is to repay student nurse loans in rural settings. We made a couple small changes. In four years they would have their student loans paid off. On page 6 we took the continuing appropriation away and made it a smaller appropriation that should cover the next biennium. If that's not enough they can go to the emergency and budget section for approvals.

We also propose that any money left in the health care trust fund at the end of the biennium should be invested by the state investment board instead of general fund investment, because we think there would be a better rate of return. It also puts in legislative intent language (read the paragraph). The next paragraph references a legislative council study, we put the money in for the study, and the senate can set the parameters. There is another side by side recommendation sheet in the bill books to use for the next budget comparison changes, also located at the end of the amendment. He went through these budget number changes.

Rep. Aarsvold: The senior mill match, what is the current levy of match?

Rep. Delzer: When we passed this out two years ago, we were looking at \$.50, but we also passed out two years ago the opportunity for counties and cities to go from 1 mill to 2. What has happened in the 2000 tax year, it is down to \$.43, and the \$150,000 would bring it up to \$.48 on the full match.

Rep. Gulleason: To follow up on the senior mill levy match, it was \$400,000 from last biennium? Did most of the counties raise the property tax to support that match?

Rep. Delzer: No the appropriation was \$1.262 million general fund. The department did not ask for an increase in the senior mill levy match, but OMB and the governor's office has proposed HB 1012 to raise it. Most did not raise, but there is a number of them. There are other options.

Voice vote adopted the amendments.

Rep. Delzer: Moves DO PASS AS AMENDED. Seconded by Rep. Svedjan.

Vote on Do Pass as Amended: 21 yes, 0 no, 0 absent and not voting.

Rep. Delzer is assigned to carry the bill on the floor.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1196

Page 1, line 1, after "enact" insert "a new subsection to" and replace "23-27-04.5" with "21-10-06"

Page 1, line 2, after "to" insert "funds under the management of the state investment board and", after "nurses" insert "student", replace "repayment" with "payment", and remove "and"

Page 1, line 3, remove "a quick-response unit service pilot program"

Page 1, line 4, after the sixth comma insert "23-16-01.1,"

Page 1, line 6, after the second comma insert "the moratorium on the expansion of long-term care bed capacity,"

Page 1, line 9, after the first semicolon insert "to provide a statement of legislative intent; to provide for a legislative council study;"

Page 1, line 23, remove "construction or"

Page 3, after line 30, insert:

**"SECTION 7.** A new subsection to section 21-10-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Health care trust fund."

Page 4, line 18, replace "A nursing facility may designate up to twenty percent of its licensed bed capacity as" with "Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

**SECTION 9. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-16-01.1. Moratorium on expansion of long-term care bed capacity.**

Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when nursing facilities are converting basic bed capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999, during the period between August 1, 1999, and July 31, 2001. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, 1999, to July 31, 2001, only to the extent that for each bed transfer approved the total number

of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

Page 4, remove lines 19 through 31

Page 5, remove lines 1 and 2

Page 5, line 5, after "nurses" insert "student" and replace "repayment" with "payment"

Page 5, line 7, after "nurses" insert "student" and replace "repayment" with "payment"

Page 5, line 8, after "nurses" insert "student"

Page 5, line 9, replace "repayment" with "payment"

Page 5, line 10, replace "repayment" with "payment"

Page 5, line 12, replace "repayment" with "payment"

Page 5, line 15, replace "repayment" with "payment"

Page 5, line 20, replace "to applicants who" with "monthly to institutions that own student loans of applicants who meet and continue to meet the criteria standards and eligibility standards."

1. In the case of an eligible applicant who has a student loan with forty-eight or fewer monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to the regularly scheduled monthly payment amount.
2. In the case of an eligible applicant who has a student loan with more than forty-eight monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to one forty-eighth of the amount of the outstanding balance of the educational loan on the date of application plus any applicable interest."

Page 5, remove lines 21 through 30

Page 6, remove lines 1 through 6

Page 6, line 7, after "nurses" insert "student", replace "repayment" with "payment", and remove "- Continuing appropriation"

Page 6, line 8, replace "repayment" with "payment"

Page 6, line 10, remove "are appropriated and"

Page 6, line 11, after "council" insert "pursuant to legislative appropriations" and replace "repayment" with "payment"

Page 9, line 31, overstrike "treasurer" and insert immediately thereafter "investment board"

Page 10, line 1, overstrike "such funds in interest-bearing accounts, as designated by the department" and insert immediately thereafter "moneys in the fund in accordance with chapter 21-10"

Page 10, line 2, overstrike "interest" and insert immediately thereafter "income"

Page 10, line 20, replace "Construction or renovation" with "Renovation"

Page 12, after line 23, insert:

**"SECTION 17. LEGISLATIVE INTENT - HEALTH CARE TRUST FUND USES.**

It is the intent of the fifty-seventh legislative assembly that the June 30, 2003, unobligated balance in the health care trust fund and any investment earnings on that amount during the 2003-05 biennium not be appropriated but be retained in the fund to be used to continue the increased funding levels authorized by this Act subsequent to the 2003-05 biennium."

Page 13, line 1, replace "26,700,000" with "38,750,000"

Page 13, line 2, replace "18,700,000" with "27,100,000"

Page 13, line 3, replace "8,000,000" with "11,650,000"

Page 13, line 6, replace "\$18,700,000" with "\$27,100,000"

Page 13, after line 26, insert:

**"SECTION 21. APPROPRIATION - ADMINISTRATIVE COSTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$71,158, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the administrative costs associated with the intergovernmental transfer program, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 13, line 29, replace "\$35,000,000" with "\$8,899,774"

Page 14, line 1, replace "Of the amounts available in the health care trust fund for loans, the" with "Of this amount \$3,920,000 relates to commitments made during the biennium beginning July 1, 1999, and ending June 30, 2001."

Page 14, remove lines 2 through 4

Page 15, line 3, replace "\$1,165,303" with "\$881,846"

Page 15, line 4, replace "\$2,719,040" with "\$1,590,974"

Page 15, line 7, replace "2000" with "1999"

Page 15, after line 21, insert:

**"SECTION 29. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE NEEDS.** The legislative council shall consider studying, during the 2001-02 interim, the long-term care needs in North Dakota. If studied, the legislative council shall receive progress reports and a final report from the department of human services on the statewide needs assessment study for long-term care."

Page 15, line 27, after "NURSES" insert "STUDENT" and replace "REPAYMENT" with "PAYMENT"

Page 15, line 29, after "nurses" insert "student" and replace "repayment" with "payment"

Page 15, replace lines 30 and 31 with:

**"SECTION 32. APPROPRIATION - STATE DEPARTMENT OF HEALTH - NURSING FACILITY NURSES STUDENT LOAN PAYMENT FUND - ADDITIONAL SPENDING AUTHORITY - EMERGENCY COMMISSION APPROVAL.** There is appropriated out of any moneys in the nursing facility nurses student loan payment fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the state department of health for the purpose of making nursing facility nurses student loan payments, for the biennium beginning July 1, 2001, and ending June 30, 2003. The state department of health may request emergency commission and budget section approval to spend additional moneys from the fund for making nursing facility nurses student loan payments, which is appropriated for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 33. APPROPRIATION - SERVICE PAYMENTS FOR THE ELDERLY AND DISABLED.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$6,898,302, or so much of the sum as may be necessary, to the department of human services for the purpose of making service payments for the elderly and disabled, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 34. APPROPRIATION - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$5,055,347, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of complying with the federal Health Insurance Portability and Accountability Act, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 35. APPROPRIATION - 1999-2001 BIENNIUM NURSING FACILITY GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,226, or so much of the sum as may be necessary, to the department of human services for the purpose of making payments on grants approved under the nursing facility alternative grant fund during the 1999-2001 biennium, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 36. APPROPRIATION - SENIOR CITIZEN MILL LEVY MATCHING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing additional senior citizen mill levy matching grants, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 37. APPROPRIATION - MEDICAL ASSISTANCE - TARGETED CASE MANAGEMENT SERVICES.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$338,530, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$769,220, or so much of the sum as may be necessary, to the department of human services for the purpose of making medical assistance payments for targeted case management services, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 38. APPROPRIATION - INDEPENDENT LIVING CENTER GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to independent living centers, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 16, remove lines 1 through 3

Page 16, line 27, replace "Section 7" with "Sections 8 and 9" and replace "is" with "are"

Page 16, line 28, replace "is" with "are"

Page 16, line 29, replace "18" with "20", replace "30" with "34, 40" and replace "31" with "41"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Dept. 301 - State Department of Health**

Sections are removed providing for the State Department of Health to implement a quick-response unit service pilot program and appropriating \$225,000 from the health care trust fund for this program for the 2001-03 biennium. The program and the appropriation are being included in House Bill No. 1202.

The name of the nursing facility nurses loan repayment program is changed to the nursing facility nurses student loan payment program and provisions of the program are changed to provide that the payments be made directly to the financial institution holding the loan rather than to the nurse and that loan payments be made equally over a four-year period rather than based on the following schedule:

Year 1	30 percent
Year 2	30 percent
Year 3	25 percent
Year 4	15 percent

The continuing appropriation for making these payments is removed and a \$200,000 appropriation from the nursing facility nurses student loan payment fund is provided for making these payments during the 2001-03 biennium. A provision is added that the department may seek Emergency Commission and Budget Section approval for additional spending authority for this program during the 2001-03 biennium. Sections 23-09.3-01.1 and 23-16-01.1 that provide for the moratoriums on the expansion of basic care or nursing facility bed capacity are changed to allow nursing facilities to convert licensure from skilled care to basic care and vice versa no more often than once every 12 months and providing that the beds being converted must be in the same block of rooms within the facility.

**Dept. 325 - Department of Human Services**

**HOUSE** - This amendment provides that the State Investment Board is responsible for the investment of moneys in the health care trust fund.

A section of legislative intent is added regarding making adequate resources available in the fund beyond the 2003-05 biennium to provide the funding necessary to continue the increased funding levels authorized by this bill.

Provisions are added directing the Legislative Council to consider studying, during the 2001-02 interim, the long-term care needs in North Dakota, and that the Department of Human Services conduct its assessment of North Dakota's long-term care needs in conjunction with the Legislative Council committee.

Appropriations changes and additions include:

- Increasing the government nursing facility funding pool payment appropriation by \$12,050,000, \$3,650,000 of which is from the general fund, to a total of \$38,750,000, \$11,650,000 of which is from the general fund and \$27,100,000 of federal funds to reflect revised Department of Human Services projections. The general fund share will be returned to the general fund within one business day of each payment being made.
- Reducing funds from the health care trust fund for loans by \$26,100,226 to a total of \$8,899,774. The \$8.9 million includes appropriation authority for funding loans approved during the 1999-2001 biennium but which will not be paid out until the 2001-03 biennium. In addition, the provision limiting the amount of loans that may be approved for technology projects to \$3 million for the 2001-03 biennium is removed and, as amended, loans may not be made for construction projects, only renovation or technology-related projects.
- Reducing funds for nursing facility rate limit increases by \$483,457 from the health care trust fund to provide that rate limits be based on 1999 rather than 2000 cost reports. Funding of \$2,272,820 remains in the bill, \$681,846 of which is from the health care trust fund and \$1,590,974 of federal funds.
- Providing \$1,107,750, \$338,530 of which is from the health care trust fund and \$769,220 of federal funds for medical assistance grants relating to targeted case management services.
- Providing \$6,898,302 from the health care trust fund for service payments for elderly and disabled (SPED).
- Providing \$100,226 from the health care trust fund for making payments on grants approved during the 1999-2001 biennium but which will not be paid until the 2001-03 biennium.
- Providing \$150,000 from the health care trust fund for increasing senior citizen mill levy matching grants.
- Providing \$100,000 from the health care trust fund for independent living center grants.
- Providing \$71,158 from the health care trust fund for administrative costs associated with the intergovernmental transfer program.
- Providing \$8,055,347, \$3,000,000 of which is from the health care trust fund and \$5,055,347 of federal funds, for costs associated with the federal Health Insurance Portability and Accountability Act (HIPAA).

After these changes, appropriations and transfers from the health care trust fund and related federal funds included in this bill are as follows:

	HEALTH CARE TRUST FUND	FEDERAL FUNDS	TOTAL
<b>Department of Human Services appropriations</b>			
Dunseith and McVitie - Additional 1999-2001 biennium transaction fee	\$800,000		\$800,000
Grants - 1999-2001 commitments	100,226		100,226
Loans - 1999-2001 commitments	3,020,000		3,920,000
Loans - 2001-03 biennium	4,979,774		4,979,774
Service payments for elderly and disabled (SPED)	6,898,302		6,898,302
HIPAA computer project	3,000,000	\$5,055,347	8,055,347
Statewide long-term care needs assessment	241,000		241,000
Nursing home bed reduction incentive	4,100,000		4,100,000
Nursing facility employee compensation enhancement	8,189,054	19,107,793	27,296,847
Basic care employee compensation enhancement	202,080	471,520	673,600
Nursing facility rate limit increases resulting from rebasing	681,846	1,590,974	2,272,820
Nursing facility personal care allowance increase	286,400	621,600	888,000
Basic care facility personal care allowance increase	180,000		180,000
Qualified service provider (OSP) training grants	140,000		140,000
Administrative costs	71,158		71,158
Senior citizen mill levy match	150,000		150,000
Medical assistance - Targeted case management	338,530	769,220	1,107,750
Independent living center grants	<u>100,000</u>		<u>100,000</u>

Total Department of Human Services	\$34,358,376	\$27,616,454	\$61,974,830
Transfer to nursing facility nurses student loan repayment fund	<u>1,000,000</u>	_____	<u>1,000,000</u>
Total appropriations and transfers	\$35,358,376	\$27,616,454	\$62,974,830

Date: 2-15-01  
Roll Call Vote #: 1

Withdrawn

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1196

House Appropriations Committee

Subcommittee on Human Resources  
or  
 Conference Committee

Legislative Council Amendment Number 161310403 -- WITH DEAN

Action Taken Motion to <sup>Adopt</sup> Amend

Motion Made By Rep Delzer Seconded By Rep Kliniske

Representatives	Yes	No	Representatives	Yes	No
Chairman Ken Svedjan					
Vice-Chairman Jeff Delzer					
Rep. Keith Kempenich					
Rep. James Kerzman					
Rep. Amy Kliniske					
Rep. John M. Warner					

Vote Like

Total (Yes) 5 No 1

Absent 0

Floor Assignment \_\_\_\_\_

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



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1196

Page 1, line 1, after "enact" insert "a new subsection to" and replace "23-27-04.5" with "21-10-06"

Page 1, line 2, after "to" insert "funds under the management of the state investment board and", after "nurses" insert "student", replace "repayment" with "payment", and remove "and"

Page 1, line 3, remove "a quick-response unit service pilot program"

Page 1, line 4, after the sixth comma insert "23-16-01.1,"

Page 1, line 6, after the second comma insert "the moratorium on the expansion of long-term care bed capacity,"

Page 1, line 9, after the first semicolon insert "to provide a statement of legislative intent; to provide for a legislative council study;"

Page 1, line 20, remove the overstrike over "nursing"

Page 1, line 21, remove "1. Nursing"

Page 1, line 23, remove "construction or"

Page 1, remove line 24

Page 3, after line 30, insert:

**"SECTION 7.** A new subsection to section 21-10-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Health care trust fund."

Page 4, line 18, replace "A nursing facility may designate up to twenty percent of its licensed bed capacity as" with "Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

**SECTION 9. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-16-01.1. Moratorium on expansion of long-term care bed capacity.** Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when nursing facilities are converting basic bed capacity to nursing facility bed capacity, the state department of health may not issue a

license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999, during the period between August 1, 1999, and July 31, 2001. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, 1999, to July 31, 2001, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.

Page 4, remove lines 19 through 31

Page 5, remove lines 1 and 2

Page 5, line 5, after "nurses" insert "student" and replace "repayment" with "payment"

Page 5, line 7, after "nurses" insert "student" and replace "repayment" with "payment"

Page 5, line 8, after "nurses" insert "student"

Page 5, line 9, replace "repayment" with "payment"

Page 5, line 10, replace "repayment" with "payment"

Page 5, line 12, replace "repayment" with "payment"

Page 5, line 15, replace "repayment" with "payment"

Page 5, line 20, replace "to applicants who" with "monthly to institutions that own student loans of applicants who meet and continue to meet the criteria standards and eligibility standards."

1. In the case of an eligible applicant who has a student loan with forty-eight or fewer monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to the regularly scheduled monthly payment amount.
2. In the case of an eligible applicant who has a student loan with more than forty-eight monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to one forty-eighth of the amount of the outstanding balance of the educational loan on the date of application plus any applicable interest."

Page 5, remove lines 21 through 30

Page 6, remove lines 1 through 6

Page 6, line 7, after "nurses" insert "student", replace "repayment" with "payment", and remove "- Continuing appropriation"

Page 6, line 8, replace "repayment" with "payment"

Page 6, line 10, remove "are appropriated and"

Page 6, line 11, after "council" insert "pursuant to legislative appropriations" and replace "repayment" with "payment"

Page 9, line 31, overstrike "treasurer" and insert immediately thereafter "investment board"

Page 10, line 1, overstrike "such funds in interest-bearing accounts, as designated by the department" and insert immediately thereafter "moneys in the fund in accordance with chapter 21-10"

Page 10, line 2, overstrike "interest" and insert immediately thereafter "income"

Page 10, line 20, overstrike "a." and remove "Construction or"

Page 10, line 24, overstrike "; or"

Page 10, line 25, overstrike "b."

Page 10, line 27, remove the overstrike over the period and remove "Technology projects relating to the delivery of long-term"

Page 10, remove line 28

Page 12, after line 23, insert:

**"SECTION 17. LEGISLATIVE INTENT - HEALTH CARE TRUST FUND USES.**

It is the intent of the fifty-seventh legislative assembly that the June 30, 2003, unobligated balance in the health care trust fund and any investment earnings on that amount during the 2003-05 biennium not be appropriated but be retained in the fund to be used to continue, for periods subsequent to the 2003-05 biennium, the increased funding levels authorized in this Act for the 2001-03 biennium.

Page 13, line 1, replace "26,700,000" with "38,750,000"

Page 13, line 2, replace "18,700,000" with "27,100,000"

Page 13, line 3, replace "8,000,000" with "11,650,000"

Page 13, line 6, replace "\$18,700,000" with "\$27,100,000"

Page 13, after line 26, insert:

**"SECTION 21. APPROPRIATION - ADMINISTRATIVE COSTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$71,158, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the administrative costs associated with the intergovernmental transfer program, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 13, line 29, replace "\$35,000,000" with "\$8,899,774"

Page 14, line 1, replace "Of the amounts available in the health care trust fund for loans, the" with "Of this amount \$3,920,000 relates to commitments made during the biennium beginning July 1, 1999, and ending June 30, 2001."

Page 14, remove lines 2 through 4

Page 15, line 3, replace "\$1,165,303" with "\$681,846"

Page 15, line 4, replace "\$2,719,040" with "\$1,590,974"

Page 15, line 7, replace "2000" with "1999"

Page 15, after line 21, insert:

**"SECTION 29. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE NEEDS.** The legislative council shall consider studying, during the 2001-02 interim, the long-term care needs in North Dakota. If studied, the legislative council shall receive progress reports and a final report from the department of human services on the statewide needs assessment study for long-term care."

Page 15, line 27, after "NURSES" insert "STUDENT" and replace "REPAYMENT" with "PAYMENT"

Page 15, line 29, after "nurses" insert "student" and replace "repayment" with "payment"

Page 15, replace lines 30 and 31 with:

**"SECTION 32. APPROPRIATION - STATE DEPARTMENT OF HEALTH - NURSING FACILITY NURSES STUDENT LOAN PAYMENT FUND - ADDITIONAL SPENDING AUTHORITY - EMERGENCY COMMISSION APPROVAL.** There is appropriated out of any moneys in the nursing facility nurses student loan payment fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the state department of health for the purpose of making nursing facility nurses student loan payments, for the biennium beginning July 1, 2001, and ending June 30, 2003. The state department of health may request emergency commission and budget section approval to spend additional moneys from the fund for making nursing facility nurses student loan payments, which is appropriated for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 33. APPROPRIATION - SERVICE PAYMENTS FOR THE ELDERLY AND DISABLED.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$6,898,302, or so much of the sum as may be necessary, to the department of human services for the purpose of making service payments for the elderly and disabled, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 34. APPROPRIATION - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$5,055,347, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of complying with the federal Health Insurance Portability and Accountability Act or other technology projects, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 35. APPROPRIATION - 1999-2001 BIENNIUM NURSING FACILITY GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,226, or so much of the sum as may be necessary, to the department of human services for the purpose of making payments on grants approved under the nursing facility alternative grant fund during the 1999-2001 biennium, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 36. APPROPRIATION - SENIOR CITIZEN MILL LEVY MATCHING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing additional senior citizen mill levy matching grants, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 37. APPROPRIATION - MEDICAL ASSISTANCE - TARGETED CASE MANAGEMENT SERVICES.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$338,530, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$769,220, or so much of the sum as may be necessary, to the department of human services for the purpose of making medical assistance payments for targeted case management services, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 38. APPROPRIATION - INDEPENDENT LIVING CENTER GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to independent living centers, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 16, remove lines 1 through 3

Page 16, line 27, replace "Section 7" with "Sections 8 and 9" and replace "is" with "are"

Page 16, line 28, replace "is" with "are"

Page 16, line 29, replace "18" with "20", replace "30" with "34, 40" and replace "31" with "41"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Dept. 301 - State Department of Health**

Sections are removed providing for the State Department of Health to implement a quick-response unit service pilot program and appropriating \$225,000 from the health care trust fund for this program for the 2001-03 biennium. The program and the appropriation are being included in House Bill No. 1202.

The name of the nursing facility nurses loan repayment program is changed to the nursing facility nurses student loan payment program and provisions of the program are changed to provide that the payments be made directly to the financial institution holding the loan rather than to the nurse and that loan payments be made equally over a four-year period rather than based on the following schedule:

Year 1	30 percent
Year 2	30 percent
Year 3	25 percent
Year 4	15 percent

The continuing appropriation for making these payments is removed and a \$200,000 appropriation from the nursing facility nurses student loan payment fund is provided for making these payments during the 2001-03 biennium. A provision is added that the department may seek Emergency Commission and Budget Section approval for additional spending authority for this program during the 2001-03 biennium. Sections 23-09.3-01.1 and 23-16-01.1 that provide for the moratoriums on the expansion of basic care or nursing facility bed capacity are changed to allow nursing facilities to convert licensure from skilled care to basic care and vice versa no more often than once every 12 months and providing that the beds being converted must be in the same block of rooms within the facility.

#### **Dept. 325 - Department of Human Services**

HOUSE - This amendment provides that the State Investment Board is responsible for the investment of moneys in the health care trust fund.

A section of legislative intent is added regarding making adequate resources available in the fund beyond the 2003-05 biennium to provide the funding necessary to continue the increased funding levels authorized by this bill.

Provisions are added directing the Legislative Council to consider studying, during the 2001-02 interim, the long-term care needs in North Dakota, and that the Department of Human Services conduct its assessment of North Dakota's long-term care needs in conjunction with the Legislative Council committee.

Appropriations changes and additions include:

- increasing the government nursing facility funding pool payment appropriation by \$12,050,000, \$3,650,000 of which is from the general fund, to a total of \$38,750,000, \$11,650,000 of which is from the general fund and \$27,100,000 of federal funds to reflect revised Department of Human Services projections. The general fund share will be returned to the general fund within one business day of each payment being made.
- Reducing funds from the health care trust fund for loans by \$26,100,226 to a total of \$8,899,774. The \$8.9 million includes appropriation authority for funding loans approved during the 1999-2001 biennium but which will not be paid out until the 2001-03 biennium. In addition, the provisions allowing loans to be made for technology projects are removed and, as amended, loans may not be made for construction projects, only renovation projects.
- Reducing funds for nursing facility rate limit increases by \$483,457 from the health care trust fund to provide that rate limits be based on 1999 rather than 2000 cost reports. Funding of \$2,272,820 remains in the bill, \$681,846 of which is from the health care trust fund and \$1,590,974 of federal funds.
- Providing \$1,107,750, \$338,530 of which is from the health care trust fund and \$769,220 of federal funds for medical assistance grants relating to targeted case management services.
- Providing \$6,898,302 from the health care trust fund for service payments for elderly and disabled (SPED).
- Providing \$100,226 from the health care trust fund for making payments on grants approved during the 1999-2001 biennium but which will not be paid until the 2001-03 biennium.
- Providing \$150,000 from the health care trust fund for increasing senior citizen mill levy matching grants.
- Providing \$100,000 from the health care trust fund for independent living center grants.
- Providing \$71,158 from the health care trust fund for administrative costs associated with the intergovernmental transfer program.
- Providing \$8,055,347, \$3,000,000 of which is from the health care trust fund and \$5,055,347 of federal funds, for costs associated with the federal Health Insurance Portability and Accountability Act (HIPAA) or other technology projects.

After these changes, appropriations and transfers from the health care trust fund and related federal funds included in this bill are as follows:

	HEALTH CARE TRUST FUND	FEDERAL FUNDS	TOTAL
<b>Department of Human Services appropriations</b>			
Dunseith and McVillie - Additional 1999-2001 biennium	\$800,000		\$800,000
transaction fee			100,220
Grants - 1999-2001 commitments	100,220		3,920,000
Loans - 1999-2001 commitments	3,920,000		4,979,774
Loans - 2001-03 biennium	4,979,774		6,898,302
Service payments for elderly and disabled (SPED)	6,898,302		8,055,347
HIPAA computer project	3,000,000	\$5,055,347	241,000
Statewide long-term care needs assessment	241,000		4,100,000
Nursing home bed reduction incentive	4,100,000		27,298,847
Nursing facility employee compensation enhancement	6,188,054	19,107,793	873,600
Basic care employee compensation enhancement	202,080	471,620	2,272,820
Nursing facility rate limit increases resulting from rebasing	681,848	1,590,974	888,000
Nursing facility personal care allowance increase	288,100	821,600	160,000
Basic care facility personal care allowance increase	160,000		71,158
Qualified service provider (QSP) training grants	140,000		150,000
Administrative costs	71,158		1,107,750
Senior citizen mill levy match	150,000		100,000
Medical assistance - Targeted case management	338,530	769,220	
Independent living center grants	100,000		
<b>Total Department of Human Services</b>	<b>\$34,358,378</b>	<b>\$27,616,464</b>	<b>\$61,974,830</b>
Transfer to nursing facility nurses student loan repayment fund	1,000,000		1,000,000
<b>Total appropriations and transfers</b>	<b>\$35,358,378</b>	<b>\$27,616,464</b>	<b>\$62,974,830</b>









Date: 2-16-01  
 Roll Call Vote #: 1

**2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1196**

House APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
 or  
 Conference Committee

Legislative Council Amendment Number 10131 .0404

Action Taken to adopt amendment

Motion Made By Rep Delzer Seconded By Rep. Svedjan

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman					
Wald - Vice Chairman					
Rep - Aarsvold			Rep - Koppelman		
Rep - Boehm			Rep - Martinson		
Rep - Byerly			Rep - Monson		
Rep - Carlisle			Rep - Skarphol		
Rep - Delzer			Rep - Svedjan		
Rep - Glassheim			Rep - Thoreson		
Rep - Gulleson			Rep - Warner		
Rep - Huether			Rep - Wentz		
Rep - Kempenich					
Rep - Kerzman					
Rep - Kliniske					

Total (Yes) 21 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 2-16-01  
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1196

House APPROPRIATIONS Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number 10131.0404

Action Taken DO PASS AS AMENDED.

Motion Made By Rep. Delzer Seconded By Rep. Svedjan

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byorly	✓		Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer	✓		Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulleson	✓		Rep - Warner	✓	
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich	✓				
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 21 No 0

Absent 0

Floor Assignment Rep. Delzer

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

partnership that engages in the practice of law, accounting, medicine, and any other profession in which neither capital nor the services of employees are a material income producing factor."

Remember accordingly

#### REPORT OF STANDING COMMITTEE

HB 1196, as engrossed and amended: Appropriations Committee (Rep. Tamm, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1196, as amended, was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new subsection to" and replace "23-27-04.5" with "21-10-06"

Page 1, line 2, after "to" insert "funds under the management of the state investment board and", after "nurses" insert "student", replace "repayment" with "payment", and remove "and"

Page 1, line 3, remove "a quick-response unit service pilot program"

Page 1, line 4, after the sixth comma insert "23-16-01.1."

Page 1, line 6, after the second comma insert "the moratorium on the expansion of long-term care bed capacity."

Page 1, line 9, after the first semicolon insert "to provide a statement of legislative intent; to provide for a legislative council study;"

Page 1, line 20, remove the overstrike over "nursing" and remove the underscored colon

Page 1, line 21, remove "1. Nursing"

Page 1, line 23, remove "construction or"

Page 1, remove line 24

Page 3, after line 30, insert:

"SECTION 7. A new subsection to section 21-10-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

#### Health care trust fund."

Page 4, line 18, replace "A nursing facility may designate up to twenty percent of its licensed bed capacity as" with "Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

SECTION 9. AMENDMENT. Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

23-16-01.1. Moratorium on expansion of long-term care bed capacity. Notwithstanding sections 23-16-06 and 23-16-10, except when existing beds are converted for use by the alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when nursing facilities are converting basic bed capacity to nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one hundred forty beds, adjusted by any reduction in beds before July 31, 1999, during the period between August 1, 1999, and July 31, 2001. Transfers of existing beds from one municipality to another municipality must be approved if the department of health licensing requirements are met, during the period August 1, 1999, to July 31, 2001, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility which are not immediately transferred to another facility may not be banked for future transfer to another facility. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity

to basic care bed capacity or may convert basic care bed capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of health of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility."

Page 4, remove lines 19 through 31

Page 5, remove lines 1 and 2

Page 5, line 5, after "nurses" insert "student" and replace "repayment"

Page 5, line 7, after "nurses" insert "student"

Page 5, line 8, after "nurses" insert "student"

Page 5, line 9, replace "repayment" with

Page 5, line 10, replace "repayment" with

Page 5, line 12, replace "repayment" with

Page 5, line 15, replace "repayment" with

Page 5, line 20, replace "to applicants who" with "monthly to institutions that own student loans of applicants who meet and continue to meet the criteria standards and quality standards."

1. In the case of an eligible applicant who has a student loan with forty-eight or fewer monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to the regular scheduled monthly payment amount.

2. In the case of an eligible applicant who has a student loan with more than forty-eight monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to one forty-eighth of the amount of the outstanding balance of the educational loan on the date of application plus any applicable interest."

Page 5, remove lines 21 through 30

Page 6, remove lines 1 through 6

Page 6, line 7, after "nurses" insert "student" replace "repayment" with "appropriation"

Page 6, line 8, replace "repayment" with

Page 6, line 10, remove "are appropriated and"

Page 6, line 11, after "council" insert "pursuant to legislative appropriations" and replace "repayment"

Page 9, line 31, overstrike "treasurer" and insert immediately thereafter "investment board"

Page 10, line 1, overstrike "such funds in interest-bearing accounts, as designated by the department" and insert immediately thereafter "moneys in the fund in accordance with chapter 21-10"

Page 10, line 2, overstrike "interest" and insert immediately thereafter "income"

Page 10, line 19, overstrike the colon

Page 10, line 20, overstrike "a" and remove "Construction of"

Page 10, line 24, overstrike " or"

Page 10, line 25, overstrike " to"

Page 10, line 27, remove the overstrike over the period and remove "Technology and relating to the delivery of long term"

Page 10, remove line 28

Page 12, after line 23, insert:

**SECTION 17. LEGISLATIVE INTENT - HEALTH CARE TRUST FUND USES.** It is the intent of the fifty-seventh legislative assembly that the June 30, 2003, unobligated balance in the health care trust fund and any investment earnings on that amount during the 2003-05 biennium not be appropriated but be retained in the fund to be used to continue, for periods subsequent to the 2003-05 biennium, the increased funding levels authorized in this Act for the 2001-03 biennium."

Page 13, line 1, replace "26,700,000" with "38,750,000"

Page 13, line 2, replace "18,700,000" with "27,100,000"

Page 13, line 3, replace "8,000,000" with "11,650,000"

Page 13, line 6, replace "\$18,700,000" with "\$27,100,000" and replace "16" with "18"

Page 13, after line 26, insert:

**SECTION 21. APPROPRIATION - ADMINISTRATIVE COSTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$71,158, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the administrative costs associated with the intergovernmental transfer program, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 13, line 29, replace "\$35,000,000" with "\$6,899,774"

Page 14, line 1, replace "Of the amounts available in the health care trust fund for loans, the" with "Of this amount \$3,920,000 relates to commitments made during the biennium beginning July 1, 1999, and ending June 30, 2001."

Page 14, remove lines 2 through 4

Page 15, line 3, replace "\$1,165,303" with "\$681,846"

Page 15, line 4, replace "\$2,719,040" with "\$1,590,974"

Page 15, line 7, replace "2000" with "1999"

Page 15, after line 21, insert:

**SECTION 29. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE NEEDS.** The legislative council shall consider studying, during the 2001-02 interim, the long-term care needs in North Dakota. If studied, the legislative council shall receive progress reports and a final report, from the department of human services on the statewide needs assessment study for long-term care."

Page 15, line 27, after "NURSES" insert "STUDENT" and replace "REPAYMENT" with "PAYMENT"

Page 15, line 29, after "nurses" insert "student" and replace "repayment" with "payment"

Page 15, replace lines 30 and 31 with:

**SECTION 32. APPROPRIATION - STATE DEPARTMENT OF HEALTH - NURSING FACILITY NURSES STUDENT LOAN PAYMENT FUND - ADDITIONAL SPENDING AUTHORITY - EMERGENCY COMMISSION APPROVAL.** There is appropriated out of any moneys in the nursing facility nurses student loan payment fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the state department of health for the purpose of making nursing facility nurses student loan payments, for the biennium beginning July 1, 2001, and ending June 30, 2003. The state department of health may request emergency commission and budget section approval to spend additional moneys from the fund for making nursing facility nurses student loan payments,

which is appropriated for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 33. APPROPRIATION - SERVICE PAYMENTS FOR THE ELDERLY AND DISABLED.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$6,898,302, or so much of the sum as may be necessary, to the department of human services for the purpose of making service payments for the elderly and disabled, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 34. APPROPRIATION - HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$5,055,347, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of complying with the federal Health Insurance Portability and Accountability Act or other technology projects, for the period beginning with the effective date of this Act and ending June 30, 2003.

**SECTION 35. APPROPRIATION - 1999-2001 BIENNIUM NURSING FACILITY GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,225, or so much of the sum as may be necessary, to the department of human services for the purpose of making payments on grants approved under the nursing facility alternative grant fund during the 1999-2001 biennium, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 36. APPROPRIATION - SENIOR CITIZEN MILL LEVY MATCHING GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing additional senior citizen mill levy matching grants, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 37. APPROPRIATION - MEDICAL ASSISTANCE - TARGETED CASE MANAGEMENT SERVICES.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$338,530, or so much of the sum as may be necessary, and from special funds derived from federal funds, the sum of \$769,220, or so much of the sum as may be necessary, to the department of human services for the purpose of making medical assistance payments for targeted case management services, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 38. APPROPRIATION - INDEPENDENT LIVING CENTER GRANTS.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to independent living centers, for the biennium beginning July 1, 2001, and ending June 30, 2003."

Page 16, remove lines 1 through 3

Page 16, line 27, replace "Section 7" with "Sections 8 and 9" and replace "is" with "are"

Page 16, line 28, replace "is" with "are"

Page 16, line 29, replace "18" with "20", replace "30" with "34, 40" and replace "31" with "41"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

## Dept. 301 - State Department of Health

Sections are removed providing for the State Department of Health to implement a quick-response unit service pilot program and appropriating \$225,000 from the health care trust fund for this program for the 2001-03 biennium. The program and the appropriation are being included in House Bill No. 1202. The name of the nursing facility nurses loan repayment program is changed to the nursing facility nurses student loan payment program and provisions of the program are changed to provide that the payments be made directly to the financial institution holding the loan rather than to the nurse and that loan payments be made equally over a four-year period rather than based on the following schedule:

Year 1	30 percent
Year 2	30 percent
Year 3	25 percent
Year 4	15 percent

The continuing appropriation for making these payments is removed and a \$200,000 appropriation from the nursing facility nurses student loan payment fund is provided for making these payments during the 2001-03 biennium. A provision is added that the department may seek Emergency Commission and Budget Section approval for additional spending authority for this program during the 2001-03 biennium. Sections 23-09-3-01.1 and 23-16-01.1 that provide for the moratoriums on the expansion of basic care or nursing facility bed capacity are changed to allow nursing facilities to convert licensure from skilled care to basic care and vice versa no more often than once every 12 months and providing that the beds being converted must be in the same block of rooms within the facility.

## Dept. 325 - Department of Human Services

HOUSE - This amendment provides that the State Investment Board is responsible for the investment of moneys in the health care trust fund.

A section of legislative intent is added regarding making adequate resources available in the fund beyond the 2003-05 biennium to provide the funding necessary to continue the increased funding levels authorized by this bill.

Provisions are added directing the Legislative Council to consider studying, during the 2001-02 interim, the long-term care needs in North Dakota, and that the Department of Human Services conduct its assessment of North Dakota's long-term care needs in conjunction with the Legislative Council committee.

## Appropriations changes and additions include:

- Increasing the government nursing facility funding pool payment appropriation by \$12,050,000, \$3,650,000 of which is from the general fund, to a total of \$38,750,000, \$11,650,000 of which is from the general fund and \$27,100,000 of federal funds to reflect revised Department of Human Services projections. The general fund share will be returned to the general fund within one business day of each payment being made.
- Reducing funds from the health care trust fund for loans by \$26,100,226 to a total of \$8,899,774. The \$8.9 million includes appropriation authority for funding loans approved during the 1999-2001 biennium but which will not be paid out until the 2001-03 biennium. In addition, the provisions allowing loans to be made for technology projects are removed and, as amended, loans may not be made for construction projects, only renovation projects.
- Reducing funds for nursing facility rate limit increases by \$483,457 from the health care trust fund to provide that rate limits be based on 1999 rather than 2000 cost reports. Funding of \$2,272,820 remains in the bill, \$681,846 of which is from the health care trust fund and \$1,590,974 of federal funds.
- Providing \$1,107,750, \$338,530 of which is from the health care trust fund and \$769,220 of federal funds for medical assistance grants relating to targeted case management services.
- Providing \$6,698,302 from the health care trust fund for service payments for elderly and disabled SPEC.
- Providing \$100,226 from the health care trust fund for making payments on grants approved during the 1999-2001 biennium but which will not be paid until the 2001-03 biennium.
- Providing \$150,000 from the health care trust fund for increasing senior citizen mill levy matching grants.

- Providing \$100,000 from the health care trust fund for independent living center grants.
- Providing \$71,158 from the health care trust fund for administrative costs associated with the intergovernmental transfer program.
- Providing \$8,055,347, \$3,000,000 of which is from the health care trust fund and \$5,055,347 of federal funds, for costs associated with the federal Health Insurance Portability and Accountability Act (HIPAA) or other technology projects.

After these changes, appropriations and transfers from the health care trust fund and related federal funds included in this bill are as follows:

	HEALTH CARE TRUST FUND	FEDERAL FUNDS	TOTAL
Department of Human Services appropriations			
Operating and Activities - Additional 1999-2001 biennium	\$800,000		\$800,000
Transaction fee			
Grants - 1999-2001 commitments	100,226		100,226
Loans - 1999-2001 commitments	3,820,000		3,820,000
Loans - 2001-03 biennium	4,979,774		4,979,774
Service payments for elderly and disabled (SPEC)	3,898,302		3,898,302
HIPAA computer project	3,000,000	\$5,055,347	8,055,347
Statewide long-term care needs assessment	241,806		241,806
Nursing home bed reduction incentive	4,100,000		4,100,000
Nursing facility employee compensation enhancement	\$,189,054	19,107,750	27,296,804
Basic care employee compensation enhancement	202,080	471,520	673,600
Nursing facility rate limit increases resulting from rebasing	681,846	1,590,974	2,272,820
Nursing facility personal care allowance increase	266,400	571,600	838,000
Basic care facility personal care allowance increase	180,300		180,300
Qualified service provider (QSP) training grants	140,000		140,000
Administrative costs	71,158		71,158
Senior citizen mill levy match	150,000		150,000
Medical assistance - Targeted case management	338,530	769,220	1,107,750
Independent living center grants	100,000		100,000
Total Department of Human Services	\$34,358,376	\$27,616,454	\$61,974,830
Transfer to nursing facility nurses student loan repayment fund	1,000,000		1,000,000
Total appropriations and transfers	\$35,358,376	\$27,616,454	\$62,974,830

## REPORT OF STANDING COMMITTEE

HB 1215: Appropriations Committee (Rep. Timm, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (16 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1215 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "\$475,000" with "\$250,000"

Re-number accordingly

## STATEMENT OF PURPOSE OF AMENDMENT:

HOUSE - This amendment reduces the amount of funding to be provided to the Adjutant General for maintenance and repair of political subdivision-owned amonies by \$225,000, from \$475,000 to \$250,000.

## REPORT OF STANDING COMMITTEE

HB 1261: Transportation Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1261 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "39-04-21" insert ", 39-06.1-08, and paragraph 2 of subdivision a of subsection 3 of section 39-06.1-10"

Page 1, line 2, after "vehicles" insert "; and to provide a penalty"

Page 1, line 13, after the period insert "The director shall collect a surcharge of fifty dollars for each application for a temporary registration. The director shall transmit this surcharge to the treasurer of the county in this state in which the application was made for deposit in the general fund of the county." after "issue" insert "evidence of registration" and replace "number" with "distinguishing color"

Page 1, line 14, remove "plate"

2001 SENATE HUMAN SERVICES

HB 1196

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

Senate Human Services Committee

Conference Committee

Hearing Date February 28, 2001

Tape Number	Side A	Side B	Meter #
1	X		
1		X	
March 7, 2001 3	X		7.4
Committee Clerk Signature <i>Carol Koleschuk</i>			

Minutes:

The Human Services Committee was called to order by Senator Lee. All Senators were present.

The hearing on HB 1196 was opened.

SENATOR KEN SOLBERG, sponsor of the bill, introduced it. He spoke of the history of the bill; how it came about and why.

REPRESENTATIVE BILL DEVLIN, cosponsor, supports this most critical bill. (Written testimony) This inter transfer should meet needs of nursing homes.

REPRESENTATIVE DALE SEVERSON, cosponsor, supports the bill. Agrees with everything that has been said. Appreciates the work of the committee that drew up the bill and feels it is a important bill.

REPRESENTATIVE JEFF DELZER, cosponsor, explained the bill. In section 9, bed conversions, explains the move between nursing home and basic care beds. You need to look at that and put a limit on it, possibly 20%. Has to be in one block of nursing home, not one bed

here and one there. Section 4 discusses nurses loan repayment. The House decided to pay \$148 to the institution or whatever amount is needed to repay the loan instead of giving it to the individual. It also addresses facility loans. Loans can be made for renovations only, not new facilities. Section 15 deals with grants. Section 16 deals with loans. Section 17 puts dollars aside - as much as we can - because we will get dollars this biennium and next biennium, but the following biennium the Feds will cut the money off. Sections 20-30 addresses the appropriation, Section 29 needs to be better defined. Perimeters should be set about who and what. Section 33 is SPED. Section 37 interacts with 1117. Section 42 has an expiration date on the moratorium, however look at that so it doesn't conflict with the other bill. Section 43 is the emergency measure. Handed out some numbers (written) There are changes with the Hoeven budget. We must remember that the 3rd biennium we will have no Federal funds. We need to set some aside to work for us. SENATOR MATHERN: What is the rationale for having all the detail in the bill. It has been management vs. Legislation as we have seen in other bills. REP. DELZER: This is a case of line items. These things have to do with general areas. We are appropriating them in 1196, not in 1012. It needs to be this detailed. SENATOR LEE: There is a comfort level to have more detail in something new like this. REP. DELZER: This is a short term bill, so we need to have those figures out there, because it is taking the place of general fund money and we are going to have to replace that in the future. We need to be alert to the Fed ending. SHELLEY PETERSON, President of Long Term Care Assoc., supports bill. (Written testimony). Maybe we need to change the moratorium section in this bill and kill the other one. SENATOR LEE: In the personal needs section, would a gift count against allowance? MS. PETERSON: No, it would not be counted as part of allowance. SENATOR MATHERN: Is the bed buy out permanent? Can they just reduce beds? What about moratorium and flexing? MS.

PETERSON: There are two options that a nursing facility will have when this legislation passes. They can choose to take the beds out of service and they could take 20 beds out of service. If they are taken out of service they can never come back in. The facility can also choose to flex some of their beds, but the beds taken out of service can't be flexed. They could do both things or just one.

REPRESENTATIVE MERLE BOUCHER, cosponsor, supports bill. (Written testimony) This is a directive to find alternative services for senior citizens. I am disappointed with the senior mill levy match which would have funded meals on wheels, etc. It has been reduced; it is a critical part that was overlooked. Another \$150,000 could represent the individual being in home longer.

JESSICA McDOWELL, CNA in local nursing home, supports bill. Her job puts her at a risk of diseases, and as a result of their illness patients become combative. This bill will help meet needs and endorsed the financial benefits. SENATOR KILZER: Have you been vaccinated for Hepatitis A and B? MS. McDOWELL: Just hepatitis B.

SUE KASPNER, CNA in local nursing home, supports bill. She enjoys her work interacting with patients, listening to stories of their youth and listening to a crisis and make the day go a little easier. Sometimes I can relieve stress from accidents. Spoke for financial increases.

DARWIN LEE, Chairman of Long Term Care Assoc., Westhope Nursing Home, supports bill, (Written testimony).

JERRY PEAK, Dunseith Community Home, supports bill. (Written testimony). SENATOR MATHERN: Are you for the amount of money you will receive? MR. PEAK: Yes, I am in favor.

JIM OPDAHL, Nelson County Health System, McVille, supports bill. (Written Testimony)

PENNY WESTON, WND Nurses Assoc., supports bill, particularly the loan and payment sections. We need money to keep people independent.

Neutral position:

DAVE ZENTNER, Dept of Human Services, offered amendments (Written testimony). We must increase the allowance of \$60 to mentally disabled as well as nursing home clients and if must be included in the fiscal note. SENATOR LEE: \$30,000 per person for the average one and a half year stay. MR. ZENTNER: Nursing homes can charge extra for private rooms. None of those dollars are for a double room. SENATOR KILZER: Section 12 deletes the definition. MR. ZENTNER: 1109 has definition of assisted living. SENATOR MATHERN: Are any of the loan or grants to facilities in 1196. Are we starting new administrative processes or just changing some that are in place? MR. ZENTNER: We are making loans for alternatives. It now puts emphasis on remodeling nursing facilities primarily and basic care facilities. It would allow for nursing homes to renovate, but not new construction.

The hearing was closed on HB 1196.

March 7, 2001, Tape 3, Side A, Meter 7.5

Discussion was held on HB 1196.

The committee called DAVE ZENTNER, Dept of Human Services to answer some questions. SENATOR MATHERN presented an amendment Page 15 line 24 after word facility insert and Intermediate Care Facility for Mentally Retarded; on line 28 after word home insert and Intermediate Care Facility for Mentally Retarded and further amend on line 25 change \$266,400 to \$309,600 and line 26 further amend \$621,600 to read, \$708,000. SENATOR MATHERN moved the amendment. SENATOR FISCHER seconded it. Roll call vote carried 5-0-1. SENATOR MATHERN moved further amendments from the Human Services Dept. (Mr.

Page 5  
Senate Human Services Committee  
Bill/Resolution Number HB 1196  
Hearing Date February 28, 2001

Zentner). Omissions are page 1 line 22 and 23 page 10, line 26, page 10, line 29. SENATOR  
POLOVITZ seconded the motion. Discussion. Roll call vote carried 5-0-1. SENATOR  
FISCHER moved a DO PASS AS AMENDED. SENATOR ERBELE seconded the motion.  
Discussion. Roll call vote carried 3-2-1. SENATOR FISCHER will carry the bill.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196

Page 4, line 22, after the first "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity."

Page 4, line 31, after "basic" insert "care", and after "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity."

Page 5, line 3, overstrike "1999" and insert immediately thereafter "2001"

Page 5, line 4, overstrike "1999" and insert immediately thereafter "2001", and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 6, overstrike "1999" and insert immediately thereafter "2001", and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 11, after the second "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity."

Page 7, line 9, overstrike "governmental" and insert immediately thereafter "government"

Page 8, line 21, overstrike ""Assisted living facility" has the meaning provided in section 50-24.5-01, but if the"

Page 8 overstrike lines 22 through 30

Page 9 overstrike lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3." with "2."

Page 9, line 23, replace "4." with "3."

Page 9, line 25, replace "5." with "4."

Page 11, line 10, overstrike "The department's share of the total" and insert immediately thereafter "An approved loan for"

Page 11, line 11, overstrike "cost of", and overstrike "is limited to" and insert immediately thereafter "may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 29, after the period insert "An incentive will not be paid for nursing facility bed capacity which is temporarily converted to basic care bed capacity."

Page 15, line 24, after "FACILITY" insert "**AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**"

Page 15, line 25, overstrike "\$266,400" and insert immediately thereafter "\$309,600"

Page 15, line 26, overstrike "\$621,600" and insert immediately thereafter "\$708,000"

Page 15, line 28, after "home" insert "and Intermediate care for the mentally retarded"

Renumber accordingly

Roll Call Vote #: /

Date: 3/7/01

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1196

Senate HUMAN SERVICES Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendment

Motion Made By Sen Mathern Seconded By Sen Fischer

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson			Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

Sen Mathern

Roll Call Vote #: 2 Date: 3/7/01

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1194

Senate HUMAN SERVICES Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken amendments

Motion Made By Sen Mathern Seconded By Sen Polovitz

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson			Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment \_\_\_\_\_

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

Dept of H S amendments dated 2/27/01  
missions line 22<sup>23</sup> page 1, page 10 line 29  
26

Date: 3/7/01

Roll Call Vote #: 3

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1196

Senate HUMAN SERVICES Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended and Referred to App.

Motion Made By Sen Fischer Seconded By Sen Erbele

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson			Senator Polovitz		✓
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern		✓
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 3 No 2

Absent 1

Floor Assignment Sen Fischer

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

REPORT OF STANDING COMMITTEE

HB 1196, as reengrossed: Human Services Committee (Sen. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1196 was placed on the Sixth order on the calendar.

Page 4, line 22, after the first "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 4, line 31, after "basic" insert "care" and after "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, line 3, overstrike "1999" and insert immediately thereafter "2001"

Page 5, line 4, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 6, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 11, after the second "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 7, line 9, overstrike "governmental" and insert immediately thereafter "government"

Page 8, line 21, overstrike "'Assisted living facility" has the meaning provided in section 50-24.5-01, but if the"

Page 8, overstrike lines 22 through 30

Page 9, overstrike lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3" with "2"

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Page 9, line 25, replace "5" with "4"

Page 11, line 10, overstrike "The department's share of the total"

Page 11, line 11, overstrike "cost of" and insert immediately thereafter "An approved loan for", remove "project", and overstrike "is limited to" and insert immediately thereafter "project may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 29, after the period insert "An incentive may not be paid for nursing facility bed capacity that is temporarily converted to basic care bed capacity."

Page 15, line 24, after "**FACILITY**" insert "**AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**"

Page 15, line 25, replace "\$266,400" with "\$309,600"

**REPORT OF STANDING COMMITTEE (410)**  
**March 8, 2001 3:11 p.m.**

**Module No: SR-40-5146**  
**Carrier: Fischer**  
**Insert LC: 10131.0501 Title: .0600**

Page 15, line 26, replace "\$621,600" with "\$708,000"

Page 15, line 28, after "home" insert "and intermediate care for the mentally retarded"

Renumber accordingly

2001 SENATE APPROPRIATIONS

HB 1196

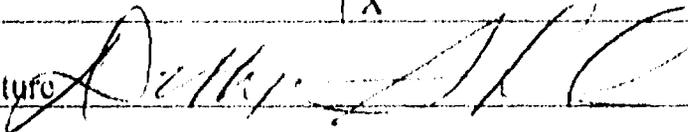
2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196

Senate Appropriations Committee

Conference Committee

Hearing Date March 15, 2001

Tape Number	Side A	Side B	Meter #
1	X		0.0-54.2
		X	0.0-50.6
2	X		0.0-54.4
2		X	0.0-18.0
Committee Clerk Signature 			

Minutes:

Senator Solberg opened the hearing on HB 1196.

Senator Tim Mathern, District 11, Fargo, ND, and also serves on the Senator Human Services Committee, spoke in favor of the bill and the amendments. He didn't have time to address changes in the House Appropriation on home care. There are a lot of positive issues in HB 1196 of which I support. At the present time we are spending \$11.66 an hour for institution care. For each \$1.00 we spend in home care. The way the bill is now we will spend \$13.14 for institutional care for each \$1.00 in home care. The attached amendments is to increase the home care needed which needs to be addressed.

Representative William Deylin, District #23, Finley, ND, spoke in support of HB 1196. As the committee to consider a "Do Pass" as this is a critical bill with this session, as there are bridges with everyone. The task force approved this bill and it will be a good bill if adopted by the legislature for high quality care now and in the future. We must provide the up front money

needed for nurses and dollars for personal needs. He spoke on the increases and the financial aspect of the bill and how it will provide nursing homes with options in their communities with the changes in salaries and benefits.

Representative Dale Severson, District #23, Cooperstown, ND, and also as a co-sponsor of the bill, spoke to the committee on the EMS issues of the bill. HB 1202 provides opportunities with the EMS pilot project. A \$5,000 award per year for agencies with quick response units. The \$225,000 appropriation in HB 1196 provides HB 1202 to be funded.

Representative Merle Boucher, District #9, Rolette, ND, gave his testimony on HB 1196 (testimony attached). He encouraged the committee for long term elderly care. The \$400,000 for meals has been scaled to \$150,000 in this bill. We need to get senior citizen mill levy back and suggests this is 20 years after the fact. If we would have stayed on tack it would be \$1.2 million today. We can do better to help this situation.

Senator Andrist: When this came tabled, did you vision the bumped salary for nursing home staff and the concern that these are one time funds, the salaries being sustainable?

Representative Boucher: The issue was put to table, thoughts were long and hard with a lot of meetings. Yes, we made the commitment on salaries, the one time will work its self out and yes, we need sustained salaries. We can't roll them back in the future. IGT dollar amounts is all to be spent, and balance other issues out maybe one more biennium with making adjustments. The right commitment and we need to deal with this.

Senator Nething: Senator Andrist we will get the fiscal information in a minute and you can ask a representative from the department.

Senator Solberg: I am forgoing my testimony at this time and will discuss issues with the subcommittee.

Page 3

Senate Appropriations Committee

Bill/Resolution Number HB 1196

Hearing Date March 15, 2001

Jeff Delzer, District #8, Underwood, ND, spoke in favor of the bill and handed out (attached) Comparison of 2001-03 Biennium Funding Recommendations at Crossover. Stated four payments to be made, 100%, 75%, 50%, 25% which will be explained to the committee later. With \$38 million at the start of the next biennium, HB 1196 & HB 1012 will work together. He explained the bill and its amended section by section to the committee. He explained the hand out to the Committee line by line.

Senator Nething: The matching pool payments are \$7.9 million?

Representative Delzer: Yes this was in the Hoeven budget and ended up in this bill. The pool payments are in 2 days and out in 2 days.

Senator Nething: The landfill closure at the State Hospital with the National Guard; was this an alternative source?

Representative Delzer: It was not allowed in this bill but in HB 1012. Yes this was an alternative source.

Senator Solberg: Looking back at Section 23, the bed buy down, are you gaining with this?

Representative Delzer: The long term care association could answer this for you. The less 8 bed goes with size of room and the dollar figure to help exchange over and the wing reduction with more renovation.

Senator Solberg: The nurses scholarship fund?

Representative Delzer: I can't speak on the action of the House Human Services. The retention of nurses and CNA's is a problem in rural areas. It is a good incentive to pay back the loans for four years and we didn't have a problem with this. He continued on 2nd page of handout explaining that rebasing is the only inflated figure.

Page 4

Senate Appropriations Committee

Bill/Resolution Number HB 1196

Hearing Date March 15, 2001

Senator Nething: On the front page of your handout, the balance of contingencies, are they deducted from the \$8 million then added to that investment?

Representative Delzer: Yes with interest.

Senator Holmberg: On page 7 of the engrossed bill, my concern it states utilizing general funds, is there concerns satisfying government funds?

Representative Delzer: Language reference on the part for funding Medicaid. General fund money is spent first. The difference is with interest where there are no guidelines. Alternatives are with health care which would help with the loop holes.

Senator Nething: On page 1 of the bill, section 2, does notice eliminate?

Representative Delzer: You'll have to ask the department, they are more qualified to answer that question.

Senator Nething: ON page 14, lines 3 & 4, how are the amounts arrived at and the bases of the totals.

Representative Delzer: They are agreed to.

Senator Schobinger: On page 18, section 38, independent grants. what is the rationale for this type of move?

End Tape #1, Side A, meter 54.2

Start Tape #1, Side B, meter 0.0

Representative Delzer: Human Services, request the same funding as last time. The \$279,000 out of the base budget request, the \$300,000 is added, and the extra \$200,000 we couldn't afford, not justifiable.

Senator Nething: Did you justify the need for it?

Representative Delzer: Yes and there are other places with the same situation.

Aryy Smith: If you look at the handout, footnote on the back for SPED amount. The obligation of general fund for future. Rebasng figure is to be updated.

Representative Delzer: You can ask the department for an update.

Aryy Smith: The \$1.6 million is for rebasing, part of \$681,000 on first page.

Representative Delzer: This is an inflated number.

Tape #1, Side B, meter 4.6

Chuck Stebbins, Dakota Center for Independent Living, Bismarek, ND, testified (testimony attached). Would like to offer an amendment to the committee to increase the funding level of SPED and HCBS and this will be provided to the committee clerk as soon as possible.

Shelly Peterson, President of the North Dakota Long Term Care Association, testified (testimony attached) giving outline features of the bill.

Senator Andrist: The matter with the policy of reducing nursing for home beds; will this accelerate with passage of this bill, are there concerns with population of aging in ND and there will be a shortage?

Shelly Peterson: Right now there are 6,915 facility beds and this is down a couple of hundred. Looking at the population of ND aging with over 80 the largest age and is growing fast. It depends on demographics and looking at major cities. The staffing with beds, an example in Bismarck, the average stay used to be 3 ½ years and now it is 1 year. Residence are coming at the later stage of life and are usually sicker and we continue to see this.

Senator Schobinger: The nursing student loan; will this alleviate the staffing crisis, is there priority with the current employees and is there fear that these funds will be used up quickly?

Shelly Peterson: This will help with retention. We have no idea on the number of loans but we are finding a turnover rate of about a third. We need to keep the employees we now have. We are looking at the future and if this helps it will make a difference.

Senator Robinson: I have two issues, the first concern, the situation exists with the staff ration to patient; and second, HB 1196, will this bill improve where there will be average salaries or benefits?

Shelly Peterson: Not sure on the average salaries, we are going to try to attract and retain. This incentive will show current salaries with issues and data to the committee. Some will use benefits and not the salaries. The ratio, there is a Congress report showing optional levels of 2.9 hours per day with residence in ND and our level is close to that. We need to increase staffing which can't find.

Senator Thane: Is the large turnover in CNA's or LPN's?

Shelly Peterson: CNA's.

Senator Thane: Do you believe this legislation addresses the turnover to CNA's or will it stay high?

Shelly Peterson: Positively, we think CNA's will improve with more money in salaries. The four major cities compete with other jobs. This is a physically hard and demanding job.

Senator Nething: What is the sustain ability of this, is your industry ready deal with regular methods?

Shelly Peterson: Yes we are, the salary increase needs appropriated amount plus the \$4 million every year to sustain. The need for this bill for salary adjustments are needed now.

Senator Nething: There is only two years for this legislation; will there be a risk with this next session?

Shelly Peterson: Yes, the longer term care risk with other sessions. When IGT money is there we will work with national funding.

Tape #1, Side B, meter 40.2

Brian Arett, Executive Director of Fargo Senior Commission, Inc., testified (testimony attached with charts).

Senator Nething: We understand the area your are talking about and the legislative history for home programs.

Senator Andrist: Is the 50-50 match for seniors adequate?

Brian Arett: Locally it is 50 cents on the dollar which is half way. We appreciate the appropriation and recognize the increase of the older population to stay in their homes, this is a challenge as providers.

Sue Kastner, a CNA, testified on the bill. I have been a CNA for 17 years. We need the increase in salary and benefits, we are all struggling. I ask for your support.

End Tape #1, Side B, meter 50.6

Start Tape #2, Side A, meter 0.0

Jessica McDowell, CNA, Mandan, ND, asked the committee for their support on this bill. Gave a short history of her work and stated the raise is needed and deserved.

Darwin Lee, Chairman of the North Dakota Long Term Care Association, testified (testimony attached). Thanked everybody involved with this bill for all their long hours put into it.

Senator Andrist: Are some of the communities with basic care left in the dust with bed flows? Can there be bed reduction payments then convert to basic care?

Darwin Lee: This issue came up with this bill, Shelly Peterson could answer it better.

Shelly Peterson: There are a variety of flow beds and yes when the beds are dropped the facility can buy back to basic care, a lot depends on the geographies with this situation.

Tape #2, Side A, meter 11.5

Jerry Jurena, CEO, Heart of America Medical Center, Rugby, ND, testified (testimony attached) on projections and value of beds. Spoke on state obligations, discrimination to small rural areas, the need to keep CNA's with salary increases. His facility exceeds all the limits at the present time. We need to keep and maintain facilities, the rebasing is important.

Gary Riffe, Administrator and President of Hi-Aeres Manor Nursing Center, Jamestown, ND, testified (testimony attached). He addressed the importance of rebasing, the salary and benefits enhancements. Our facility has had its liability insurance dropped and are looking for new coverage. We are uncertain of the new insurance amount, main reason is that the liability has increased so much.

Senator Nething: Are you looking at salary increases or the benefits, or both, one more than the other?

Gary Riffe: Our facility is mainly look at salary increases; benefits are available mainly at other facilities, state departments.

Senator Nething: It is competitive asset to employees with benefits; are they aware of the importance of these benefits, are they expected just to be there until they are gone?

Gary Riffe: It depends on the employee with the benefits and trade off.

Senator Andrist: What's the difference of insurance with private verses government facilities?

Gary Riffe: Nationally, for profit, some are getting rich off of this with the abused system and it shouldn't blanket the whole industry. Insurance is an issue with lawsuits of facilities. The family owned facilities are hurt the most in obtaining the liability insurance.

Gary Kreidt, Elm Crest Manor, New Salem, ND, spoke in favor of the bill for their small rural community. The salary increase is important for their employees. Benefits have not been available in the past. Asked the committee to reconsider the amount for the bed buy back.

Senator Solberg: Is the 8 bed the deterrent for the size of your facility?

Gary Kreidt: Yes.

Tim Axner, owner, Basic Care for Profit, Jamestown, ND, asked the committee for their support and also mentioned that their liability insurance had also been dropped.

Cindy Bjornstad, Mayor of the City of McVille, ND, and also representing the City Council of their community, testified (testimony attached). IGT funds are important for long term health care.

Jim Opdahl, Administrator of Nelson County Health System, McVille, ND, testified (testimony attached). Asked the committee for their support and appropriation for long term care.

Jerry Peak, Administrator of the Dunseith Community Nursing Home and also from the Dunseith Commercial Club which represents the business interests in the City of Dunseith, testified (testimony attached). Asked the committee for their support on this bill and encourage a Do Pass.

Raylynn Lauderdale, spoke on section 27 of the bill. The personal care allowance in some states is \$80.00 per day, we are at \$40.00 and the increase to \$50.00 is badly needed for the personal care allowance. She read a letter (Tammie Schafer, Residential Coordinator, attached) and also read a letter (Blake Peterson, Psychologist, attached).

Sharon Haugen, Wahpeton, ND, testified (testimony attached) in favor of the bill for personal allowance.

End Tape #2, Side A, meter 54.4

Page 10  
Senate Appropriations Committee  
Bill/Resolution Number HB 1196  
Hearing Date March 15, 2001

Start Tape #2, Side B, meter 0.0

Shirley Brennan, People First, Minot, ND, read a letter from Darwin Hime, Developmental Center, Grafton, ND (attached) for support of the increase of \$50.00 in personal allowance.

Yul Braaten, LSW, HCBS Case Manager, Wahpeton, ND, testified (testimony attached) on personal allowance money and asked the committee for the increase. Also attached are letters from coworkers, Deborah Gehring/Residential Coordinator, Deborah Reynolds, LSW, ICF Case Manager, Don Leinen, JR., LSW, ICF OMRP; Wendy Kahler, Marketing Director; Melinda Barth, Day Trainer/Supervisor; Linda Woytassek, COTA/L.

David Zentner, Director of Medical Services for the Department of Human Services, testified (testimony attached). Stated the department is taking a neutral position on the bill and gave their comments.

Senator Nething: Why is the information you gave on future revenues is different from Representative Delzer?

David Zentner: They are the same revenues.

Senator Thane: The \$413,000 for the landfill in Jamestown, is it improper to use these funds?

David Zentner: The bottom line is that when the money is returned, it loses federal identity and can be used for specific areas in how we use the money.

Senator Solberg: I want to recognize all the people working on this bill. The people from McVille and Dunseith have worked very hard on this. I learned with them. Introduced those attending the hearing and asked them to stand. I thank you for all your help and also David Zentner for his technical advise.

Senator Nething: The senators appointed to the subcommittee on this bill are Senator Solberg, Senator Bowman, Senator Thane, Senator Tomac and Senator Heitkamp.

Page 11  
Senate Appropriations Committee  
Bill/Resolution Number HB 1196  
Hearing Date March 15, 2001

With no further testimony, the hearing was closed on HB 1196.

Tape #2, Side B, meter 18.0.

4-2-01 Full Committee Action (Tape #2, Side A, Meter # 0.0 - 18.3)

Senator Nething reopened the hearing on HB1196 - Intergovernmental Transfer.

Senator Solberg, Subcommittee Chair reviewed the bill, hearing testimony, and the Subcommittee's findings. Discussion. Senator Solberg moved the amendments #10131.0508; seconded by Senator Tomac. Discussion; call for the vote: Voice Vote: Amendments adopted. Discussion on the bill as amended. Senator Solberg moved a DO PASS AS AMENDED; seconded by Senator Heitkamp. Discussion; Call for the vote: Roll Call Vote: 14 yes; 0 no' 0 absent and not voting.

Senator Solberg accepted the floor assignment.

HB 1196

10131.0502  
Title.

Prepared by the Legislative Council staff for  
Senator T. Mathern  
March 9, 2001

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196

In addition to the amendments adopted by the Senate as printed on pages \_\_\_\_\_ of the Senate Journal, Reengrossed House Bill No. 1196 is amended as follows:

Page 17, line 23, replace "\$150,000" with "\$650,000"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Dept. 328 - Department of Human Services - Program and Policy**

SENATE - This amendment increases the funding provided for senior citizen mill levy matching grants by \$500,000 from the health care trust fund, from \$150,000 to \$650,000.

*Sen Mathern*

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196

In lieu of the amendments adopted by the Senate as printed on pages 760 and 761 of the Senate Journal, Reengrossed House Bill No. 1196 is amended as follows:

Page 1, line 1, after "Act" insert "to provide for the creation of a nursing facility nurses student loan grant program;" and remove "and a new chapter"

Page 1, line 2, remove "to title 43"

Page 1, line 3, remove "and the nursing facility nurses student loan payment program"

Page 1, line 9, remove "to provide for a transfer from the health"

Page 1, line 10, remove "care trust fund;"

Page 1, line 22, overstrike "nursing" and insert immediately thereafter ":

1. Nursing"

Page 1, after line 24, insert:

"2. Entities providing alternatives to nursing facility care for construction projects.

3. Nursing facilities or hospitals for technology projects relating to complying with provisions of the federal Health Insurance Portability and Accountability Act of 1996."

Page 4, after line 3, insert:

**"SECTION 8. Nursing facility nurses student loan grant program.**

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the nursing facility nurses student loan grant program. The purpose of the program is to provide matching funds to nursing facilities to assist the facilities in recruiting and retaining nurses. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.

2. An applicant for a program grant shall establish that the applicant:

a. Is a licensed nursing facility.

b. Has available matching funds equal to the amount of the grant request;

c. Has employed a nurse who has an outstanding student loan balance; and

d. Meets the eligibility criteria established by rule.

3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed to eligible applicants in the second year of the biennium in any amount determined by the state health council.

Page 4, line 22, after the third "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 4, line 31, after "basic" insert "care" and after "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, line 3, overstrike "1999" and insert immediately thereafter "2001"

Page 5, line 4, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 6, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 11, after the second "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, remove lines 15 through 31

Page 6, remove lines 1 through 18

Page 7, line 9, overstrike "governmental" and insert immediately thereafter "government"

Page 8, line 21, overstrike ""Assisted living facility" has the meaning provided in section 50-24.5-01, but if the"

Page 8, overstrike lines 22 through 30

Page 9, overstrike lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3" with "2"

Page 9, line 23, replace "4" with "3"

Page 9, line 25, replace "5" with "4"

Page 10, line 26, remove the overstrike over "a:" and replace "renovation" with "Renovation"

Page 10, line 30, remove the overstrike over the overstruck semicolon

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196

In lieu of the amendments adopted by the Senate as printed on pages 760 and 761 of the Senate Journal, Reengrossed House Bill No. 1196 is amended as follows:

Page 1, line 1, after "Act" insert "to provide for the creation of a long-term care nursing scholarship and loan repayment program;" and remove "and a new chapter"

Page 1, line 2, remove "to title 43"

Page 1, line 3, remove "and the nursing facility nurses student loan payment program"

Page 1, line 9, remove "to provide for a transfer from the health"

Page 1, line 10, remove "care trust fund;"

Page 4, after line 3, insert:

**"SECTION 8. Long-term care nursing scholarship and loan repayment program. The state health council, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment program. The purpose of the program is to assist, through providing scholarships, nursing facility staff and other individuals to obtain a nursing education and to assist, through repaying student loans, licensed nurses employed in a long-term care facility to continue employment in the facility. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of funding under the program."**

Page 4, line 22, after the third "capacity" insert "licensed after July 1, 2001, as nursing facility capacity,"

Page 4, line 31, after "basic" insert "care" and after "capacity" insert "licensed after July 1, 2001, as nursing facility capacity,"

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Page 9, line 25, replace "5" with "4"

Page 11, line 10, overstrike "The department's share of the total"

Page 11, line 11, overstrike "cost of" and insert immediately thereafter "An approved loan for", remove "project", and overstrike "is limited to" and insert immediately thereafter "project may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 16, replace "\$8,899,774" with "\$13,000,000"

Page 14, line 19, replace "\$3,920,000 relates to" with ", up to \$4,960,000 may be used for"

Page 14, line 23, replace "\$4,100,000" with "\$4,000,000"

Page 14, line 26, replace "\$10,000" with "\$15,000"

Page 14, line 27, remove "by at least eight"

Page 14, remove line 28

Page 14, line 29, replace "facility bed capacity by fewer than eight beds" with ". An incentive may not be paid for nursing facility bed capacity that is temporarily converted to basic care bed capacity. The department shall establish rules that allow nursing facilities to make offers to reduce licensed nursing facility bed capacity on a quarterly basis beginning July 1, 2001. Any offer that meets the criteria of this section and is within legislative appropriations must be approved by the department. The department shall inform the facility making an offer within five business days of receiving the offer of the department's approval or disapproval of the offer"

Page 15, line 18, replace "\$681,846" with "\$1,165,303"

Page 15, line 19, replace "\$1,590,974" with "\$2,719,040"

Page 15, line 22, replace "1999" with "2000"

Page 15, line 24, after "**FACILITY**" insert "**AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**"

Page 15, line 25, replace "\$266,400" with "\$309,600"

Page 15, line 26, replace "\$621,600" with "\$708,000"

Page 15, line 28, after "home" insert "and intermediate care for the mentally retarded"

Page 16, line 8, after "needs" insert "and the nursing facility payment system"

Page 16, line 10, after "assessment" insert "and nursing facility payment system"

Page 16, line 15, after "assessment" insert "and nursing facility payment system"

Page 16, line 16, replace "biennium" with "period" and replace "June 30" with "January 1"

Page 16, remove lines 17 through 19

Page 16, line 20, replace "**NURSING**" with "**LONG-TERM CARE NURSING SCHOLARSHIP AND LOAN REPAYMENT PROGRAM**"

Page 16, remove line 21

Page 16, line 22, remove "**AUTHORITY - EMERGENCY COMMISSION APPROVAL**"

Page 16, line 23, replace "nursing facility nurses student loan payment" with "health care trust"

Page 16, line 24, replace "\$200,000" with "\$489,500"

Page 16, line 25, replace "making nursing facility nurses student loan" with "distributing funds under the long-term care nursing scholarship and loan repayment program"

Page 16, line 26, remove "payments" and remove "The state"

Page 16, remove lines 27 through 30

Page 17, line 23, replace "\$150,000" with "\$250,000"

Page 19, line 1, replace "8" with "9" and replace "9" with "10"

Page 19, line 3, replace "34" with "33", replace "40" with "39", and replace "41" with "40"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1196 - Summary of Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
<b>State Department of Health</b>				
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Less estimated income		200,000	289,500	489,500
General fund	\$0	\$0	\$0	\$0
<b>Department of Human Services - Management</b>				
Total all funds	\$0	\$8,055,347	\$0	\$8,055,347
Less estimated income		8,055,347		8,055,347
General fund	\$0	\$0	\$0	\$0
<b>Department of Human Services - Economic Assistance</b>				
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		73,071,181	5,741,349	78,812,530
General fund	\$0	\$11,650,000	\$0	\$11,650,000
<b>Department of Human Services - Program and Policy</b>				
Total all funds	\$0	\$7,148,302	\$100,000	\$7,248,302
Less estimated income		7,148,302	100,000	7,248,302
General fund	\$0	\$0	\$0	\$0
<b>Bill Total</b>				
Total all funds	\$0	\$100,124,830	\$6,130,849	\$106,255,679
Less estimated income		88,474,830	6,130,849	94,605,679
General fund	\$0	\$11,650,000	\$0	\$11,650,000

**House Bill No. 1196 - State Department of Health - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
<b>Grants</b>				
Nursing facility nurses student loan payment		\$200,000	\$489,500 (200,000)	\$489,500
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Loss estimated income		200,000	289,500	489,500
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 301 - State Department of Health - Detail of Senate Changes**

	CHANGE LOAN PAYMENT PROGRAM <sup>1</sup>	TOTAL SENATE CHANGES
Scholarship and loan repayment program	\$489,500	\$489,500
Nursing facility nurses student loan payment	(200,000)	(200,000)
Total all funds	\$289,500	\$289,500
Loss estimated income	289,500	289,500
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> The nursing facility nurses student loan payment program is changed from the state paying an eligible nursing facility nurse's student loan payment directly to the financial institution as proposed by the House to authorizing the State Health Council in cooperation with the Long Term Care Association to establish the program to provide nursing scholarships to nursing facility staff and others to obtain a nursing education and to provide student loan repayments for licensed nurses employed in nursing facilities.

This amendment provides a \$489,500 appropriation from the health care trust fund for this program rather than transferring \$1,000,000 from the health care trust fund to a nursing facility nurses student loan payment fund and providing a \$200,000 appropriation from that fund as included in the House version.

**House Bill No. 1196 - Department of Human Services - Economic Assistance - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Government nursing facility funding pool payments		\$38,750,000		\$38,750,000
Intergovernmental transfer administration		71,158		71,158
Nursing facility grants		100,226		100,226
Nursing facility loans		8,899,774	\$4,100,226	13,000,000
Long-term care needs assessment		241,006		241,006
Nursing home bed reduction incentive		4,100,000	(100,000)	4,000,000
Nursing facility employee compensation		27,296,847		27,296,847
Basic care employee compensation		673,600		673,600
Nursing facility rate limit increase		2,272,820	1,611,523	3,884,343
Nursing facility personal care allowance		888,000	129,600	1,017,600
Basic care personal care allowance		180,000		180,000
Qualified service provider training grants		140,000		140,000
Targeted case management		1,107,750		1,107,750
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		73,071,181	5,741,349	78,812,530
General fund	\$0	\$11,650,000	\$0	\$11,650,000
FTE	0.00	0.00	0.00	0.00

**Dept. 327 - Department of Human Services - Economic Assistance - Detail of Senate Changes**

	INCREASE LOAN FUNDING 1	REDUCE BED REDUCTION INCENTIVE FUNDING 2	REBASE TO 2000 3	ALLOWANCE INCREASE FOR ICF/MR 4	TOTAL SENATE CHANGES
Government nursing facility funding pool payments					
Intergovernmental transfer administration					
Nursing facility grants	\$4,100,226				\$4,100,226
Nursing facility loans					
Long-term care needs assessment					
Nursing home bed reduction incentive		(\$100,000)			(100,000)
Nursing facility employee compensation					
Basic care employee compensation					
Nursing facility rate limit increase			\$1,611,523		1,611,523
Nursing facility personal care allowance				\$129,600	129,600
Basic care personal care allowance					
Qualified service provider training grants					
Targeted case management					
Total all funds	\$4,100,226	(\$100,000)	\$1,611,523	\$129,600	\$5,741,349
Less estimated income	4,100,226	(100,000)	1,611,523	129,600	5,741,349
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

1 The funding provided for loans is increased to \$13 million from the health care trust fund.

2 Funding for the nursing home bed reduction incentive program is reduced by \$100,000 from the health care trust fund.

The maximum payment allowed for reducing a bed is increased from \$10,000 to \$15,000 and provisions included in the House version that authorized a lower payment for reducing fewer than eight beds are removed.

Provisions are added providing that the department:

- May not pay an incentive to a nursing facility that is temporarily converting nursing facility bed capacity to basic care bed capacity
- Shall allow for nursing facilities to make offers to reduce bed capacity each quarter and that the department must approve all offers that meet the program's criteria and are within available funding.
- Shall inform a nursing facility within five business days regarding the department's approval or disapproval of the facility's offer to reduce beds

3 Additional funding of \$483,457 is provided from the health care trust fund and \$1,128,066 of federal funds is provided to rebase nursing facility cost limits to 2000 rather than 1999 as included in the House version

4 Additional funding of \$43,200 is provided from the health care trust fund and \$86,400 of federal funds is provided to increase the personal care allowance for individuals residing in intermediate care facilities for the mentally retarded (ICF-MR) from \$40 to \$50 per month

Provisions are added that:

- Require any basic care bed capacity that is being converted to nursing facility bed capacity to have been licensed as basic care after July 1, 2001
- Change the dates on the moratorium on the expansion of long-term care bed capacity to reflect the 2001-03 biennium.
- Remove the definition of "assisted living facility" from North Dakota Century Code Chapter 50-30.
- Expand the long-term care needs assessment study to include the nursing facility payment system.

**House Bill No. 1196 - Department of Human Services - Program and Policy - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Service payments for elderly and disabled		\$6,898,302		\$6,898,302
Senior citizen mill levy match		150,000	\$100,000	250,000
Independent living center grants		100,000		100,000
Total all funds	\$0	\$7,148,302	\$100,000	\$7,248,302
Less estimated income		<u>7,148,302</u>	<u>100,000</u>	<u>7,248,302</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 328 - Department of Human Services - Program and Policy - Detail of Senate Changes**

	INCREASE SENIOR MILL MATCH FUNDING	TOTAL SENATE CHANGES
Service payments for elderly and disabled		
Senior citizen mill levy match	\$100,000	\$100,000
Independent living center grants		
Total all funds	\$100,000	\$100,000
Less estimated income	<u>100,000</u>	<u>100,000</u>
General fund	\$0	\$0
FTE	0.00	0.00

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196

In lieu of the amendments adopted by the Senate as printed on pages 760 and 761 of the Senate Journal, Reengrossed House Bill No. 1196 is amended as follows:

Page 1, line 1, after "Act" insert "to provide for the creation of a nursing facility nurses student loan grant program;" and remove "and a new chapter"

Page 1, line 2, remove "to title 43"

Page 1, line 3, remove "and the nursing facility nurses student loan payment program"

Page 1, line 9, remove "to provide for a transfer from the health"

Page 1, line 10, remove "care trust fund;"

Page 4, after line 3, insert:

**"SECTION 8. Nursing facility nurses student loan grant program.**

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the nursing facility nurses student loan grant program. The purpose of the program is to provide matching funds to nursing facilities to assist the facilities in recruiting and retaining nurses. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.
2. An applicant for a program grant shall establish that the applicant:
  - a. Is a licensed nursing facility;
  - b. Has available matching funds equal to the amount of the grant request;
  - c. Has employed a nurse who has an outstanding student loan balance; and
  - d. Meets the eligibility criteria established by rule.
3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed to eligible applicants in the second year of the biennium in any amount determined by the state health council."

Page 4, line 22, after the third "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 4, line 31, after "basic" insert "care" and after "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, line 3, overstrike "1999" and insert immediately thereafter "2001"

Page 5, line 4, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 6, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 11, after the second "capacity" insert "licenced after July 1, 2001, as nursing facility capacity."

Page 5, remove lines 15 through 31

Page 6, remove lines 1 through 18

Page 7, line 9, overstrike "governmental" and insert immediately thereafter "government"

Page 8, line 21, overstrike "'Assisted living facility" has the meaning provided in section 50-24.5-01, but if the"

Page 8, overstrike lines 22 through 30

Page 9, overstrike lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3" with "2"

Page 9, line 23, replace "4" with "3"

Page 9, line 25, replace "5" with "4"

Page 11, line 10, overstrike "The department's share of the total"

Page 11, line 11, overstrike "cost of" and insert immediately thereafter "An approved loan for", remove "project", and overstrike "is limited to" and insert immediately thereafter "project may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 16, replace "\$8,899,774" with "\$13,000,000"

Page 14, line 19, replace "\$3,920,000 relates to" with ", up to \$4,960,000 may be used for"

Page 14, line 23, replace "\$4,100,000" with "\$4,000,000"

Page 14, line 26, replace "\$10,000" with "\$15,000"

Page 14, line 27, remove "by at least eight"

Page 14, remove line 28

Page 14, line 29, replace "facility bed capacity by fewer than eight beds" with ". An incentive may not be paid for nursing facility bed capacity that is temporarily converted to basic care bed capacity. The department shall establish rules that allow nursing facilities to make offers to reduce licensed nursing facility bed capacity on a quarterly basis beginning July 1, 2001. Any offer that meets the criteria of this section and is within legislative appropriations must be approved by the department. The department shall inform the facility making an offer within five business days of receiving the offer of the department's approval or disapproval of the offer"

Page 15, line 18, replace "\$681,846" with "\$1,165,303"

Page 15, line 19, replace "\$1,590,974" with "\$2,719,040"

Page 15, line 22, replace "1999" with "2000"

Page 15, line 24, after "**FACILITY**" insert "**AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**"

Page 15, line 25, replace "\$266,400" with "\$309,600"

Page 15, line 26, replace "\$621,600" with "\$708,000"

Page 15, line 28, after "home" insert "and intermediate care for the mentally retarded"

Page 16, line 8, after "needs" insert "and the nursing facility payment system"

Page 16, line 10, after "assessment" insert "and nursing facility payment system"

Page 16, line 15, after "assessment" insert "and nursing facility payment system"

Page 16, line 16, replace "biennium" with "period" and replace "June 30" with "January 1"

Page 16, remove lines 17 through 19

Page 16, line 21, replace "**PAYMENT FUND - ADDITIONAL SPENDING**" with "**GRANT PROGRAM**"

Page 16, line 22, remove "**AUTHORITY - EMERGENCY COMMISSION APPROVAL**"

Page 16, line 23, replace "nursing facility nurses student loan payment" with "health care trust"

Page 16, line 24, replace "\$200,000" with "\$489,500"

Page 16, line 26, replace "payments" with "grants" and remove "The state"

Page 16, remove lines 27 through 30

Page 17, line 23, replace "\$150,000" with "\$250,000"

Page 19, line 1, replace "8" with "9" and replace "9" with "10"

Page 19, line 3, replace "34" with "33", replace "40" with "39", and replace "41" with "40"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1196 - Summary of Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
State Department of Health				
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Less estimated income		<u>200,000</u>	<u>289,500</u>	<u>489,500</u>
General fund	\$0	\$0	\$0	\$0
Department of Human Services - Management				
Total all funds	\$0	\$8,055,347	\$0	\$8,055,347
Less estimated income		<u>8,055,347</u>	<u>\$0</u>	<u>\$0</u>
General fund	\$0	\$0	\$0	\$0
Department of Human Services - Economic Assistance				
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		<u>73,071,181</u>	<u>5,741,349</u>	<u>78,812,530</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000
Department of Human Services - Program and Policy				
Total all funds	\$0	\$7,148,302	\$100,000	\$7,248,302
Less estimated income		<u>7,148,302</u>	<u>100,000</u>	<u>7,248,302</u>
General fund	\$0	\$0	\$0	\$0
Bill Total				
Total all funds	\$0	\$100,124,830	\$6,130,849	\$106,255,679
Less estimated income		<u>89,474,830</u>	<u>6,130,849</u>	<u>94,605,679</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000

**House Bill No. 1196 - State Department of Health - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Grants				
Nursing facility nurses student loan payment		\$200,000	\$489,500 (200,000)	\$489,500
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Less estimated income		<u>200,000</u>	<u>289,500</u>	<u>489,500</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 301 - State Department of Health - Detail of Senate Changes**

	CHANGE LOAN PAYMENT PROGRAM <sup>1</sup>	TOTAL SENATE CHANGES
Scholarship and loan repayment program	\$489,500	\$489,500
Nursing facility nurses student loan payment	(200,000)	(200,000)
Total all funds	\$289,500	\$289,500
Less estimated income	<u>289,500</u>	<u>289,500</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> The nursing facility nurses student loan payment program is changed from the state paying an eligible nursing facility nurse's student loan payment directly to the financial institution as proposed by the House to providing a grant of up to \$5,500 to an eligible nursing facility during the first year of the biennium for the facility to use for assisting in the repayment of nursing student loans. Each facility must provide an equal amount as matching. If appropriation authority remains available for the second year of the biennium, the State Health Council may provide additional matching grants to nursing facilities for the same purpose.

This amendment provides a \$489,500 appropriation from the health care trust fund for this program rather than transferring \$1,000,000 from the health care trust fund to a nursing facility nurses student loan payment fund and providing a \$200,000 appropriation from that fund as included in the House version.

**House Bill No. 1196 - Department of Human Services - Economic Assistance - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Government nursing facility funding pool payments		\$38,750,000		\$38,750,000
Intergovernmental transfer administration		71,158		71,158
Nursing facility grants		100,226		100,226
Nursing facility loans		8,899,774	\$4,100,226	13,000,000
Long-term care needs assessment		241,006		241,006
Nursing home bed reduction incentive		4,100,000	(100,000)	4,000,000
Nursing facility employee compensation		27,296,847		27,296,847
Basic care employee compensation		673,600		673,600
Nursing facility rate limit increase		2,272,820	1,611,523	3,884,343
Nursing facility personal care allowance		888,000	129,600	1,017,600
Basic care personal care allowance		180,000		180,000
Qualified service provider training grants		140,000		140,000
Targeted case management		<u>1,107,750</u>		<u>1,107,750</u>
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		<u>73,071,181</u>	<u>5,741,349</u>	<u>78,812,530</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000
FTE	0.00	0.00	0.00	0.00

**Dept. 327 - Department of Human Services - Economic Assistance - Detail of Senate Changes**

	INCREASE LOAN FUNDING <sup>1</sup>	REDUCE BED REDUCTION INCENTIVE FUNDING <sup>2</sup>	REBASE TO 2000 <sup>3</sup>	ALLOWANCE INCREASE FOR ICF/MR <sup>4</sup>	TOTAL SENATE CHANGES
Government nursing facility funding pool payments					
Intergovernmental transfer administration					
Nursing facility grants	\$4,100,226				\$4,100,226
Nursing facility loans					
Long-term care needs assessment					
Nursing home bed reduction incentive		(\$100,000)			(100,000)
Nursing facility employee compensation					
Basic care employee compensation					
Nursing facility rate limit increase			1,611,523		1,611,523
Nursing facility personal care allowance				\$129,600	129,600
Basic care personal care allowance					
Qualified service provider training grants					
Targeted case management					
Total all funds	\$4,100,226	(\$100,000)	\$1,611,523	\$129,600	\$5,741,349
Less estimated income	<u>4,100,226</u>	<u>(100,000)</u>	<u>1,611,523</u>	<u>129,600</u>	<u>5,741,349</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> The funding provided for loans is increased to \$13 million from the health care trust fund.

<sup>2</sup> Funding for the nursing home bed reduction incentive program is reduced by \$100,000 from the health care trust fund.

The maximum payment allowed for reducing a bed is increased from \$10,000 to \$11,000 and provisions included in the House version that authorized a lower payment for reducing fewer than eight beds are removed.

Provisions are added providing that the department:

- May not pay an incentive to a nursing facility that is temporarily converting nursing facility bed capacity to basic care bed capacity
  - Shall allow for nursing facilities to make offers to reduce bed capacity each quarter and that the department must approve all offers that meet the program's criteria and are within available funding.
  - Shall inform a nursing facility within five business days regarding the department's approval or disapproval of the facility's offer to reduce beds
- 3 Additional funding of \$483,457 is provided from the health care trust fund and \$1,128,066 of federal funds is provided to rebase nursing facility cost limits to 2000 rather than 1999 as included in the House version.
- 4 Additional funding of \$43,200 is provided from the health care trust fund and \$86,400 of federal funds is provided to increase the personal care allowance for individuals residing in intermediate care facilities for the mentally retarded (ICF/MR) from \$40 to \$50 per month

Provisions are added that:

- Require any basic care bed capacity that is being converted to nursing facility bed capacity to have been licensed as basic care after July 1, 2001.
- Change the dates on the moratorium on the expansion of long-term care bed capacity to reflect the 2001-03 biennium.
- Remove the definition of "assisted living facility" from North Dakota Century Code Chapter 50-30.
- Expand the long-term care needs assessment study to include the nursing facility payment system.

**House Bill No. 1196 - Department of Human Services - Program and Policy - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Service payments for elderly and disabled		\$6,898,302		\$6,898,302
Senior citizen mill levy match		150,000	\$100,000	250,000
Independent living center grants		100,000		100,000
<b>Total all funds</b>	<b>\$0</b>	<b>\$7,148,302</b>	<b>\$100,000</b>	<b>\$7,248,302</b>
<b>Less estimated income</b>		<u><b>7,148,302</b></u>	<u><b>100,000</b></u>	<u><b>7,248,302</b></u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 328 - Department of Human Services - Program and Policy - Detail of Senate Changes**

	INCREASE SENIOR MILL MATCH FUNDING	TOTAL SENATE CHANGES
Service payments for elderly and disabled		\$100,000
Senior citizen mill levy match	\$100,000	\$100,000
Independent living center grants		
<b>Total all funds</b>	<b>\$100,000</b>	<b>\$100,000</b>
<b>Less estimated income</b>	<u><b>100,000</b></u>	<u><b>100,000</b></u>
General fund	\$0	\$0
FTE	0.00	0.00

Date: 4-2-01

Roll Call Vote #: \_\_\_\_\_

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. H.B. 1196

Senate Appropriations Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee 10131.0508 - carried over

Legislative Council Amendment Number 10131.0507 *Revised  
Heitkamp*

Action Taken do pass as amended

Motion Made By Senator Solberg Seconded By Senator Heitkamp

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindans	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Senator Solberg - amendment / bill

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

REPORT OF STANDING COMMITTEE

HB 1196, as reengrossed and amended: Appropriations Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1196, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 760 and 761 of the Senate Journal, Reengrossed House Bill No. 1196 is amended as follows:

Page 1, line 1, after "Act" insert "to provide for the creation of a nursing facility nurses student loan grant program;" and remove "and a new chapter"

Page 1, line 2, remove "to title 43"

Page 1, line 3, remove "and the nursing facility nurses student loan payment program"

Page 1, line 9, remove "to provide for a transfer from the health"

Page 1, line 10, remove "care trust fund;"

Page 4, after line 3, insert:

**"SECTION 8. Nursing facility nurses student loan grant program.**

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the nursing facility nurses student loan grant program. The purpose of the program is to provide matching funds to nursing facilities to assist the facilities in recruiting and retaining nurses. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.
2. An applicant for a program grant shall establish that the applicant:
  - a. Is a licensed nursing facility;
  - b. Has available matching funds equal to the amount of the grant request;
  - c. Has employed a nurse who has an outstanding student loan balance; and
  - d. Meets the eligibility criteria established by rule.
3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed to eligible applicants in the second year of the biennium in any amount determined by the state health council."

Page 4, line 22, after the third "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 4, line 31, after "basic" insert "care" and after "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, line 3, overstrike "1999" and insert immediately thereafter "2001"

Page 5, line 4, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 6, overstrike "1999" and insert immediately thereafter "2001" and overstrike "2001" and insert immediately thereafter "2003"

Page 5, line 11, after the second "capacity" insert "licensed after July 1, 2001, as nursing facility capacity."

Page 5, remove lines 15 through 31

Page 6, remove lines 1 through 18

Page 7, line 9, overstrike "governmental" and insert immediately thereafter "government"

Page 8, line 21, overstrike "'Assisted living facility" has the meaning provided in section 50-24.5-01, but if the"

Page 8, overstrike lines 22 through 30

Page 9, overstrike lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3" with "2"

Page 9, line 23, replace "4" with "3"

Page 9, line 25, replace "5" with "4"

Page 11, line 10, overstrike "The department's share of the total"

Page 11, line 11, overstrike "cost of" and insert immediately thereafter "An approved loan for", remove "project", and overstrike "is limited to" and insert immediately thereafter "project may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 16, replace "\$8,899,774" with "\$13,000,000"

Page 14, line 19, replace "\$3,920,000 relates to" with ", up to \$4,960,000 may be used for"

Page 14, line 23, replace "\$4,100,000" with "\$4,000,000"

Page 14, line 26, replace "\$10,000" with "\$15,000"

Page 14, line 27, remove "by at least eight"

Page 14, remove line 28

Page 14, line 29, replace "facility bed capacity by fewer than eight beds" with ". An incentive may not be paid for nursing facility bed capacity that is temporarily converted to basic care bed capacity. The department shall establish rules that allow nursing facilities to make offers to reduce licensed nursing facility bed capacity on a quarterly basis beginning July 1, 2001. Any offer that meets the criteria of this section and is within

legislative appropriations must be approved by the department. The department shall inform the facility making an offer within five business days of receiving the offer of the department's approval or disapproval of the offer"

Page 15, line 18, replace "\$681,846" with "\$1,165,303"

Page 15, line 19, replace "\$1,590,974" with "\$2,719,040"

Page 15, line 22, replace "1999" with "2000"

Page 15, line 24, after "**FACILITY**" insert "**AND INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED**"

Page 15, line 25, replace "\$266,400" with "\$309,600"

Page 15, line 26, replace "\$621,600" with "\$708,000"

Page 15, line 28, after "home" insert "and intermediate care for the mentally retarded"

Page 16, line 8, after "needs" insert "and the nursing facility payment system"

Page 16, line 10, after "assessment" insert "and nursing facility payment system"

Page 16, line 15, after "assessment" insert "and nursing facility payment system"

Page 16, line 16, replace "biennium" with "period" and replace "June 30" with "January 1"

Page 16, remove lines 17 through 19

Page 16, line 21, replace "**PAYMENT FUND - ADDITIONAL SPENDING**" with "**GRANT PROGRAM**"

Page 16, line 22, remove "**AUTHORITY - EMERGENCY COMMISSION APPROVAL**"

Page 16, line 23, replace "nursing facility nurses student loan payment" with "health care trust"

Page 16, line 24, replace "\$200,000" with "\$489,500"

Page 16, line 26, replace "payments" with "grants" and remove "The state"

Page 16, remove lines 27 through 30

Page 17, line 23, replace "\$150,000" with "\$250,000"

Page 19, line 1, replace "8" with "9" and replace "9" with "10"

Page 19, line 3, replace "34" with "33", replace "40" with "39", and replace "41" with "40"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1196 - Summary of Senate Action**

**REPORT OF STANDING COMMITTEE (410)**  
**April 4, 2001 1:21 p.m.**

**Module No: SR-59-7748**  
**Carrier: Solberg**  
**Insert LC: 10131.0508 Title: .0700**

State Department of Health				
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Less estimated income		<u>200,000</u>	<u>289,500</u>	<u>489,500</u>
General fund	\$0	\$0	\$0	\$0
Department of Human Services - Management				
Total all funds	\$0	\$8,055,347	\$0	\$8,055,347
Less estimated income		<u>8,055,347</u>		<u>8,055,347</u>
General fund	\$0	\$0	\$0	\$0
Department of Human Services - Economic Assistance				
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		<u>73,071,181</u>	<u>5,741,349</u>	<u>78,812,530</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000
Department of Human Services - Program and Policy				
Total all funds	\$0	\$7,148,302	\$100,000	\$7,248,302
Less estimated income		<u>7,148,302</u>	<u>100,000</u>	<u>7,248,302</u>
General fund	\$0	\$0	\$0	\$0
Bill Total				
Total all funds	\$0	\$100,124,830	\$6,130,849	\$106,255,679
Less estimated income		<u>88,474,830</u>	<u>6,130,849</u>	<u>94,605,679</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000

**House Bill No. 1196 - State Department of Health - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Grants				
Nursing facility nurses student loan payment		\$200,000	\$489,500 (200,000)	\$489,500
Total all funds	\$0	\$200,000	\$289,500	\$489,500
Less estimated income		<u>200,000</u>	<u>289,500</u>	<u>489,500</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 301 - State Department of Health - Detail of Senate Changes**

	CHANGE LOAN PAYMENT PROGRAM <sup>1</sup>	TOTAL SENATE CHANGES
Scholarship and loan repayment program	\$489,500	\$489,500
Nursing facility nurses student loan payment	(200,000)	(200,000)
Total all funds	\$289,500	\$289,500
Less estimated income	<u>289,500</u>	<u>289,500</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> The nursing facility nurses student loan payment program is changed from the state paying an eligible nursing facility nurse's student loan payment directly to the financial institution as proposed by the House to providing a grant of up to \$5,500 to an eligible nursing facility during the first year of the biennium for the facility to use for assisting in the repayment of nursing student loans. Each facility must provide an equal amount as matching. If appropriation authority remains available for the second year of the biennium, the State Health Council may provide additional matching grants to nursing facilities for the same purpose.

This amendment provides a \$489,500 appropriation from the health care trust fund for this program rather than transferring \$1,000,000 from the health care trust fund to a nursing facility nurses student loan payment fund and providing a \$200,000 appropriation from that fund as included in the House version.

House Bill No. 1196 - Department of Human Services - Economic Assistance - Senate Action

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Government nursing facility funding pool payments		\$38,750,000		\$38,750,000
Intergovernmental transfer administration		71,158		71,158
Nursing facility grants		100,226		100,226
Nursing facility loans		8,899,774	\$4,100,226	13,000,000
Long-term care needs assessment		241,006		241,006
Nursing home bed reduction incentive		4,100,000	(100,000)	4,000,000
Nursing facility employee compensation		27,296,847		27,296,847
Basic care employee compensation		673,600		673,600
Nursing facility rate limit increase		2,272,820	1,611,523	3,884,343
Nursing facility personal care allowance		888,000	129,600	1,017,600
Basic care personal care allowance		180,000		180,000
Qualified service provider training grants		140,000		140,000
Targeted case management		1,107,750		1,107,750
Total all funds	\$0	\$84,721,181	\$5,741,349	\$90,462,530
Less estimated income		<u>73,071,181</u>	<u>5,741,349</u>	<u>78,812,530</u>
General fund	\$0	\$11,650,000	\$0	\$11,650,000
FTE	0.00	0.00	0.00	0.00

Dept. 327 - Department of Human Services - Economic Assistance - Detail of Senate Changes

	INCREASE LOAN FUNDING 1	REDUCE BED INCENTIVE FUNDING 2	REBASE TO 2000 3	ALLOWANCE INCREASE FOR ICF/MR 4	TOTAL SENATE CHANGES
Government nursing facility funding pool payments					
Intergovernmental transfer administration					
Nursing facility grants					
Nursing facility loans	\$4,100,226				\$4,100,226
Long-term care needs assessment					
Nursing home bed reduction incentive		(\$100,000)			(100,000)
Nursing facility employee compensation					
Basic care employee compensation					
Nursing facility rate limit increase			\$1,611,523		1,611,523
Nursing facility personal care allowance				\$129,600	129,600
Basic care personal care allowance					
Qualified service provider training grants					
Targeted case management					
Total all funds	\$4,100,226	(\$100,000)	\$1,611,523	\$129,600	\$5,741,349
Less estimated income	<u>4,100,226</u>	<u>(100,000)</u>	<u>1,611,523</u>	<u>129,600</u>	<u>5,741,349</u>
General fund	\$0	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00	0.00

1 The funding provided for loans is increased to \$13 million from the health care trust fund.

2 Funding for the nursing home bed reduction incentive program is reduced by \$100,000 from the health care trust fund.

The maximum payment allowed for reducing a bed is increased from \$10,000 to \$15,000 and provisions included in the House version that authorized a lower payment for reducing fewer than eight beds are removed

Provisions are added providing that the department:

- May not pay an incentive to a nursing facility that is temporarily converting nursing facility bed capacity to basic care bed capacity.
  - Shall allow for nursing facilities to make offers to reduce bed capacity each quarter and that the department must approve all offers that meet the program's criteria and are within available funding.
  - Shall inform a nursing facility within five business days regarding the department's approval or disapproval of the facility's offer to reduce beds
- 3 Additional funding of \$483,457 is provided from the health care trust fund and \$1,128,068 of federal funds is provided to rebase nursing facility cost limits to 2000 rather than 1999 as included in the House version.
- 4 Additional funding of \$43,200 is provided from the health care trust fund and \$86,400 of federal funds is provided to increase the personal care allowance for individuals residing in intermediate care facilities for the mentally retarded (ICF/MR) from \$40 to \$50 per month.

Provisions are added that:

- Require any basic care bed capacity that is being converted to nursing facility bed capacity to have been licensed as basic care after July 1, 2001.
- Change the dates on the moratorium on the expansion of long-term care bed capacity to reflect the 2001-03 biennium.
- Remove the definition of "assisted living facility" from North Dakota Century Code Chapter 50-30.
- Expand the long-term care needs assessment study to include the nursing facility payment system.

**House Bill No. 1196 - Department of Human Services - Program and Policy - Senate Action**

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Service payments for elderly and disabled		\$6,898,302		\$6,898,302
Senior citizen mill levy match		150,000	\$100,000	250,000
Independent living center grants		100,000		100,000
<b>Total all funds</b>	<b>\$0</b>	<b>\$7,148,302</b>	<b>\$100,000</b>	<b>\$7,248,302</b>
Less estimated income		<u>7,148,302</u>	<u>100,000</u>	<u>7,248,302</u>
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

**Dept. 328 - Department of Human Services - Program and Policy - Detail of Senate Changes**

	INCREASE SENIOR MILL MATCH FUNDING	TOTAL SENATE CHANGES
Service payments for elderly and disabled		
Senior citizen mill levy match	\$100,000	\$100,000
Independent living center grants		
<b>Total all funds</b>	<b>\$100,000</b>	<b>\$100,000</b>

**REPORT OF STANDING COMMITTEE (410)**  
**April 4, 2001 1:21 p.m.**

**Module No: SR-59-7748**  
**Carrier: Solberg**  
**Insert LC: 10131.0508 Title: .0700**

Loss estimated income	<u>100,000</u>	<u>100,000</u>
General fund	\$0	\$0
FTE	0.00	0.00

2001 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1196

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1196 CC

House Human Services Committee

Conference Committee

Hearing Date April 12, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		0 to end
Tape 2	X		0 to 2180
Committee Clerk Signature <i>Cosmie Easton</i>			

Minutes:

Chairman Devlin, Rep. Delzer, Rep. Metcalf, Chairman Fischer, Senator Solberg,  
Senator Polovitz

Chairman Devlin: We will call the meeting to order and the clerk will take the roll.

Senator Solberg, I understand that most of the amendments on HB 1196 were made in Appropriations and maybe you would like to go through them.

Senator Solberg: The only amendments that were made were, basically, technical corrections. We changed the student loan payment - we've brought that down from a \$1,000,000 to a half million and made that a match. Provided up to \$5,500 to an eligible nursing facility for the first year of the biennium match money - \$489,500. Moved the funding for the loans up to \$13,000,000 - if it is used. \$100,000 reduction in the bed buy out, and that would go to the mill match. We changed the bed buy out from \$10,000 back to \$15,000, and took the eight minimum off of there. We give from \$40 to \$50 a month on the ICFMR facilities for personal care -

\$43,200 from 1196 - the Health Care Trust Fund. The long term care assessments needs to be included in there - the facility payment system. We also moved the dates of that so we would have that study by January 1, 2003. So that would be in place for the people to look at for the next biennium. That is basically it, Mr. Chairman.

Chairman Devlin: Did you talk about the re-basing?

Senator Solberg: We moved that from \$9,900 to \$2,000, and that was the cost of .....

Chairman Devlin: Committee members, maybe we can take them roughly in the order that

Senator Solberg: The first was the scholarship. At least the House's position was that a number of nursing homes maybe wouldn't have the dollars to do this, but certainly could see the wisdom in the match program. We were a little concerned that some might have to take it out of the money we intended to go for employee raises. I think we would have some problems with that.

Senator Solberg: I think that the word age could be put in there that the money is meant for salary enhancement. It should be used for that, and not for this scholarship fund. That certainly can be added to that. It is going to have to come from outside money. Our reasoning for doing that is that those who are going to go out and put the \$5,500 in or up to or whatever, are going to make sure that they are interested in this. There are ways of raising that kind of money. The benefits we have in 1196, I don't think there is a nursing home out there that is not going to be a bit more optimistic in how they are going to be taken care of in the next 2, 4, 6, 8, 10 years. They are going to be a tad optimistic also going out and approaching people in the community to raise those dollars.

Rep. Delzer: The way it is currently worded, is it strictly a loan repayment, or is there something in there about scholarships? On the nurses - say if somebody was a CNA, is there anything in there so that it is a scholarship, or is it a loan repayment?

Senator Solberg: It is a scholarship, isn't it?

Shelley Peterson: It is strictly a loan repayment the way the language reads now. Only licensed nurses would benefit.

Senator Solberg: We wanted it to come out as a scholarship or a loan repayment - so they could use it either way. You may have an individual in the community that is a good prospect to come back, or you may have had one that just graduated. The nursing home gives them the flexibility to use it either way.

Rep. Delzer: It is, basically, the loan repayment while they're going to school instead of afterwards - and they wouldn't be eligible for both?

Senator Solberg: It is limited.

Rep. Delzer: That is something that we will probably going to have to get some new language.

Senator Solberg: On the two of them, yes.

Chairman Devlin: The loan pool you raised?

Senator Solberg: We raised that to \$13,000,000. It is not going to come out of the trust fund unless it is needed.

Rep. Delzer: If I could ask Allen - the sheet you gave me of the differences between the original, the House version, and the Senate version - there is a different number for the loans committed. Where did you get that, and why did that come different?

Allen Knudson: Legal Council. The department had an updated number on that. It was paid out for this biennium for committed loans versus what is going to carry over in the next biennium. So the Senate numbers reflect that revision.

Rep. Delzer: I am a little surprised because I know when we had testimony, they said those loans were committed and they didn't know if they were going to be used. Senator Solberg, when you

raised that to \$8,000,000, was that when you were considering new construction or was that after you decided not to put the new construction in?

Senator Solberg: That was before.

Rep. Delzer: One of the reasons that the Appropriations Committee (we were the ones that lowered that way down) had was with the study that we were somewhat concerned about doing too much before we had the answers from that study.

Senator Solberg: That goes into the thinking about new construction. Remodeling, I just don't have a problem with that because those that are going to move ahead with remodeling are going to be there.

Rep. Delzer: That is something I don't have particular strong feelings about one way or the other. I'm sure all of us here are very cognizant of how we're going to manage to cover the increased costs in the future.

Chairman Devlin: I think there was more concern that if we were going to be building a bunch of new facilities out there, that we had to study - but that certainly isn't the Senate's intent from what I'm hearing.

Senator Solberg: No.

Chairman Devlin: ICMR, you went from \$40 to \$50. Did you talk about that at Appropriations?

Chairman Fischer: That came from our committee.

Rep. Delzer: That is something we really don't have a choice?

Chairman Devlin: The re-basing issue?

Senator Solberg: There are arguments on both sides. There is an argument that they should be able to capture current laws. That is certainly what re-basing will do - move it up to the current year. Arguments on the other end is that it keeps you a little bit more on your toes in doing that.

Chairman Devlin: Senator Solberg, as I recall, the task force when we started they were at 96 and we were going to 98 and it ended up at 99 in the House. I think the concerns we had in the House, we understood the need but we were thinking that if you go cost plus, there may not be the necessity for some of the .....to control our costs. It could lead us down the road to some very expensive expenditures when some of these funds run out.

Rep. Delzer: When you look at the continued costs in the future biennium, it is much, much higher when we re-base that. The biggest concern is the cost in the future, plus the cost plus type basing. There was also some questions about the level of care that comes into account when the re-basing is there. It is like buying the top of the line Cadillac or a Chevy - what level should the state pay at.

Chairman Devlin: Let's talk about the bed buy out. We aren't so far different than the original task force because the original task force was at \$15,000. We did talk about levels, but we didn't put anything in there that was putting on the House side - to qualify for the higher limits, you would have to give up a minimum of eight beds. The feeling was that for the long term savings to the state or to convert to alternative care, we would be further ahead as they would convert the wing or section - more than a bed that is in a semiprivate room to a private room, and we were willing to pay more dollars to do that. We left the beds that were coming out of a semiprivate room at \$2,500, where Appropriations had it at \$1,000. We went to \$2,500 because we understood the costs then were essentially remodeling a bathroom, some paint or whatever, but at lower cost. Rep. Delzer, you may want to explain where Appropriations went from the 15 to 10.

Rep. Delzer: We were looking at 10 - you'd cover more beds with the \$4,000,000. I personally don't have a big hang-up on the 15. I would like to see at 8 beds more because I think it needs to be a situation where if they actually give up beds, it's going to a cost savings to the state. If you

just go in on one or two beds, they are almost always empty. We are paying the facility to have full. From the state's aspect, where is the savings. In a nursing home that lowers its beds, if we're going to pay them to lower their beds and they are below the 90% occupancy and get above the 90% occupancy, we're going to turn around and pay them a higher rate on the return because that is one of the qualifiers for paybacks. That is why I have the concern about leaving it wide open.

Senator Solberg: I've got problems if you're empty enough to buy at 15, but if you're small and can only go with four, you get paid \$2,500. That is certainly discriminating against a small unit, one that wants to get rid of a few beds to convert to private. Situations like that. Remember also that this is not a bid basis. We don't know if somebody is going to come in and bid \$15,000. We may have somebody come in with \$10,000, or \$9,000, or \$11,000. If we're going to drop it down to \$5,000 under eight, what then is the incentive to do it? You've got to have an incentive to buy some of these beds out.

Rep. Delzer: One of the things I've never seen was that it was a bid type situation. I thought that it was exactly what we were going to pay.

Chairman Devlin: I certainly am not disputing the number that you got when we were making the original task force. When we looked at those at House Human Services and tried to fence them out, we were finding the value in that \$7,000 to \$8,000 range. There certainly is some spread in that \$15,000 figure. I also know that when we were looking at the \$15,000, we were figuring 600 beds.

Rep. Delzer: If those beds are basically unoccupied, what is the plus for the state in paying the facilities to get rid of them?

Senator Solberg: In small towns I don't think unoccupied beds are there because of a lack of need. They are there because of the lack of personnel, and why should the state pay for them?

Rep. Delzer: What is the plus for the state?

Senator Solberg: It is less liability down the road on Medicaid payments to homes. This will probably close a couple of nursing homes, because they will see an opportunity to be able to sell these beds, close the doors, pay off the debt and say "I made it".

Rep. Delzer: I do have somewhat of a problem of giving the same dollar figure for somebody that does one or two and then changes it from a two bed room to a one bed room. I don't see that that should be worth the same amount to the state on a buy out situation as when you close a wing where you would actually be reducing staff needs - which should have a savings to the state, or if a facility wants to close.

Senator Solberg: I suppose you could look at it that way, but the value of the bed is still the same to that institution.

Rep. Delzer: Only if it is full all of the time.

Senator Solberg: Still a value to it, whether it is full or not. Then what we should do is go to legislation and say "as of such and such a date if your bed isn't full, we're going to eliminate it". I'm not sure I want to get into that one.

Rep. Delzer: Part of what I perceive out of this study is that we have to look at needs and where we want to go as a state to the nursing home industry, totally. If in the future we have to say to some of these that "you're area can't sustain", then the state can't afford to pay for it. I think that is something that has to be looked at in whether that is going to be required in that study or not.

Senator Solberg: I think here is a possibility to get down to scale where they can operate with the bed buy out. I think that most of these homes are community owned - a lot of them are and if

they can keep that operation for awhile, I don't suspect that it is going to bother Grand Forks or Fargo nearly as much as it will at Westhope or a smaller community.

Rep. Delzer: How quick do you expect this to be expended out? What do you expect most of them to do with the money?

Senator Solberg: I think a lot of them will pay off debt. I think that is the feeling we got from the industry.

Rep. Delzer: You don't see it as lowering the cost to the state, you just see it as a way to help them pay off debts, other than the fact that these beds could never be filled in the future?

Senator Solberg: I think that is the only way you can look at it right now.

Rep. Delzer: Mr. Chairman, I think I will need to have a little time to think on.

Senator Solberg: I have a really tough time moving it down to \$2,000 - I have a real tough time moving it down to \$2,500.

Chairman Devlin: \$2,500 wasn't an Appropriations issue, it was a House Human Service issue. We were looking at \$1,000 and we were looking in cases where there were two beds in a room, where facilities were telling us that people wouldn't take them and they weren't rentable. They wanted private rooms. We were trying to find a way for them to take a bed out and yet have some dollars to remodel their bathroom, or paint, or whatever they had to do. That was where the \$2,500 was. We were looking at a way for them to reimburse their costs more, so that the room itself would be rentable when now it might be standing empty.

Senator Solberg: There was something in the amendments too where the department had five days to meet .....that has got to be changed whereby that doesn't make sense. If I bid a bunch of beds at \$1,400 and in five days you gotta get it paid for, and Rep. Devlin comes in ten days later with a bid of \$9,000 - doesn't make a whole lot of sense.

Rep. Delzer: I think we can work on getting language drafted for that.

Chairman Deylin: Shelly had some language on that loan repayment and maybe the committee would like her to explain what those suggestions are, or do you want to digest it on your own?

Rep. Delzer: I think all it does is put the scholarship in that was already talked about. I think we do need to bring up whether or not we have to make some changes in the section of the code on the flex bed moratorium to match what we passed before.

Chairman Deylin: We talked about making sure that everything in 2098 and this matched, and that was suppose to be done on the Senate side. We're going to have to make sure those are cleaned up - that it is the same.

Rep. Delzer: I feel fairly strong about the re-basing. I would like to go back to 99 on the re-basing. What about the bed buy down - if we went to the re-basing at 99 and the bed buy downs with figures of 12 and 8 with 6 beds or 8 beds - are we anywhere close with numbers like that?

Senator Solberg: Yes, I think we can work something out like that.

Rep. Delzer: We need to work on the bid process so that it is quarterly, or whatever, and then the department decides after each quarter who gets what bids. Four beds would be two rooms, in most cases. Like two rooms, if they set that up, what would you see happening with that? Would you see them changing them in to two bedrooms, or would you see them setting them off? What about staffing? I think that is why we came up with eight.

Senator Solberg: I'm not going to get into staffing problems. I think that if you go to four, most of them four will go to single units. They will go down from double occupancy to single. I wonder how many of them haven't done a lot of that already.

Chairman Devlin: You don't think that we're just going to see some single rooms going completely out of the system. I think that was some of our hope when we looked at the eight.

Senator Solberg: I would hope so, but I think there will be some of them whether we have four or eight, or whatever. We'll probably see a bid on one or maybe two complete units.

Rep. Delzer: If a facility goes through the bed buy down, then there is no way they could offer that for sale?

Senator Solberg: We could certainly put language in there that if they do that, they would surrender their license and beds.

Chairman Devlin: If you feel strongly that the \$2,500 is just absolutely too low, then certainly we have to look at common ground in between. I think there is some strong feeling on the House side that the 15 is too high, particularly if we're doing one bed or two beds.

Senator Solberg: I'm willing to move down from the 15 if you're willing to move down from the 8.

Chairman Fischer: Is the concern of the House that they are going to reduce from a two bed unit to a one bed unit - if you want single units reduced, pay more for them than you do for reducing a two bed unit to one bed unit.

Chairman Devlin: I don't know that it was a concern for the House. The concern of the task force was trying to get 600 unneeded beds out of the system. We think that a lot of facilities are going to be forced to go from two bedrooms to one bedroom because that is what the public is demanding. We were trying to provide them with the amount of dollars we thought it would take them to do that, and that might get them over the 90% so they are going to get payments at a higher rate for the bed that is left. We thought there was some gain there, also.

Rep. Delzer: I'm looking at this not just as a buy out for beds, but also to get some long term savings for the state.

Senator Solberg: I agree.

Senator Polovitz: On looking at the total amount of people that are becoming more and more elderly within the state itself, the potential for more use of homes is going to be greater. But then on the other side, but I can understand how the families feel about a private room. Which then brings up the question in my mind - why should we be putting more money into keeping the people out of the homes and helping them stay in their homes - have we ever had this discussion, because I see.....

Rep. Delzer: That is part of the \$240,000 study. That is an issue that is up all of the time. That is the reason that SPED is going up the way it is.

Senator Solberg: These are remarks from the industry, where a few short years ago the average stay at home was 3.5 years - it is now less than a year. It is becoming a place of the last resort.

Senator Polovitz: Have you done any study of what percentage of the elderly are going into the homes compared to the total numbers than could go into a home?

Senator Solberg: I think this study will bring some of that to light.

Senator Polovitz: I've been peppered with buying home care in case I have to go into a home, but only 10% will end up in a home. I'm saying I'm taking a risk and won't have to buy that insurance.

Rep. Delzer: We want to look at the state as a whole.

Senator Solberg: I think 1196 has been very generous to home care.

Chairman Devlin: I hope to meet this afternoon or Friday afternoon.

**CONFERENCE COMMITTEE RECONVENED:**

Chairman Devlin: We will call the meeting to order.

Chairman Fischer: I would like to hear discussion from the three of you on the purchase of beds. I thought about the concept that the house has had and the concern that Senator Solberg has had in moving those numbers around. I really believe that we have to do is that the biggest cost a nursing home has is employing people - so there has to be a cut off point that enough beds have to be sold to affect one employee. I don't care where the numbers are at, but I think I'd like to come to some agreement on that because that is a big piece of this.

Chairman Devlin: Darwin Lee from Long Term Care, said that at eight beds is where you need an additional CNA. The original 15,000 was a figure that we used in the task force. We were trying to get rid of 600 beds.

Rep. Delzer: I would like to move this along to make some offers concerning some of the changes. I would like to propose something along the line that we reduce the loan co-fund down to \$7,040,000. On the bed buy down, the number is okay but I do have some concerns about the eight beds or more and I think that if we had different numbers I would think we should consider something like allowing the \$15,000 if a facility buys out all of its beds in its facility. \$12,000 if its eight or more and \$8,000 if it is under eight. We need the language for the bid process and then the 30 days after the end of the bid the way we talked about. The other thing I would like to see the House do is to go back to 99 on re-basing. Other than that, the differences we talked about, I think we need to make the language right on the flex beds because 2098 has not been signed by the Governor yet. I think we need to make sure it matches what 2098 is. We needed the scholarship change, and I think we agreed on the principle on that.

Senator Solberg: That there is no money to be used from the selling enhancements. That it come from new money.

Chairman Devlin: There was discussion after the meeting about expanding the scholarship to include basic care facilities. That is not something we were going to propose, but it was suggested by one of the people outside of this committee that it might be something we want to look at.

Senator Solberg: Well, if you do that, then where do you stop.

Rep. Delzer: I think we need to look at Section 30 and make sure that we all agree. I thought the council was going to have the authority to set the parameters for that study. I don't know that I see that in there.

Senator Solberg: I was never under that impression, because I think this study has to get off the ground.

Chairman Devlin: It is in 29.

Senator Solberg: That is the Legislative Council Study. That is separate from 30. Section 30 is your long term care needs assessment study that is hired out. Section 29 is the L.C. Study. That comes from contacting UND and NDSU - those that do a needs assessment study, and that is the dollars they claim they need to do the study.

Chairman Devlin: We tied the two together because you'll see they are on lines 9 and 10. I don't think it was intended to be two different studies. It was intended to do the study that the task force had proposed, but to give the Legislative Council authority.

Senator Polovitz: Why did they say "if studied"?

Chairman Devlin: That is the way all of Legislative Council's are worded, then they pick.

Rep. Delzer: That is the way the council gets appointed here shortly, and then it is up to the council to go through and decide which studies to do. Any time there is money involved, they normally do them. Any heartburn on anything we've talked about?

Chairman Fischer: Rep. Delzer, this is going to be in with another study. It will get done.

Chairman Devlin: We were hoping that the progress of the report would all come through the Legislative Council interim. We didn't want to create separate studies.

Rep. Delzer: That just by talking in committee we have legislative intent that that is the way it is suppose to be.

Chairman Devlin: The loan pool - move it down a \$1,000,000 and put that back into the reserve?

Senator Solberg: What happens if we get down the road six, seven months and that pool is used up?

Rep. Delzer: Obviously, the way the bill is worded that the intent is that it should not be used. That would basically cap it until the next session.

Senator Solberg: We're not using these money yet. This is a loan pool. I wonder if this long term care needs study - it is not an emergency and I wonder if that should not be added.

Chairman Devlin: I have no problem with that at all.

Rep. Delzer: What about Legislative Council studies - how do they start those under the current money?

Senator Solberg: The Council itself will meet on this biennium's money. We better get this thing on the road if we're going to get anything to help us two years from now.

Chairman Devlin: A point well taken. Didn't we want to add to the study something about the rate system?

Senator Solberg: That is in Section 30.

Chairman Devlin: And the \$100,000 that you put into the mill levy match, we reluctantly accepted that.

Page 15  
House Human Services Committee  
Bill/Resolution Number HB 1196  
Hearing Date April 12, 2001

Senator Solberg: Motioned the Senate Recede from the Senate Amendments and Further Amend.

Rep. Delzer: Second.

Chairman Deylin: Any other further business to come before this committee. The clerk will take the roll.

6 YES 0 NO 0 ABSENT



**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

**HB 1200:** Reps. Timm; Nicholas; Warner

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 12:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. PRESIDENT:** Your Committee on Correction and Revision of the Journal (Sen. Watne, Chairman) has carefully examined the Journal of the Sixty-fifth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1328, line 35, replace "SENATE ACCEDE to" with "HOUSE RECEDE from"

**SEN. WATNE MOVED** that the report be adopted, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1196 be moved to the top of the Seventh order, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1196, as reengrossed:** Your conference committee (Sens. Fischer, Solberg, Polovitz and Reps. Devlin, Delzer, Metcalf) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1329-1334, adopt amendments as follows, and place HB 1196 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1329-1334 of the House Journal and pages 1177-1182 of the Senate Journal and that Reengrossed House Bill No. 1196 be amended as follows:

Page 1, line 1, after "Act" insert "to provide for a long term care nursing scholarship and loan repayment grant program;" and remove "and a new chapter"

Page 1, line 2, remove "to title 43"

Page 1, line 3, remove "and the nursing facility nurses student loan payment program"

Page 1, line 9, remove "to provide for a transfer from the health"

Page 1, line 10, remove "care trust fund;"

Page 1, line 11, remove the second "to provide an"

Page 1, line 12, remove "expiration date;"

Page 4, replace lines 4 through 31 with:

**"SECTION 8. Long-term care nursing scholarship and loan repayment grant program.**

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program. The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The state health council shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.
2. An applicant for a program grant shall establish that the applicant:
  - a. is a licensed nursing facility,

b. has available matching funds equal to the amount of the grant request; and

c. Meets the eligibility criteria established by rule.

3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed to eligible applicants in the second year of the biennium in any amount determined by the state health council.

**SECTION 9. AMENDMENT.** Section 23-09.3-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-09.3-01.1. Moratorium on expansion of basic care bed capacity.**

1. Except when existing beds are converted for use by a nursing facility that converts licensed nursing facility bed capacity to basic care bed capacity of the Alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 requests for a portion of the facility's existing beds as basic care bed capacity. Unless the applicant demonstrates to the department and to the department of human services that a need for additional basic care bed capacity exists, the department may not issue a license under this chapter for any additional bed capacity above the state's gross licensed capacity of one thousand four hundred seventy-one beds, adjusted by any reduction in beds before July 31, 1999 2001, during the period between August 1, 1999 2001 and July 31, 2001 2003.
2. Transfers of existing beds from one municipality to another municipality must be approved if the licensing requirements are met, during the period August 1, 1999 2001 to July 31, 2001 2003, only to the extent that for each bed transfer approved the total number of licensed beds in the state is reduced by the same number transferred. Existing licensed beds released by a facility ~~which are not immediately and transferred to another facility may not be licensed for future transfer to another facility~~ must become licensed within twenty-four months of transfer.
3. Transfer of existing beds from one municipality to a tribal reservation during the period August 1, 2001 to July 31, 2003, may occur only to the extent that the facility transferring beds reduces the facility's licensed capacity by an amount equal to twice the number of beds transferred. A tribal facility may seek to participate, within twenty-four months of any transfer of beds, in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.
4. Not more than once in a twelve-month period, a nursing facility may convert licensed nursing facility bed capacity to basic care bed capacity, or may convert basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity. At least ninety days before the conversion, the facility shall notify the state department of the facility's intent to convert bed capacity. The converted beds must be located in the same block of rooms within the facility.

**SECTION 10. AMENDMENT.** Section 23-16-01.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-16-01.1. Moratorium on expansion of long-term care bed capacity**

1. Notwithstanding sections 23-16-01 and 23-16-02, except when existing beds are converted for use by the Alzheimer's and related dementia population under the projects provided for in section 50-06-14.4 or when a nursing facility converts basic care bed capacity licensed after July 1, 2001, as nursing facility capacity to licensed nursing facility bed capacity, the state department of health may not issue a license for any additional bed capacity above the state's gross licensed capacity of seven thousand one



Under the Senate version, the maximum incentive allowed was \$15,000 per bed. Under the House version, a facility reducing at least eight beds would have received an incentive of \$10,000 per bed, and a facility reducing fewer than eight beds would have received an incentive of \$2,500 per bed.

Provisions are added providing that the department:

- May not pay an incentive to a nursing facility that is temporarily converting nursing facility bed capacity to basic care bed capacity.
- Shall allow for nursing facilities to make offers to reduce bed capacity each quarter.
- Shall give priority for incentives to facilities that reduce their gross licensed bed capacity.
- Shall inform a nursing facility within thirty days of the beginning of each quarter regarding the department's approval or disapproval of the facility's offer to reduce beds.

Provisions are added providing that:

- To be eligible for an incentive in a particular quarter, a nursing facility's bid to reduce bed capacity must be received by the Department of Human Services by the first day of the quarter for which the incentives will be approved.
- A nursing facility may resubmit a bid that was not approved in one quarter in a subsequent quarter.

Appropriate funding of \$40,000 is provided from the health care trust fund and \$26,400 of federal funds is provided to increase the personal care allowance for individuals residing in intermediate care facilities for the mentally retarded from \$40 to \$50 per month, the same as the Senate version. (Section 27)

Provisions are added that:

- Preclude nursing facilities from using money received for compensation enhancements (Section 24) for matching long-term care nursing scholarship and loan repayment grants. (Section 8)
- Remove the definition of "assisted living facility" from NDCC Chapter 50-30. (Section 12)
- Expand the long-term care needs assessment study to include the nursing facility payment system and allow the study to begin prior to the 2001-03 biennium. (Section 30)

Sections 9 and 10 of the bill relating to the moratoriums on the expansion of long-term care and basic care bed capacity are changed to reflect the revisions of Senate Bill No. 2098 which has passed both the House and Senate.

Funding is included to rebase nursing facility rates to 1999, the same as the House version. (Section 26). The Senate had added \$1,611,523, which included \$483,457 from the health care trust fund to rebase to 2000.

**House Bill No. 1196 - Department of Human Services - Program and Policy - Conference Committee Action**

	EXECUTIVE BUDGET	HOUSE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	SENATE VERSION	COMPARISON TO SENATE
Service payments for elderly and disabled		\$6,898,302		\$6,898,302	\$6,898,302	
Senior citizens multi-level health independent living center grants		150,000	\$100,000	250,000	250,000	
		700,000		700,000	700,000	
Total all funds	\$0	\$7,148,302	\$100,000	\$7,248,302	\$7,248,302	\$0
Less estimated income		7,148,302	100,000	7,248,302	7,248,302	
General fund	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	0.00	0.00	0.00	0.00	0.00	0.00

**Dept. 328 - Department of Human Services - Program and Policy - Detail of Conference Committee Changes**

	INCREASE SENATORIAL MATCH FUNDING	TOTAL CONFERENCE COMMITTEE CHANGES
Service payments for elderly and disabled		\$100,000
Senior citizens multi-level health independent living center grants	\$100,000	\$100,000
Total all funds	\$100,000	\$100,000
Less estimated income	100,000	100,000
General fund	\$0	\$0
TOTAL	0.00	0.00

Funding for the senior citizens multi-level health is increased by \$100,000, the same as the Senate version. (Section 30)

Reengrossed HB 1196 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**  
**SEN. FISCHER MOVED** that the conference committee report on Reengrossed HB 1196 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1196, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1196:** A BILL for an Act to provide for a long-term care nursing scholarship and loan repayment grant program; to create and enact a new subsection to section 21-10-06 of the North Dakota Century Code, relating to funds under the management of the state investment board; to amend and reenact sections 6-09.16-01, 6-09.16-02, 6-09.16-03, 6-09.16-04, 6-09.16-05, 6-09.16-06, 23-09.3-01.1, 23-16-01.1, 50-24.4-30, 50-30-01, 50-30-02, and 50-30-04 of the North Dakota Century Code, relating to the nursing facility alternative loan fund, the moratorium on the expansion of basic care bed capacity, the moratorium on the expansion of long-term care bed capacity, the government nursing facility funding pool, and nursing facility loans; to provide for a transfer from the nursing facility alternative grant fund; to provide a statement of legislative intent; to provide for a legislative council study; to provide an appropriation; to provide a continuing appropriation; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berger; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grundberg; Heitkamp; Holmberg; Kelsh; Kitzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Uriacher; Wanzek; Wardner; Watne

Reengrossed HB 1196, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2013, as engrossed:** Your conference committee (Sens. Bowman, Schobinger, Tallackson and Reps. Carlisle, Koppelman, Huether) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1074 and place SB 2013 on the Seventh order.

Engrossed SB 2013 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. BOWMAN MOVED** that the conference committee report on Engrossed SB 2013 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2013, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2013:** A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 49 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berger; Bowman; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grundberg; Heitkamp; Holmberg; Kelsh; Kitzer; Klein; Krauter; Krebsbach; Kringstad; Kroepflin; Lee; Lindaas; Lyson; Mathern, D.; Mathern, T.; Mutch; Nelson, C.; Nelson, G.; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Solberg; Stenehjem; Tallackson; Thane; Tollefson; Tomac; Traynor; Trenbeath; Uriacher; Wanzek; Wardner; Watne

Reengrossed SB 2013 passed and the title was agreed to

2001 TESTIMONY

HB 1196

DAVE  
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2-7-01

January 30, 2001

Health Care Trust Fund

## HEALTH CARE TRUST FUND - COMPARISON OF 2001-03 BIENNIUM FUNDING RECOMMENDATIONS

	Hoeven Executive Budget Recommendation (HB 1012)	House Human Services Committee Recommendation (HB 1196 and HB 1012)
Estimated balance - July 1, 2001	\$38,394,541 <sup>1</sup>	\$38,394,541 <sup>1</sup>
Add estimated 2001-03 revenues		
July 2001 pool payment	\$11,748,679	\$11,848,679 <sup>2</sup>
July 2002 pool payment	6,385,969	6,485,969 <sup>2</sup>
Repayment of state matching on pool payments	7,946,165	3
Investment earnings	2,989,065	2,989,065
Loan repayments - Principal and Interest	563,376 <sup>4</sup>	563,376 <sup>4</sup>
<b>Total 2001-03 estimated revenues</b>	<b>\$29,633,254</b>	<b>\$21,887,089</b>
<b>Total available</b>	<b>\$68,027,795</b>	<b>\$60,281,630</b>
Less 2001-03 estimated expenditures		
<b>Department of Human Services</b>		
Dunselth and McVillie - Additional 1999-2001 biennium transaction fee (HB 1012 and HB 1196)	\$400,000 <sup>1</sup>	\$800,000 <sup>1</sup>
Grants and loans - 1999-2001 commitments (HB 1012)	4,020,226	4,020,226
Service payments for elderly and disabled (SPED) (HB 1012)	4,262,410	4,262,410
HIPAA computer project - State matching (HB 1012)	3,870,794	
Medical assistance - State matching (HB 1012)	25,000,000	
State Hospital landfill closure (HB 1012)	413,255	
Statewide long-term care needs assessment (HB 1012 and HB 1196)	241,006	241,006
State matching for government facility pool payments (HB 1012)	7,946,165	3
Loans - 2001-03 biennium, including \$3 million for technology (HB 1196)		35,000,000
Nursing home bed reduction incentive (HB 1196)		4,100,000
Nursing facility employee compensation enhancement (HB 1196)		8,189,054
Basic care employee compensation enhancement (HB 1196)		202,080
Nursing facility rate limit increases resulting from rebasing (HB 1196)		1,165,303
Nursing facility personal care allowance increase (HB 1196)		266,400
Basic care facility personal care allowance increase (HB 1196)		180,000
Qualified service provider (QSP) training grants (HB 1196)		140,000
Nursing facility nurses loan repayment program (HB 1196)		1,000,000
Administrative costs (HB 1012)	71,158	71,158
Bank of North Dakota fees (HB 1012)	147,358 <sup>2</sup>	147,358 <sup>2</sup>
<b>State Department of Health</b>		
Quick response unit pilot project (HB 1196)		225,000
<b>Total 2001-03 estimated expenditures</b>	<b>\$46,372,372</b>	<b>\$60,009,995</b>
Estimated balance - June 30, 2003	\$21,655,423 <sup>3</sup>	\$271,635 <sup>3</sup>

<sup>1</sup> The additional 1999-2001 biennium Dunselth and McVillie transaction fees are reflected under the 2001-03 biennium expenditures on this schedule for comparison purposes. These payments will actually be paid during the 1999-2001 biennium and will reduce the estimated July 1, 2001, balance.

<sup>2</sup> Assumes transaction fees are paid to two government nursing facilities.

<sup>3</sup> Under the House Human Services Committee recommendation, the state matching for the pool payments would be provided from the general fund and be repaid to the general fund after the pool payment funding is returned to the state.

<sup>4</sup> This amount will vary based on the amount of loans outstanding.

<sup>5</sup> Provisions of House Bill No. 1196 do not allow the State Treasurer to approve payments from the fund that would reduce the fund's unobligated balance below \$13 million except for payments to repay the federal government for disputed claims until the Department of Human Services certifies to the State Treasurer that the federal Health Care Financing Administration's claim for the return of \$13 million of the state's first year (FY 2000) payment has been resolved. The House Human Services Committee recommendation assumes that this issue will be resolved and the funds will be available during the 2001-03 biennium.

196  
**HEALTH CARE TRUST FUND - COMPARISON OF 2001-03 BIENNIUM  
FUNDING RECOMMENDATIONS**

	Hoeven Executive Budget Recommendation (HB 1012)	House Human Services Committee Recommendation	Proposed House Appropriations Committee Recommendation (HB 1196)
Estimated balance - July 1, 2001	\$38,394,541 <sup>1</sup>	\$38,394,541 <sup>1</sup>	\$38,394,541 <sup>1</sup>
Add estimated 2001-03 revenues			
July 2001 pool payment (House Appropriations recommendation reflects February 2001 reprojction)	\$11,748,679 <sup>2</sup>	\$11,848,679 <sup>2</sup>	\$15,141,604 <sup>2</sup>
July 2002 pool payment (House Appropriations recommendation reflects February 2001 reprojction)	6,385,969 <sup>2</sup>	6,485,969 <sup>2</sup>	11,754,986 <sup>2</sup>
Repayment of state matching on pool payments	7,946,165	3	3
Investment earnings (House Appropriations recommendation reflects February 2001 reprojction)	2,989,065	2,989,065	3,245,224
Loan repayments - Principal and Interest (House Appropriations recommendation reflects February 2001 reprojction)	563,376 <sup>4</sup>	563,376 <sup>4</sup>	1,948,101 <sup>4</sup>
<b>Total 2001-03 estimated revenues</b>	<b>\$29,633,254</b>	<b>\$21,887,089</b>	<b>\$32,089,915</b>
<b>Total available</b>	<b>\$68,027,795</b>	<b>\$60,281,630</b>	<b>\$70,484,456</b>
Less 2001-03 estimated expenditures			
<b>Department of Human Services</b>			
Dunselth and McVillie - Additional 1999-2001 biennium transaction fee	\$400,000 <sup>1</sup>	\$800,000 <sup>1</sup>	\$800,000 <sup>1</sup>
Grants - 1999-2001 commitments	100,226	100,226	100,226
Loans - 1999-2001 commitments	3,920,000	3,920,000	3,920,000
Loans - 2001-03 biennium		35,000,000	4,979,774
Service payments for elderly and disabled (SPED)	4,262,410	4,262,410	6,898,302
HIPAA computer project - State matching	3,870,794		3,000,000
Medical assistance - State matching	25,000,000		
State Hospital landfill closure	413,255		
Statewide long-term care needs assessment	241,006	241,006	241,006
State matching for government facility pool payments	7,946,165		
Nursing home bed reduction Incentive		4,100,000	4,100,000
Nursing facility employee compensation enhancement		8,189,054	8,189,054
Basic care employee compensation enhancement		202,080	202,080
Nursing facility rate limit increases resulting from rebasing		1,165,303	681,846
Nursing facility personal care allowance increase		266,400	266,400
Basic care facility personal care allowance increase		180,000	180,000
Qualified service provider (QSP) training grants		140,000	140,000
Administrative costs	71,158	71,158	71,158
Bank of North Dakota fees	147,358 <sup>4</sup>	147,358 <sup>2</sup>	90,000 <sup>4</sup>
Senior citizen mill levy match			150,000
Medical assistance - Targeted case management			338,530
Independent living center grants			100,000
<b>State Department of Health</b>			
Quick response unit pilot project (HB 1202)		225,000	225,000
Nursing facility nurses student loan repayment program		1,000,000	1,000,000
<b>Total 2001-03 estimated expenditures</b>	<b>\$46,372,372</b>	<b>\$60,009,995</b>	<b>\$35,673,376</b>
<b>Estimated balance - June 30, 2003</b>	<b>\$21,655,423<sup>3</sup></b>	<b>\$271,635</b>	<b>\$34,811,080</b>
<b>Federal funds repayment contingency</b>	<b>(\$13,000,000)<sup>5</sup></b>	<b>(\$13,000,000)<sup>5</sup></b>	<b>(\$13,000,000)<sup>5</sup></b>
<b>Estimated balance with contingency deducted - June 30, 2003</b>	<b>\$8,655,423</b>	<b>(\$12,728,366)</b>	<b>\$21,811,080<sup>4</sup></b>

<sup>1</sup> The additional 1999-2001 biennium Dunselth and McVillie transaction fees are reflected under the 2001-03 biennium expenditures on this schedule for comparison purposes. These payments will actually be paid during the 1999-2001 biennium and will reduce the estimated July 1, 2001, balance.

<sup>2</sup> Assumes transaction fees are paid to two government nursing facilities.

<sup>3</sup> Under the House Human Services and House Appropriations recommendation, the state matching for the pool payments would be provided from the general fund and be repaid to the general fund after the pool payment funding is returned to the state.

<sup>4</sup> This amount will vary based on the amount of loans outstanding.

<sup>3</sup> Provisions of House Bill No. 1196 do not allow the State Treasurer to approve payments from the fund that would reduce the fund's unobligated balance below \$13 million except for payments to repay the federal government for disputed claims until the Department of Human Services certifies to the State Treasurer that the federal Health Care Financing Administration's claim for the return of \$13 million of the state's first year (FY 2000) payment has been resolved. The House Human Services Committee recommendation assumes that this issue will be resolved and the funds will be available during the 2001-03 biennium.

<sup>4</sup> Provisions of House Bill No. 1196, as proposed by the House Appropriations Committee, provide that the State Investment Board is responsible for investing the money in the health care trust fund. In addition, a section of legislative intent is added that intends to ensure that adequate moneys remain in the fund to make available the funding necessary to continue the increased funding levels authorized by 2001 House Bill No. 1196 beyond the 2003-05 biennium. Estimated state costs to continue the major increases proposed by the House Appropriations Committee in House Bill No. 1196 include:

	2003-05 Biennium	2005-07 Biennium
Nursing facility employee compensation enhancement	\$8,189,054	\$8,189,054
Basic care employee compensation enhancement	202,080	202,080
Nursing facility rate limit increases resulting from rebasing	1,625,527	2,809,259
Nursing facility personal care allowance increase	266,400	266,400
Basic care personal care allowance increase	180,000	180,000
Senior citizen mill levy match	101,659	101,659
Medical assistance - Targeted case management	338,530	338,530
Total estimated cost to continue	\$10,903,250	\$12,086,982

The Department of Human Services preliminary projections for health care trust fund revenues resulting from government nursing facility funding pool payments are \$3,930,763 in July 2003 and \$3,930,763 in July 2004.

## HEALTH CARE TRUST FUND - 2001-03 BIENNIUM - PROPOSED HOUSE APPROPRIATIONS COMMITTEE RECOMMENDATION

	Proposed House Appropriations Committee Recommendation (HB 1196)
Estimated balance - July 1, 2001	\$38,394,541 <sup>1</sup>
Add estimated 2001-03 revenues	
July 2001 pool payment (Reflects Department of Human Services February 2001 reprojction)	\$15,141,604 <sup>2</sup>
July 2002 pool payment (Reflects Department of Human Services February 2001 reprojction)	11,754,986 <sup>2</sup>
Repayment of state matching on pool payments	3
Investment earnings (Reflects Department of Human Services February 2001 reprojction)	3,245,224
Loan repayments - Principal and interest (Reflects Department of Human Services February 2001 reprojction)	1,948,101 <sup>4</sup>
Total 2001-03 estimated revenues	\$32,089,915
Total available	\$70,484,456
Less 2001-03 estimated expenditures	
<b>Department of Human Services</b>	
Dunseith and McVile - Additional 1999-2001 biennium transaction fee	\$800,000 <sup>1</sup>
Grants - 1999-2001 commitments that will be paid during the 2001-03 biennium	100,226
Loans - 1999-2001 commitments that will be paid during the 2001-03 biennium	3,920,000
Loans - 2001-03 biennium for renovation and technology-related projects	4,979,774
Service payments for elderly and disabled (SPED), an increase of \$2,635,892 compared to the executive recommendation of \$4,262,410	6,898,302
HIPAA computer project - State matching for federal funds available to make computer system changes to be in compliance with this federal Act	3,000,000
Statewide long-term care needs assessment - Funding to study long-term care needs in the state	241,006
State matching for government facility pool payments	3
Nursing home bed reduction incentive provides payments of up to \$10,000 per bed to facilities that reduce at least eight beds and \$2,500 per bed to facilities reducing fewer than eight beds	4,100,000
Nursing facility employee compensation enhancement effective July 1, 2001	8,189,054
Basic care employee compensation enhancement effective July 1, 2001	202,080
Nursing facility rate limit increases resulting from rebasing to 1999 cost reports	681,846
Nursing facility personal care allowance increase from \$40 to \$50 per month	266,400
Basic care facility personal care allowance increase from \$45 to \$60 per month	180,000
Qualified service provider (QSP) training grants	140,000
Administrative costs associated with the intergovernmental transfer program	71,158
Bank of North Dakota fees - Administrative fees associated with the loan fund	90,000 <sup>4</sup>
Senior citizen mill levy match	150,000
Medical assistance - Targeted case management costs relating to Medicaid, SPED, Expanded SPED, and basic care clients	338,530
Independent living center grants	100,000
<b>State Department of Health</b>	
Quick response unit pilot project (HB 1202)	225,000

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	Proposed House Appropriations Committee Recommendation (HB 1196)
Nursing facility nurses student loan repayment program - Transfers funds to special funds for paying nursing facility nurses student loans off over a four-year period for qualified nursing facility nurses	1,000,000
Total 2001-03 estimated expenditures	\$35,673,376
Estimated balance - June 30, 2003	\$34,811,080
Federal funds repayment contingency	(\$13,000,000) <sup>5</sup>
Estimated balance with contingency deducted - June 30, 2003	\$21,811,080 <sup>4</sup>

<sup>1</sup> The additional 1999-2001 biennium Dunseith and McVillie transaction fees are reflected under the 2001-03 biennium expenditures on this schedule for comparison purposes. These payments will actually be paid during the 1999-2001 biennium and will reduce the estimated July 1, 2001, balance.

<sup>2</sup> Assumes transaction fees are paid to two government nursing facilities.

<sup>3</sup> The state matching for the pool payments would be provided from the general fund and be repaid to the general fund after the pool payment funding is returned to the state.

<sup>4</sup> This amount will vary based on the amount of loans outstanding.

<sup>5</sup> Provisions of House Bill No. 1196 do not allow the State Treasurer to approve payments from the fund that would reduce the fund's unobligated balance below \$13 million except for payments to repay the federal government for disputed claims until the Department of Human Services certifies to the State Treasurer that the federal Health Care Financing Administration's claim for the return of \$13 million of the state's first year (FY 2000) payment has been resolved. The House Human Services Committee recommendation assumes that this issue will be resolved and the funds will be available during the 2001-03 biennium.

<sup>6</sup> Provisions of House Bill No. 1196, as proposed by the House Appropriations Committee, provide that the State Investment Board is responsible for investing the moneys in the health care trust fund. In addition, a section of legislative intent is added that intends to ensure that adequate moneys remain in the fund to make available the funding necessary to continue the increased funding levels authorized by 2001 House Bill No. 1196 beyond the 2003-05 biennium. Estimated state costs to continue the major increases proposed by the House Appropriations Committee in House Bill No. 1196 include:

	2003-05 Biennium	2005-07 Biennium
Nursing facility employee compensation enhancement	\$8,189,054	\$8,189,054
Basic care employee compensation enhancement	202,080	202,080
Nursing facility rate limit increases resulting from rebasing	1,625,527	2,809,259
Nursing facility personal care allowance increase	266,400	266,400
Basic care personal care allowance increase	180,000	180,000
Senior citizen mill levy match	104,659	104,659
Medical assistance - Targeted case management	338,530	338,530
Total estimated cost to continue	\$10,903,250	\$12,086,982

The Department of Human Services preliminary projections for health care trust fund revenues resulting from government nursing facility funding pool payments are \$3,930,763 in July 2003 and \$3,930,763 in July 2004.

Rep Delwin

February 2001

## HEALTH CARE TRUST FUND - COMPARISON OF 2001-03 BIENNIUM FUNDING RECOMMENDATIONS AT CROSSOVER

	Hoeven Executive Budget Recommendation	House Version (HB 1196)
Estimated balance - July 1, 2001	\$38,394,541 <sup>1</sup>	\$38,394,541 <sup>1</sup>
Add estimated 2001-03 revenues		
July 2001 pool payment (House Appropriations recommendation reflects February 2001 reprojected)	\$11,748,679 <sup>2</sup>	\$15,141,604 <sup>2</sup>
July 2002 pool payment (House Appropriations recommendation reflects February 2001 reprojected)	6,385,969 <sup>2</sup>	11,754,986 <sup>2</sup>
Repayment of state matching on pool payments	7,946,165	3
Investment earnings (House Appropriations recommendation reflects February 2001 reprojected)	2,989,065	6,800,949
Loan repayments - Principal and Interest (House Appropriations recommendation reflects February 2001 reprojected)	563,376 <sup>4</sup>	760,508 <sup>4</sup>
Total 2001-03 estimated revenues	\$29,633,254	\$34,458,047
Total available	\$68,027,795	\$72,852,588
Less 2001-03 estimated expenditures		
<b>Department of Human Services</b>		
Dunselth and McVile - Additional 1999-2001 biennium transaction fee	\$400,000 <sup>1</sup>	\$800,000 <sup>1</sup>
Grants - 1999-2001 commitments	100,226	100,226
Loans - 1999-2001 commitments	3,920,000	3,920,000
Loans - 2001-03 biennium		4,979,774
Service payments for elderly and disabled (SPED)	4,262,410	6,898,302
HIPAA computer project - State matching and other technology projects	3,870,794	3,000,000
Medical assistance - State matching	25,000,000	
State Hospital landfill closure	413,255	
Statewide long-term care needs assessment	241,006	241,006
State matching for government facility pool payments	7,946,165	3
Nursing home bsd reduction incentive		4,100,000
Nursing facility employee compensation enhancement		8,189,054
Basic care employee compensation enhancement		202,080
Nursing facility rate limit increases resulting from rebasing		681,848
Nursing facility personal care allowance increase		266,400
Basic care facility personal care allowance increase		180,000
Qualified service provider (QSP) training grants		140,000
Administrative costs	71,158	71,158
Bank of North Dakota fees (continuing appropriation)	147,358 <sup>4</sup>	71,756 <sup>4</sup>
Senior citizen mill levy match		150,000
Medical assistance - Targeted case management		338,530
Independent living center grants		100,000
<b>State Department of Health</b>		
Quick response unit pilot project (HB 1202)		225,000
Nursing facility nurses student loan repayment program		1,000,000
Total 2001-03 estimated expenditures	\$46,372,372	\$35,655,132
Estimated balance - June 30, 2003	\$21,655,423 <sup>5</sup>	\$37,197,456
Federal funds repayment contingency	(\$13,000,000) <sup>5</sup>	(\$13,000,000) <sup>5</sup>
Estimated balance with contingency deducted - June 30, 2003	\$8,655,423	\$24,197,456 <sup>6</sup>

<sup>1</sup> The additional 1999-2001 biennium Dunseith and McVillie transaction fees are reflected under the 2001-03 biennium expenditures on this schedule for comparison purposes. These payments will actually be paid during the 1999-2001 biennium and will reduce the estimated July 1, 2001, balance.

<sup>2</sup> Assumes transaction fees are paid to two government nursing facilities.

<sup>3</sup> Under the House version, the state matching for the pool payments will be provided from the general fund and be repaid to the general fund after the pool payment funding is returned to the state.

<sup>4</sup> This amount will vary based on the amount of loans outstanding.

<sup>5</sup> Provisions of House Bill No. 1196 do not allow the State Treasurer to approve payments from the fund that would reduce the fund's unobligated balance below \$13 million except for payments to repay the federal government for disputed claims until the Department of Human Services certifies to the State Treasurer that the federal Health Care Financing Administration's claim for the return of \$13 million of the state's first year (FY 2000) payment has been resolved.

<sup>6</sup> Provisions of House Bill No. 1196, as approved by the House, provide that the State Investment Board is responsible for investing the moneys in the health care trust fund. In addition, a section of legislative intent is added that intends to ensure that adequate moneys remain in the fund to make available the funding necessary to continue the increased funding levels authorized by 2001 House Bill No. 1196 beyond the 2003-05 biennium. Estimated state costs to continue the major increases approved by the House in House Bill No. 1196 include:

	2003-05 Biennium
Nursing facility employee compensation enhancement	\$8,189,054
Basic care employee compensation enhancement	202,080
Nursing facility rate limit increases resulting from rebasing	1,625,527
Nursing facility personal care allowance increase	266,400
Basic care personal care allowance increase	180,000
Senior citizen mill levy match	150,000
Medical assistance - Targeted case management	338,530
Total estimated cost to continue	<u>\$10,951,591</u>

The Department of Human Services preliminary projections for health care trust fund revenues resulting from government nursing facility funding pool payments are \$3,930,763 in July 2003 and \$3,930,763 in July 2004.

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS  
HUMAN RESOURCES SECTION  
REGARDING HOUSE BILL 1196  
FEBRUARY 7, 2001

Chairman Svedjan, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear before you to provide information regarding this bill.

The 1999 Legislative Assembly passed enabling legislation that established what is commonly referred to as the Intergovernmental Transfer (IGT) Program. The potential to access federal funds through this mechanism first came to the Department's attention in 1995. At that time my colleague in Nebraska was dealing with similar issues that we were facing in North Dakota. Those included a large number of nursing facility beds with few alternatives especially in the rural areas. He indicated that he was going to attempt to use the IGT funding process to obtain funds to assist him in developing these needed alternatives. We agreed that if he was successful that he would share the information with North Dakota.

The Task Force on Long Term Care Planning was also concerned about the need for alternatives to nursing facility care and was interested in finding ways to develop needed services. After the Nebraska legislation passed, the Long Term Care Association asked the Department to consider such legislation as a way to promote alternatives to nursing facility care. We obtained the information from Nebraska and Senate Bill 2168 was patterned after their law that emphasized using the money for alternative care.

Senate Bill 2168 limited the use of funds to loans and grants to develop alternatives and allocated funds to pay for about \$4.2 million of the Service Payments for Elderly and Disabled (SPED) Program.

Attachment A illustrates how the pool payment is generated. The IGT funds are generated by taking advantage of the flexibility provided in current federal regulations. Pure and simple this is a process that allows states like North Dakota to capture additional federal funds. Once the funds are transferred, they belong to the state of North Dakota and are not required to be earmarked for a specific purpose or group of providers.

As you are aware, the synthesis of this bill originated with a committee chaired by Senator Solberg. The original bill draft did put some emphasis on alternatives to long term care services by providing loan funds for that purpose. The amended bill includes funding for projects that were not discussed during the original committee deliberations.

The Department has reviewed the amended bill and has some questions concerning the bill and will offer several proposed amendments. In addition, we want to discuss the budget implications the proposed use of IGT funds could have on the Department's ability to provide needed services to the citizens of North Dakota.

For several years, the Task Force on Long Term Care Planning has emphasized the need to develop alternatives to nursing facility services. This sentiment appears to be shared by the majority of elderly and disabled who require these services and as noted above was the original intent of the IGT legislation in SB2168. The Department believes that entities wishing to develop assisted living facilities and other alternatives to nursing facility care should at least have access to loan funds to help make these alternatives financially feasible. We are proposing amendments to Section 2 on page 1, Section 13 on page 10 and Section 11 on page 8 that will clarify how loan funds can be used.

Section 7, lines 18 through 21, appears to require a dual license for nursing facilities who wish to provide basic care services in up to twenty percent of their

bed capacity. The Department currently allows nursing facilities to bill our office for basic care services when a former private pay resident applies for Medicaid and it is determined that the resident does not meet Medicaid criteria for admission to a nursing facility. We would recommend removing this language because payment for lesser levels of care is not a licensing issue. If you wish you could direct the department to develop criteria limiting payment for lesser levels of care to 20 percent of bed capacity if that is the intent. We assume that this provision would apply only to Medicaid eligible recipients because all private pay residents are classified through the nursing facility classification system and are considered nursing facility residents.

Section 13, page 10 lines 19 through 27 we are proposing language that would again clarify that loans are available for alternatives to nursing facility care.

Section 13, Page 11, lines four and five state that the department has a share of the cost of the loan. The Department does not have a share in a loan; we are only responsible for approving the loans. The proposed amendment would clarify our responsibility.

Section 13, page 11, line 22, limits the preference for loans to nursing facilities that convert to basic care facilities. The Department proposes that preference should also be given to facilities that convert to assisted living or other alternatives to nursing facility care. The proposed amendment would add those preferences to this bill.

The current legislation sunsets as of July 1, 2001. In order to avoid any gaps in legislative authority, the Department proposes a new Section 32 that would make the entire act effective on July 1, 2001.

The Department also has some questions regarding the intent of the bill in several areas. Section 14 permits the Department to continue making grants to

entities whom had received approval during the current biennium. The bill does not appear to contain the same language for loans that were approved but not yet finalized. Is it the intent of the bill to include these loans in the \$35 million fund created in Section 19 of the bill or be in addition to the \$35 million?

Section 5 of the bill changes the approved loan amount from 80 to 90 percent of the project cost. The Department has some loans pending approval at 80% that may not be finalized until after the end of the current biennium. Is it the intent of the bill to permit these projects to receive a 90% loan amount or remain at 80%?

Section 8, page 5, line one, appears to restrict the use of the remaining funds to either converting ambulance services or creating additional quick response units. Is this the intent of the bill or was it intended to be more flexible?

Section 10, page 7, lines 15 through 18 contains language that indicates that the money deposited in the general fund should be considered the first spent to match federal funds for the Medicaid Program. The Department would appreciate clarification as to the intent of this language in the bill.

Section 10, page 7, line 25 uses the word "entitled" regarding a government nursing facility receipt of pool payment funds. The word entitled means to furnish with a right or claim to something. Is it the intent of the language of the bill to create entitlement to these funds for the government owned nursing facilities? Would the word "required" be more appropriate?

The Department notes that the bill appropriates funds for numerous projects. It assumes that the trust fund will have adequate funds to meet all the funding obligations contained in the bill. What if for some reason adequate funds are not available to fund all obligations? Is there a need for guidance regarding what projects should have priority if funding is not adequate?

The Department has calculated the pool payment we are scheduled to make on July 1, 2001. The amount of the payment will be \$21,776,831 of which \$15,141,604 will be available to be deposited in the trust fund. This is \$3.4 million more than was originally estimated. Based on the new information, we have recalculated the payment that will be generated in 2002. The payment for this period cannot exceed 75% of the base year pool payment that was made for the 1999 fiscal year. It appears that we will be able to retain the entire amount of the anticipated pool amount or \$16,938,114 of which \$11,754,966 would be deposited in the trust fund. This is \$5.3 million more than was originally estimated. The total additional amount available in the trust fund is estimated to be about \$8.7 million.

The fiscal note does include the additional funds that are anticipated for the next biennium. Attachment B provides a comparison of proposed revenues and expenditures for several scenarios. The Department anticipates an ending balance of about \$37.6 million as of June 30, 2001 based on the current amended bill. We anticipate additional income of \$32.1 million during the next biennium in the trust fund or total available funds of \$69.7 million.

The current amended bill would expend \$54.9 million of the funds and hold as a contingency \$13 million. The contingency was created because of a potential federal disallowance that stemmed from how the department claimed its first year pool payment. We have received written confirmation from HCFA indicating that they were no longer considering a disallowance of IGT funds for the first year payment.

The anticipated remaining balance in the fund excluding the contingency is about \$1.8 million.

HB 1012 anticipated using IGT funds to provide \$25 million in matching funds for the Medicaid Program, \$4.3 for the Service Payments to Elderly and Disabled

(SPED), \$3.9 million to implement HIPAA requirements, \$71,158 in administrative costs for the staff person administering the IGT fund and \$413,255 for the landfill at the Jamestown State Hospital.

As a result of the spending priorities contained in this bill the Department will experience a shortfall of about \$31.8 million in general funds for the next biennium. The \$25 million shortfall in the Medicaid Program has more than an \$83 million impact when federal funds are factored in.

The use of IGT funds to increase nursing facility rates will have a dramatic effect on general fund requirements in future bienniums. You have previously received information that details those future needs. The estimated general fund requirements for the 2003-05 and 2005-07 bienniums is estimated at \$26.3 million. In addition, another \$8.5 million for SPED will have to be found for those two bienniums to replace IGT funds that will no longer be available.

The proposed changes in nursing facility rates will also increase the cost to those 45% of families who pay for nursing facility care directly. It is estimated that the increases in nursing facility rates will increase costs to private pay residents by about \$96 million over the next three bienniums.

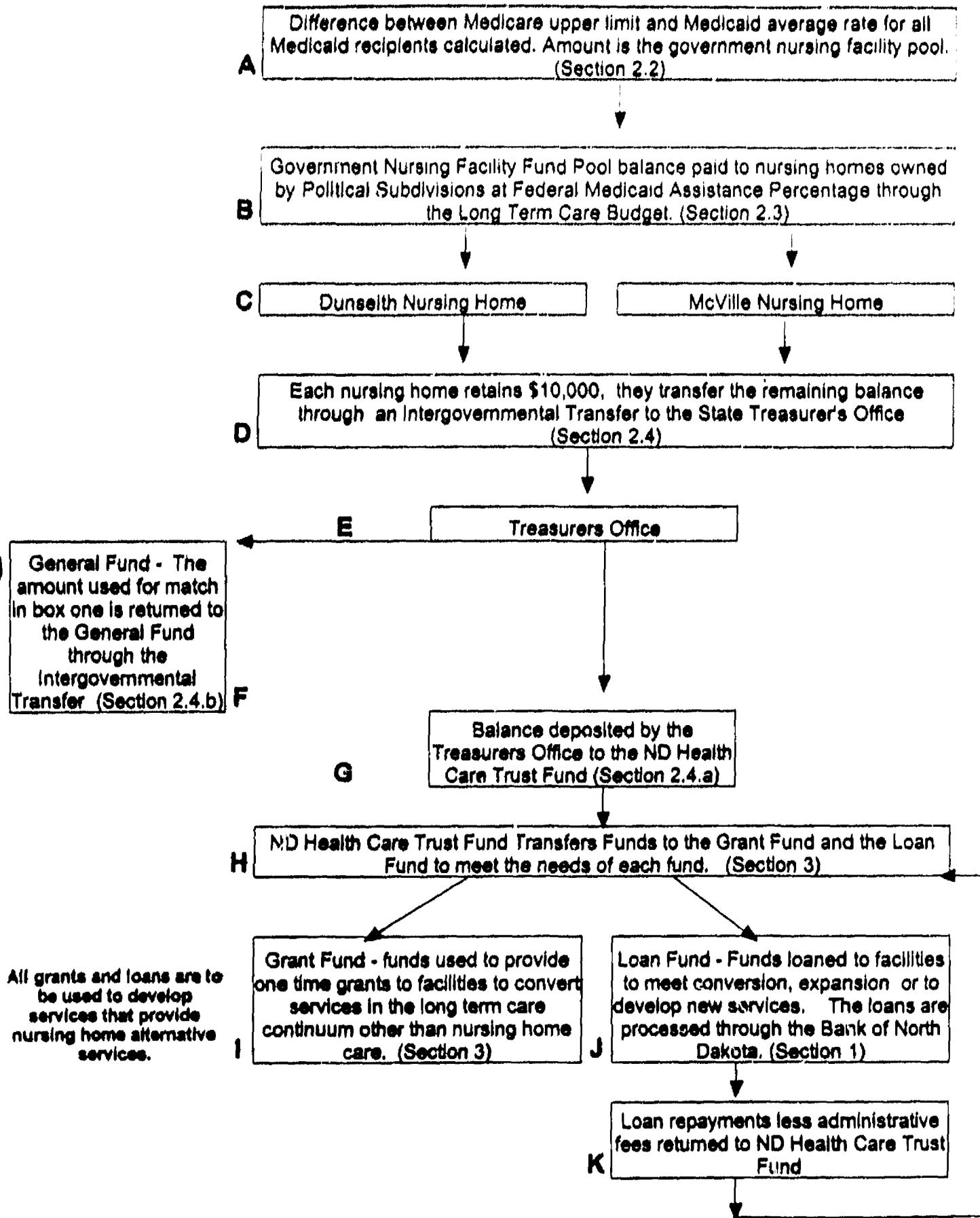
In addition, HB 1012 does not contain any general funds to make the pool payments to the government owned facilities. The two amounts combine for an overall general fund shortfall of \$43.5 million.

The Department is prepared to work with this committee to resolve this current budget dilemma.

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

## Intergovernmental Transfer Program

The intergovernmental transfer program is designed to access federal funds. The funds are obtained by paying government owned facilities the difference between the average Medicaid rate and the Medicare upper limit



All grants and loans are to be used to develop services that provide nursing home alternative services.

**Department of Human Services  
Intergovernmental Transfer Fund Statement  
1999-01 and 2001-03 Biennia**

Note: revised 2-5-01

	<u>House Bill 1179</u> <u>Gov Schafer</u>	<u>Gov Hoeven</u>	<u>House Bill 1196</u> <u>Senator Solberg</u>	<u>Amended 1196</u>
<b>Beginning Balance</b>	0	0	0	0
<b>Revenue</b>				
1998 Pool Payment (Less 10,000 to	25,902,739	25,902,739	25,902,739	25,902,739
1999 Pool Payment (Less 10,000 to	17,340,685	17,340,685	17,340,685	17,340,685
Interest on Trust Fund	1,949,798	1,949,798	1,949,798 (1)	1,949,798 (1)
Loan Repayments - Interest	19,747	19,747	19,747 (2)	19,747 (2)
Loan Repayments - Principal	7,622	7,622	7,622 (2)	7,622 (2)
<b>Total 1999-01 Revenue</b>	<b>45,220,591</b>	<b>45,220,591</b>	<b>45,220,591</b>	<b>45,220,591</b>
<b>Expenditures</b>				
SPED	4,262,410	4,262,410	4,262,410	4,262,410
Loans committed	1,697,273	1,697,273	1,697,273	1,697,273
Grants committed	804,300	804,300	804,300	804,300
Administrative Costs	60,382	60,382	60,382	60,382
BND Fee	1,685	1,685	1,685 (2)	1,685 (2)
Catch up payments to government facilities		400,000	400,000	800,000
<b>Total 1999-01 Expendit</b>	<b>6,826,050</b>	<b>7,226,050</b>	<b>7,226,050</b>	<b>7,626,050</b>
<b>June 30, 2001 Balance</b>	<b>38,394,541</b>	<b>37,994,541</b>	<b>37,994,541</b>	<b>37,594,541</b>
<b>Revenue</b>				
2000 Pool Payment (Less \$100,000	11,748,679	11,748,679	11,748,679	15,141,604 (\$50,000 Per Facility)
2001 Pool Payment (Less \$100,000	6,385,969	6,385,969	6,385,969	11,754,986 (\$50,000 Per Facility)
Interest on Trust Fund	2,989,065	2,989,065	2,989,065 (1)	3,245,224 Recalculated 2-5-01
Loan Repayments - Interest	211,289	211,289	211,289 (2)	746,110 Recalculated 2-5-01
Loan Repayments - Principal	352,087	352,087	352,087 (2)	1,201,991 Recalculated 2-5-01
Repayment of Match for Payments	7,946,165	7,946,165	0	0
<b>Total 2001-03 Revenue</b>	<b>29,633,254</b>	<b>29,633,254</b>	<b>21,687,089</b>	<b>32,089,915</b>
<b>Expenditures</b>				
Loans committed or pending final a	3,920,000	3,920,000	3,920,000	3,920,000
Grants committed	100,226	100,226	100,226	100,226
Administrative Costs	71,158	71,158	71,158	71,158
BND Fee	147,358	147,358	147,358 (2)	186,134
Match for Payments to Government	7,946,165	7,946,165	0	0
SPED	4,262,410	4,262,410	4,262,410	4,262,410
Funding Switch in Medicaid	25,000,000	25,000,000	25,000,000	25,000,000
HIPAA match	3,870,794	3,870,794	3,870,794	3,870,794
Statewide Long Term Care Needs	241,006	241,006	241,006	241,006
State Hospital Landfill	413,255	413,255	413,255	413,255
Hold for Contingent Liability	13,000,000	13,000,000	13,000,000	13,000,000
LTC Loans (maximum of 3,000,000 for ICF/MR renovation projects)			23,000,000 (2)	35,000,000
Nursing Home Bed Reduction			9,000,000	4,100,000
Nursing Facility Salary & Benefits Enhancements (18 mo.)			6,000,000	8,189,054
Grants for Training Qualified Service Providers			140,000	140,000
Basic Care Salary Enhancements				202,080
Rebasing				1,165,303
Personal Care Allowances- NH				266,400
Personal Care Allowances- Basic Care				180,000
Nurses Loan Fund				1,000,000
Quick Response Units				225,000
<b>Total 2001-03 Expendit</b>	<b>58,972,372</b>	<b>58,972,372</b>	<b>59,641,162</b>	<b>67,915,203</b>
<b>June 30, 2003 Balance</b>	<b>9,055,423</b>	<b>8,655,423</b>	<b>40,478</b>	<b>1,769,253</b>

**Note**

- (1) Interest on trust fund will vary according to the timing of expenditures and deposit made.  
 (2) Bank of North Dakota fees, loan interest and principal payments do not include estimates for loans using the \$23 million in the Solberg Bill.  
 The BND fees and interest and principal payments were based on funds committed by the department as of December 19, 2000.

1012 Unfunded Dollars

4,262,410 SPED  
 71,158 Admin costs  
 25,000,000 Funding Switch  
 3,870,794 HIPAA Match  
 413,255 Landfill  
(31,848,364) Total

## FOR THE RECORD

During my September 2000 on-site Medicaid review in North Dakota, I informed Dave Zentner of the possibility of a future disallowance on North Dakota's Upper Payment Limit. North Dakota's State Plan for this area had an effective date of April 1, 1999. It was my assumption that North Dakota would only be allowed to calculate payment for 2 quarters of FY 1999. Instead, North Dakota's calculation was based on the entire Federal fiscal year. North Dakota's HCFA-64 was approved as submitted, but I did let Dave know that I would be requesting a decision from Central Office regarding the calculation process and if approved, initiating the deferral process.

Central Office made a decision in November that North Dakota's Upper Limit Payment calculation could be based on the entire fiscal year. The decision was as follows:

Any State Plan Amendment approved before the New Jersey State Plan Amendment (January 1, 2000) could base their payment on an entire fiscal year. Plans approved after the New Jersey State Plan Amendment could only base their payment on a quarterly basis.

I immediately call Dave Zentner and informed him that the issue was now closed since North Dakota had appropriately calculated and documented the Upper Payment Limit.

Dave requested written documentation on this issue. As yet I have been unable to obtain anything from Central Office. This is an extremely sensitive issue nationwide. The program is constantly evolving and is also soon to be changing. I let Dave know that I probably wouldn't be seeing any documentation in the near future.

Eva Lopez

2-7-01

tt 4

*DMH-Zentner*



# NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES

Medical Services

John Hoeven, Governor  
Carol K. Olson, Executive Director

(701) 328-2324  
Toll Free 1-800-755-2604  
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Provider Relations (701) 328-4030

# Memo

**To:** Chairman Svedjan & Members of the Human Resources Appropriation Subcommittee  
**From:** Carol K. Olson, Executive Director *Carol*  
**Date:** January 26, 2001  
**Re:** IGT & HIPAA

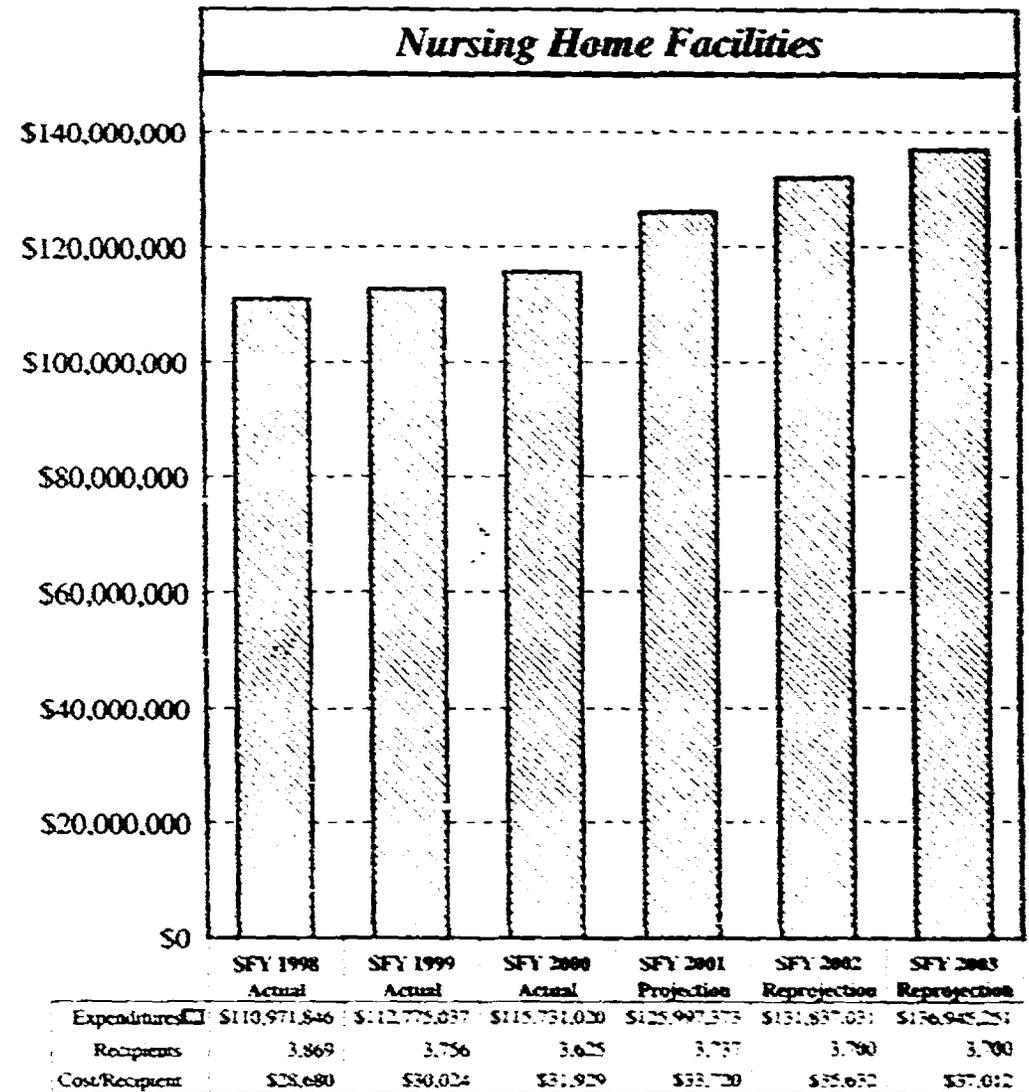
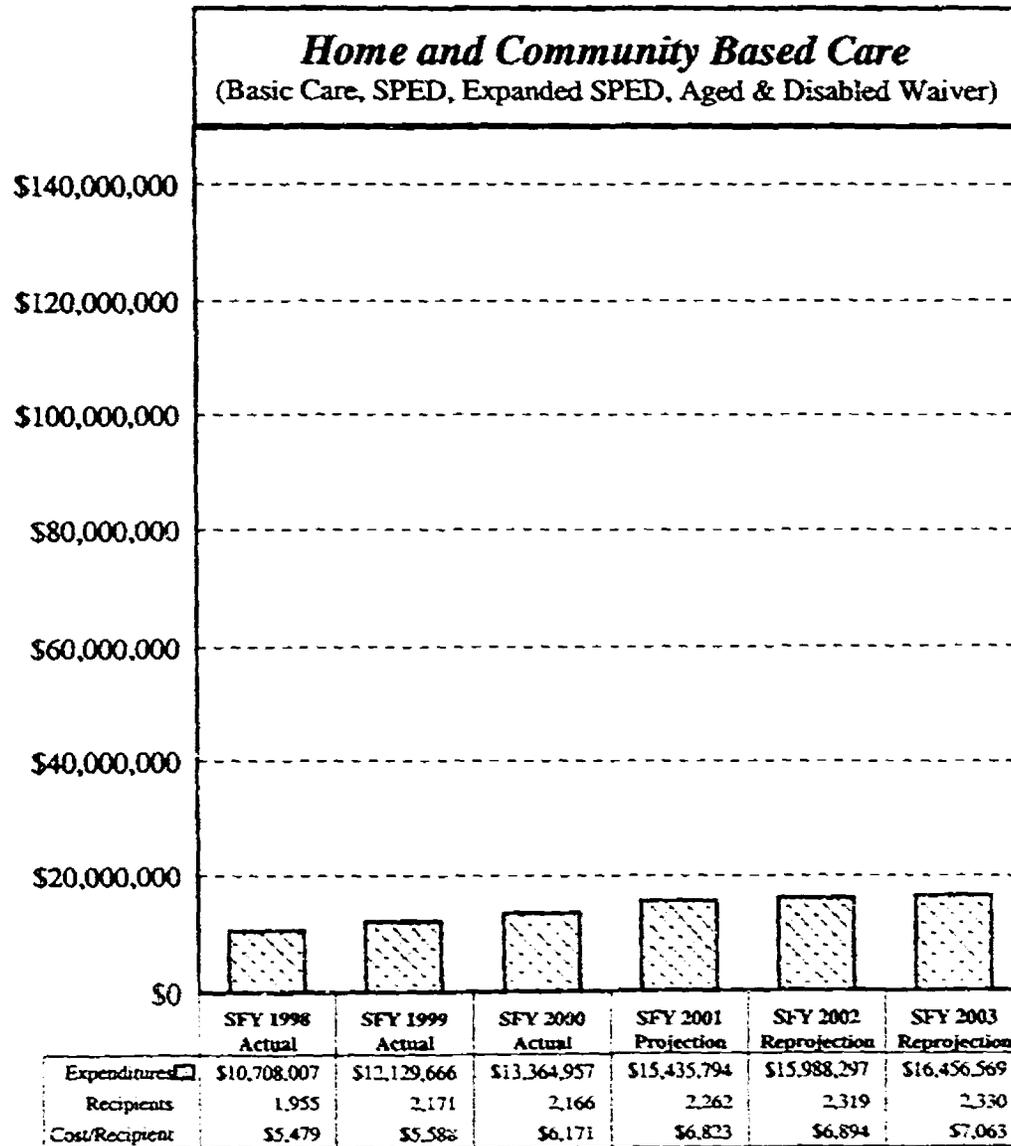
Below is an update on the Intergovernmental Transfer Program and the status of the Health Insurance Portability and Accountability Act.

- On January 24, 2000, we received an e-mail including an attachment with a heading of "For the Record." See attached. This attachment indicates that North Dakota's Upper Limit Payment calculation could be based on the entire fiscal year. This "For the Record" memo appears to resolve this issue, thus the \$13 million contingency should not be needed.
- President Bush has issued a memo holding all proposed and final federal regulations that have not passed the sixty day congressional comment period for sixty days to give incoming staff time to review them. There has been considerable discussion surrounding the Privacy Regulation and if it is included in the sixty day hold. HCFA has indicated that they are requesting an OMB opinion on whether or not this standard is on hold. The sixty day hold does **NOT** apply to the Transaction and Code Set Standards as these were final before President Bush issued the sixty day hold memo. These standards **must** be implemented by October 16, 2002.

If you have any questions, please feel free to give me a call.

APR 11 2001

North Dakota Department of Human Services  
Home and Community Based Care Services as Compared to Nursing Home Facilities  
HB 1012 to House  
2001 - 2003 Biennium



Fiscal Impact Using Various Years for Rebased

	Increase to Reprojection if Rebased using			
	6/30/1997	6/30/1998	6/30/1999	6/30/2000
01-03	1,755,419	1,362,494	2,272,820	3,884,343
03-05	3,851,674	3,111,659	5,418,422	8,205,804
05-07	5,525,930	5,073,627	9,364,191	12,244,080
	General Fund Share			
01-03	526,626	408,748	681,846	1,165,303
03-05	1,155,502	933,498	1,625,527	2,461,741
05-07	1,657,779	1,522,088	2,809,259	3,673,224

**Proposed Amendments To House Bill 1196**

Page 1, Line 21 – Replace the first “,” with “or” and remove “, or assisted living facilities”

Page 1, Line 23 – Remove “.” and insert “associated with maintaining current services or providing basic care services, assisted living services or other alternatives to nursing facility care;”

Page 1, Line 24 - Insert as paragraph 2 - “Entities meeting conditions established by the department for construction or renovation projects developing basic care services, assisted living services or other alternatives to nursing facility care; or”

Page 4, Lines 18 - Remove all language following “facility.”

Page 4, Lines 19, 20, and 21 – Delete

Page 5, Line 24 - Replace “reimbursement” with “repayment”

Page 5, Line 30 – Following “employment” insert “following application”

Page 7, Line 5 – Replace “governmental” with “government”

Page 8, Lines 15 & 16 - Remove the overstrike.

Page 10, Line 18 – Remove the overstrike on “expenditures”

Page 10, Line 19 – Insert before “.” “related to”

Page 10, Line 20 - After projects replace “involving a” with “associated with the development of basic care services, assisted living services or other alternatives to nursing facility care or maintaining” and insert “care or” following “nursing facility”

Page 10, Line 23 - Remove the first “,” and replace “facility, or assisted living facility” with “services currently being provided”

Page 10, Line 24 – Remove “or”

Page 10, Line 26 – Remove the overstrike and replace “develop” with “Development of”

Page 10, Line 27 - Before "Technology" insert "by any other entity meeting conditions established by the department; or c."

Page 11, Line 4 - Replace "The department's share of the total" with "An approved loan for"

Page 11, Line 5 - Remove "cost of" and replace "is limited to" with "may not exceed"

Page 11, Line 22 - Following the last "capacity" insert ", an assisted living facility, or other alternatives to nursing facility care"

Page 16, Line 27 - Insert as new Section 32 "This act is effective July 1, 2001."

Re-number accordingly

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE  
REGARDING HOUSE BILL 1196  
FEBRUARY 28, 2001**

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. The Department is taking a neutral position on this bill, but would like to make the following comments and propose several amendments.

The 1999 Legislative Assembly passed enabling legislation that established what is commonly referred to as the Intergovernmental Transfer (IGT) Program. The potential to access federal funds through this mechanism first came to the Department's attention in 1995. At that time my colleague in Nebraska was dealing with similar issues that we were facing in North Dakota. Those included a large number of nursing facility beds with few alternatives especially in the rural areas. He indicated that he was going to attempt to use the IGT funding process to obtain funds to assist him in developing these needed alternatives. We agreed that if he was successful that he would share the information with North Dakota.

The Task Force on Long Term Care Planning was also concerned about the need for alternatives to nursing facility care and was interested in finding ways to develop needed services. After the Nebraska legislation passed, the Long Term Care Association asked the Department to consider such legislation as a way to promote alternatives to nursing facility care. We obtained the information from Nebraska and Senate Bill 2168 was patterned after their law that emphasized using the money for alternative care.

Senate Bill 2168 limited the use of funds to loans and grants to develop alternatives and allocated funds to pay for about \$4.2 million of the Service Payments for Elderly and Disabled (SPED) Program.

Attachment A illustrates how the pool payment is generated. The IGT funds are generated by taking advantage of the flexibility provided in current federal regulations. This process allows states like North Dakota to capture additional federal funds. Once the funds are transferred from the government owned facilities, they belong to the state of North Dakota and are not required to be earmarked for a specific purpose or group of providers.

The Department has reviewed the amended bill and has some questions concerning the bill and will offer several proposed amendments.

For several years, the Task Force on Long Term Care Planning has emphasized the need to develop alternatives to nursing facility services. This sentiment appears to be shared by the majority of elderly and disabled who require these services and as noted above was the original intent of the IGT legislation in SB2168. The bill as amended limits the amount of loans to about \$9 million and does not provide any funds for construction of new facilities. At present there is little need to renovate assisted living facilities. For that reason, we would suggest an amendment on page 1, Section 2, line 23 and page 10, Section 14, line 29 removing the reference to assisted living facilities.

The amended bill allows nursing facilities to convert licensed nursing bed capacity to basic care and vice versa. The purpose of the amendment was to permit facilities to switch licensed beds from one type or another without otherwise affecting the requirements of the moratorium. The Department suggests an amendment on page 4, Section 9, lines 23 and 31 and page 5 line 11 that limits conversion of basic care to nursing facility capacity to only those facilities that had previously converted nursing facility to basic care bed capacity.

Section 9 also extends the moratorium for both nursing facility and basic care bed capacity. The Department believes that dates need to be updated to reflect

that the moratorium applies to the next biennium. We have proposed changes on page five that will change the dates so they apply to the next biennium.

Section 12 separately defines assisted living facility. Since loans are no longer available for construction for assisted living facilities, we propose eliminating the assisted living facility definition from the bill.

Section 14, Page 11, lines 10 and 11 state that the department has a share of the cost of the loan. The Department does not have a share in a loan; we are only responsible for approving the loans. The proposed amendment would clarify our responsibility.

Section 23 permits a payment to nursing facilities that reduce bed capacity. We believe the intent of this section is to make the payment for bed capacity that is being permanently removed from the system. It should not apply in those situations where providers may be temporarily switching licensed bed capacity from nursing facility to basic care that is permitted in Section 9 of this bill. The proposed amendment would clarify this issue.

The Department also has some questions regarding the intent of the bill regarding loan funds. Section 22 of this bill authorizes a total of \$8.9 million for loans to facilities of which \$3.9 million is designated for loans that were approved but not yet disbursed in the current biennium. In addition, the Department had anticipated disbursing two additional loans totaling about \$1,037,720 in the current biennium. (Attachment B shows a list of those loans.) It is likely that the two loans will not be disbursed in the current biennium. This will result in an increase in the carryover funds available in the new biennium. Also, there are several approved loan applications that may be withdrawn because the entities may not be able to cash flow new assisted living facilities because rent subsidies are not available to Medicaid eligible residents. If one or more of the applicants who are scheduled to receive a part of the \$3.9 million carryover funds decides to

withdraw, is it the wishes of the Legislature to permit the funds to be used to provide additional loan funds for nursing facilities? Also, if the loans that were anticipated to be disbursed in this biennium are not completed, should those applications be denied and be rolled into the \$9 million loan fund or be carried over into the new biennium and added to the \$9 million loan fund?

HB 1012 anticipated using IGT funds to provide \$25 million in matching funds for the Medicaid Program, \$4.3 for the Service Payments to Elderly and Disabled (SPED), \$3.9 million to implement HIPAA requirements, \$71,158 in administrative costs for the staff person administering the IGT fund and \$413,255 for the landfill at the Jamestown State Hospital.

The attached fiscal note details the proposed expenditures from the trust fund that includes funds for SPED, HIPAA and administrative costs. In addition, the House Appropriations Committee removed the \$25 million from HB 1012 and replaced it with \$21 million in general funds. The \$4 million shortfall in general funds for the Medicaid converts to a shortfall of about \$13.3 million when federal funds are included. The shortfall will be discussed during the Department's testimony regarding HB1012 in the Senate Appropriations Committee.

The use of IGT funds to increase nursing facility rates and funding SPED will require large additional expenditures in future bienniums. The estimated state share for nursing facility rate increases that are authorized in this bill is about \$24.6 million for the 2003-05 and 2005-07 bienniums. In addition, another \$13.8 million for SPED will be needed for those two bienniums. Funds for these two services will likely come from the IGT trust fund or general funds. Based on current federal regulations, IGT funds are being phased out over the next four years with payments limited to 75%, 50% and 25% of the base year amount for the last three years of the payment period. The Department is not opposed to these expenditures, but does want it recognized that the state of North Dakota would

eventually be committed to use general funds to sustain these expenditures when the IGT fund is depleted.

The proposed changes in nursing facility rates will also increase the cost to those 45% of families who pay for nursing facility care directly. It is estimated that the increases in nursing facility rates will increase costs to private pay residents by about \$87.7 million over the next three bienniums. This is an average increase of \$30,225 per person.

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



**PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196**

Page 1, line 22, replace ", " with "or"

Page 1, line 23, remove ", or assisted living facilities"

Page 4, line 22, after "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity"

Page 4, line 31, after "basic" insert "care", and after "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity"

Page 5, line 3, replace "1999" with "2001"

Page 5, line 4, replace "1999" with "2001", and replace "2001" with "2003"

Page 5, line 6, replace "1999" with "2001", and replace "2001" with "2003"

Page 5, line 11, after the second "capacity" insert "previously licensed any time after July 1, 2001, as nursing facility capacity"

Page 7, line 9, replace "governmental" with "government"

Page 8, remove lines 21 through 30

Page 9, remove lines 1 through 12

Page 9, line 13, remove "2."

Page 9, line 22, replace "3" with "2"

Page 9, line 23, replace "4" with "3"

Page 9, line 25, replace "5" with "4"

Page 10, line 26, after "facility" insert "or"

Page 10, line 29, remove the first comma, and replace ", or assisted living facility" with a period

Page 11, line 10, replace "The department's share of the total" with "An approved loan for"

Page 11, line 11, remove "cost of", and replace "is limited to" with "may not exceed"

Page 14, line 5, after "government" insert "nursing"

Page 14, line 29, after "beds." insert "An incentive will not be paid for nursing facility bed capacity which is temporarily converted to basic care bed capacity."

Renumber accordingly

HB 1196

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE  
REGARDING HOUSE BILL 1196  
MARCH 15, 2001

Chairman Nething, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. The Department is taking a neutral position on this bill, but would like to make the following comments.

The 1999 Legislative Assembly passed enabling legislation that established what is commonly referred to as the Intergovernmental Transfer (IGT) Program. The potential to access federal funds through this mechanism first came to the Department's attention in 1995. At that time my colleague in Nebraska was dealing with similar issues that we were facing in North Dakota. Those included a large number of nursing facility beds with few alternatives especially in the rural areas. He indicated that he was going to attempt to use the IGT funding process to obtain funds to assist him in developing these needed alternatives. We agreed that if he was successful that he would share the information with North Dakota.

The Task Force on Long Term Care Planning was also concerned about the need for alternatives to nursing facility care and was interested in finding ways to develop needed services. After the Nebraska legislation passed, the Long Term Care Association asked the Department to consider such legislation as a way to promote alternatives to nursing facility care. We obtained the information from Nebraska and Senate Bill 2168 was patterned after its law that emphasized using the money for alternative care.

Senate Bill 2168 limited the use of funds to loans and grants to develop alternatives and allocated funds to pay for about \$4.2 million of the Service Payments for Elderly and Disabled (SPED) Program.

Attachment A illustrates how the pool payment is generated. The IGT funds are generated by taking advantage of the flexibility provided in current federal regulations. This process allows states like North Dakota to capture additional federal funds. Once the funds are transferred from the government owned facilities, they belong to the state of North Dakota and are not required to be earmarked for a specific purpose or group of providers.

The Department has reviewed the amended bill and has some comments and questions concerning the bill. Also, if permissible we will ask you to consider amendments to this bill.

For several years, the Task Force on Long Term Care Planning has emphasized the need to develop alternatives to nursing facility services. This sentiment appears to be shared by the majority of elderly and disabled who require these services and as noted above was the original intent of the IGT legislation in SB2168. The provisions of this bill will provide an estimated \$207.3 million in state, federal and private pay funds to the 84 nursing facilities over the next six years. While increases in salaries to nursing facility staff and rebasing of payment limits may be necessary, we should not lose sight of our commitment to develop affordable alternatives to nursing facility care in future years.

The amended bill allows nursing facilities to convert licensed nursing bed capacity to basic care and vice versa. The purpose of the amendment was to permit facilities to switch licensed beds from one type or another without otherwise affecting the requirements of the moratorium. The Department suggested an amendment on page 4, Section 9, line 22 that limits conversion of basic care to nursing facility capacity to only those facilities that had previously converted nursing facility to basic care bed capacity. Unfortunately, the language should have been inserted in line 23. We would request that you consider the attached housekeeping amendment to ensure consistent and appropriate language between Sections 8 and 9 of the proposed legislation.

Sections 8 and 9 of this bill deal with the moratoriums that prohibit the increase in licensed bed capacity for nursing facilities and basic care facilities. Senate Bill 2098 that has passed the Senate and is currently in the House Human Services Committee also deals with this issue. The Department was requested to prepare a set of amendments to be considered by the House Human Services Committee that would clarify how any exceptions to the moratoriums would be administered. No action has been taken on this bill as of yesterday. In order to avoid any conflict between the language of the two bills, consideration could be given to having the language of the two bills mirror each other or including the moratorium issue in only one of the bills.

The Department also has some questions regarding the intent of the bill regarding loan funds. Section 22 of this bill authorizes a total of \$8.9 million for loans to facilities, of which \$3.9 million is designated for loans that were approved but not yet disbursed in the current biennium. In addition, the Department had anticipated disbursing two additional loans totaling about \$1,037,720 in the current biennium. (Attachment B shows a list of those loans.) It is likely that the two loans will not be disbursed in the current biennium. This will result in an increase in the carryover funds available in the new biennium. Also, there are several approved loan applications that may be withdrawn because the entities may not be able to cash flow new assisted living facilities because rent subsidies are not available to Medicaid eligible residents. If one or more of the applicants who are scheduled to receive a part of the \$3.9 million carryover funds decides to withdraw, is it the wishes of the Legislature to permit the funds to be used to provide additional loan funds for nursing facilities? Also, if the loans that were anticipated to be disbursed in this biennium are not completed, should those applications be denied and the leftover funds rolled into the \$9 million loan fund or added to the carryover balance of the trust fund? Or should the loan applications be carried over into the new biennium and the leftover funds added

to the \$9 million loan fund to allow the two entities the opportunity to complete the loan process in the new biennium?

HB 1012 anticipated using IGT funds to provide \$25 million in matching funds for the Medicaid Program, \$4.3 for the Service Payments to Elderly and Disabled (SPED), \$3.9 million to implement HIPAA requirements, \$71,158 in administrative costs for the staff person administering the IGT fund and \$413,255 for the landfill at the Jamestown State Hospital.

The attached fiscal note details the proposed expenditures from the trust fund that includes funds for SPED, HIPAA and administrative costs. In addition, the House Appropriations Committee removed the \$25 million from HB 1012 and replaced it with \$21 million in general funds. The \$4 million in general funds for the Medicaid converts to a shortfall of about \$13.3 million when federal funds are included.

The use of IGT funds to increase nursing facility rates and funding SPED will require large additional expenditures in future bienniums. The estimated state share for nursing facility rate increases that are authorized in this bill is about \$24.6 million for the 2003-05 and 2005-07 bienniums. In addition, another \$13.8 million for SPED will be needed for those two bienniums. Funds for these two services will likely come from the IGT trust fund or general funds. Based on current federal regulations, IGT funds are being phased out over the next four years with payments limited to 75%, 50% and 25% of the base year amount for the last three years of the payment period. The Department is not opposed to these expenditures, but does want it recognized that the state of North Dakota would eventually be committed to use general funds to sustain these expenditures when the IGT fund is depleted.

The proposed changes in nursing facility rates will also increase the cost to those 45% of families who pay for nursing facility care directly. It is estimated that the

increases in nursing facility rates will increase costs to private pay residents by about \$87.7 million over the next three bienniums. This is an average increase of about \$5,000 per year for each private pay nursing facility resident.

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

**PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1196 SECOND  
ENGROSSMENT with Senate Amendments**

Page 4, Line 22 Remove "licensed after July 1, 2001, as nursing facility capacity."

Page 4, Line 23 Insert after the second "capacity", "licensed after July 1, 2001, as  
nursing facility capacity"

Handwritten notes: "Roger Unger"

Testimony on HB1196  
IGT Loan Repayment Program  
before the

House Appropriations Committee, Human Resources Division

by

Roger R. Unger, Department of Health,  
Division of Health Facilities

February 7, 2001

Health Dept

Representative Svedjan and members of the Committee, I am Roger Unger, Manager for Licensing and Certification, Department of Health, Division of Health Facilities. I am here to provide testimony relating to Section 7 of House Bill 1196 which is proposed as an amendment to Section 23-09.3-01.1 of the 1999 Supplement to the North Dakota Century Code.

I will address specifically the amended language as written in lines 18 - 21 of Section 7: "A nursing facility may designate up to twenty percent of its licensed bed capacity as both nursing care bed capacity and basic care bed capacity under rules promulgated by the department. This designation as basic care capacity is not subject to the basic care bed capacity limit."

As written, this amendment requires the Department of Health to dually license up to twenty percent of the beds in a nursing facility as both nursing facility beds and basic care beds. This amendment also requires the department to promulgate rules to permit dual licensure as basic care beds and nursing facility beds and indicates that these basic care beds will not be subject to the basic care bed capacity limit. The following comments and concerns are identified regarding this proposed amendment:

- The current state nursing facility licensure requirements and the Medicare nursing facility certification requirements allow for private pay or lower levels of care such as basic care to reside in the beds in a licensed and certified nursing facility. There is no need for the bed to be licensed as basic care for this to occur and the current practice would not require the bed to be identified as basic care or be subject to the basic care bed capacity limit.
- The real issue that appears to be driving this amendment is the ability for nursing facilities to receive reimbursement for a basic care resident housed in a nursing facility bed. This is not a licensure issue, but rather a reimbursement issue that requires a revision to current limits that prohibit basic care payment for individuals in a nursing facility setting.
- Current licensure requirements do not provide for licensure of one bed for the two different services. To license the same bed for two services would become very confusing and there would be a need to revise both the nursing facility licensure

requirements and the basic care licensure requirements to incorporate this concept. In addition, no appropriation has been provided for the department to accomplish this task.

- The nursing facility, even if dually licensed, would be required to meet the requirements for the highest level of care that they may utilize the specific bed for. If the intent is to use the bed for either a basic care or nursing facility level of care resident, the facility would be required to continue to meet the nursing facility building and services requirements.
- Medicare certification does not permit a change in the Medicare certification of a nursing facility more than one time in a 12-month period.
- Medicare requires licensure as a nursing facility to be eligible for certification as a nursing facility. In addition, the Medicare requirements do not accept the random placement of uncertified beds in a certified area.

Based on the above information, the department recommends the proposed language on page 4, Section 7, lines 18-21 be deleted. Consideration should be given to making the necessary changes related to reimbursement which would permit nursing facilities to receive reimbursement for basic care services if such services are provided to a resident in a nursing facility bed. We believe added flexibility would be beneficial to the residents in our state.

This concludes my testimony. I would be happy to respond to any questions you may have.

Chairperson Price and esteemed members of the House Human Services Committee. For the record, I am Rep. Bill Devlin of District 23 from Finley.

I am here today to open the testimony on HB 1196 and to urge your support for a do pass recommendation on this bill which, in my humble opinion, is one of the most critical pieces of legislation this committee, this chamber and this legislature will consider this whole session.

This is a bill that crosses party lines and bridges the gap between rural and urban legislators from all corners of the state. A fellow legislator was kidding me yesterday about Rep. Boucher, Senator Solberg and myself all being on the same bill. That, in itself, may be historic in nature to say the least.

But it is equally important to note that Senator Fischer from Fargo and Senator Andrist from the very northwest corner of the state are sponsoring this legislation along with Rep. Severson of Cooperstown who resides in a community with a nursing home, assisted living facility and rural hospital.

We could have had a hundred other sponsors from the two chambers, if the rules would have allowed it. It is clearly legislation that transcends the many ideologies that can divide us along party lines, where we live or what our individual philosophies might be. It was that belief in the greater good that brought us together last spring as we started the long process of bringing all the factions together to craft this legislation.

We worked at meetings over a period of months to bring forth this legislation. On a task force approved by Senator Gary Nelson, chairman of the Legislative Council, and chaired by Senator Ken Solberg of Rugby we molded a number of very diverse beliefs into HB 1196. Involved in the work were the representatives of the communities of McVille and Dunseith, the long-term care association represented by Shelly Peterson and Darwin Lee, Chairman of the North Dakota Long Term Care Association, the Executive Branch of Government represented by Dave Zentner of the Department of Human Services along with Senator Solberg, Representative Boucher and myself bring representatives of both chambers and both parties into the process.

I am pleased to report that this bill, if adopted by this committee and the legislature, has the potential to insure that the highest quality long term care for the citizens of our state is available, not only now, but in the future.

It provides a revolving loan fund that will allow long-term care facilities the opportunity to obtain funds at a rate they can afford for construction or renovation projects or even funding to provide alternatives to nursing facility care. These options are critical if we are going to meet the needs of our elderly population who wish to remain in the communities they have lived in their whole lives.

It provides the funding needed to increase salaries for most of the 10,000 people employed in this industry across our state. Six million dollars is budgeted in the bill to be included with \$14 million dollars in federal dollars for salary and benefit enhancements. This is a critical need in our state.

There are nine million dollars in the bill for bed buy-down. There is a lot more to this issue than just producing some future costs to the state and I am convinced after you listen to the presentation by Darwin Lee on this issue, it will answer your questions.

I am convinced this bill is the only piece of legislation that will meet the needs of the vital long-term care industry now and in the future. Dollars in the revolving loan fund can be used again and again to meet the needs of our citizens, unlike one time expenditures that give the industry and our people no future at all.

Chairperson Price, and members of the of the committee, I thank you for allowing me to present testimony in support of HB 1196. I will be available throughout the hearing process to answer questions. With your permission, in the interest of time, I would like to have you reserve the committee's right to question me and let me introduce some of the other speakers we have here today.

I would like to start the process of allowing other supporters of this bill to offer testimony to the committee. At this time, I would like to welcome minority leader Merle Boucher to the lectern to address the committee.

Chairman Lee and esteemed members of the Senate Human Services Committee. For the record, I am Rep. Bill Devlin of District 23 from Finley.

I am here today to open the testimony on HB 1196 and to urge your support for a do pass recommendation on this bill which, in my humble opinion, is one of the most critical pieces of legislation this committee, this chamber, and this legislature will consider this whole session.

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It provides a revolving loan fund that will allow long-term care facilities the opportunity to obtain funds at a rate they can afford for construction or renovation projects or even funding to provide alternatives to nursing facility care. These options are critical if we are going to meet the needs of our elderly population who wish to remain in the communities where they have lived in their whole lives.

It provides the funding needed to increase salaries for most of the 11,000 people employed in this industry across our state effective July 1st of this year. Because of the 18 months lead time needed for nursing homes to start getting their federal reimbursement, we must provide the money up front to allow this to happen.

There are millions of dollars in the bill for bed buy-down. There is a lot more to this issue than just reducing some future costs to the state and I am convinced after you listen to the presentation by Darwin Lee on this issue, it will answer your questions.

There is a million dollars in scholarship money that will allow nurses that want to go to work in the long term care industry to have their student loans forgiven. There is dollars included to increase personal needs money for residences of nursing homes and basic care facilities.

There is an increase of over \$2 million dollars for SPED and enhanced sped. We have also used dollars to increase the funding for senior citizens mill levy matches.

Rep. Delzer will appear before this committee later this morning to provide a complete breakdown of the financial aspects of this bill.

We have included language in the bill to allow nursing homes to use some beds through a flex system from skilled nursing home to basic care beds on a yearly basis. Although the moratorium on basic care beds has been extended through this bill, we gave some flexibility to allow the department to approve additional beds in geographic areas that can demonstrate a need.

We have set aside money in reserves so we can sustain the changes we have made through this bill including salary increases, rebasing from 1996 to 1999 and for many other needs.

I am convinced this bill is the only piece of legislation that will meet the needs of the vital long-term care industry now and in the future. Dollars in the revolving loan fund can be used again and again to meet the needs of our citizens, unlike one time expenditures that give the industry and our people no future at all.

There will be people who want to take the short-sighted approach to spending the dollars now and not worry about the future. I plead with you to join with the House of Representatives in not allowing this to happen. We have perhaps one time in history to address the needs of the long term care industry in our state, for now and in the future.

This is the time, the dollars are here and we are the people that have been elected to make the right decisions for the people of North Dakota. We are the legislators that must step forward to make sure that the needs of our growing elderly population are met for not only today but tomorrow as well.

Since the first day we met on this issue, we have all felt strongly that the Intergovernmental Transfer dollars should be used in the area of long term care or to meet the needs of our senior citizens. This bill does exactly that.

Chairman Lee and members of the of the committee, I thank you for allowing me to present testimony in support of HB 1196. I will be available throughout the hearing process to answer questions. With your permission, in the interest of time, I would like to have you reserve the committee's right to question me and let me introduce some of the other speakers we have here today.

I would like to start the process of allowing other supporters of this bill to offer testimony to the committee. At this time, I would like to welcome minority leader Merle Boucher to the lectern to address the committee.

HB 1196  
Senator Tom Fischer

Madam Chair, Members of the House Human Services Committee:

Thank you for the opportunity to submit written comments in support of HB 1196. I am unable to appear in person because of a scheduling conflict.

As a co-sponsor of HB 1196 , I am in support of all aspects of the bill. HB 1196 is the right thing to do. It helps dedicated long term care staff, who need better compensation. It helps rural communities to reconfigure their services and get rid of surplus beds and plan for the future.

Intergovernmental transfer money is federal Medicaid money intended to be spent on Medicaid recipients. HB 1196 assures the integrity of that basic principle.

Thank you again for your favorable consideration of HB 1196

Senator Tom Fischer  
District 46  
Fargo

A handwritten signature in cursive script that reads "Tom Fischer". The signature is written in dark ink and is positioned below the typed name and address.

Testimony for HB 1196  
For the House Human Services Committee  
Representative Clara Sue Price - Chair  
Prepared by Representative Merle Boucher

Good morning members of the House Human Services Committee and Chairman Price. I am here this morning to provide testimony on behalf of House Bill No. 1196.

House Bill No. 1196 often times referred to as the "Solberg Bill" was the product of a special task force of community representatives, long term care industry representatives and legislators. This legislation evolved out of issues related to monies received by the State of North Dakota through an intergovernmental transfer payment.

The task force acknowledges two essential premises relative to intergovernmental transfer payments.

- A. These monies are "windfall dollars" and should be utilized as such.
- B. These monies were generated by the various long term care facilities across the state and consequently disbursement of these monies for long term care initiatives should be a priority.

Having made the two previous statements quickly frames the initiatives outlined in the bill.

- A. A revolving loan fund for the purpose of making loans:
  - 1. For construction and/or renovation projects for nursing facilities or basic care facilities.
  - 2. For projects providing an alternative to nursing facility care.
  - 3. For immediate care facilities for the mentally retarded.

RIP  
Boucher

- B. Addresses the compensation made to the two community owned facilities that serves as the conduit to receive the funds.
- C. Nursing Home Bed Reduction:
  - 1. Incentives to reduce the number of nursing home beds in the state.
  - 2. A \$15,000/bed incentive to reduce the number of beds.
- D. Nursing Home Compensation Enhancement:
  - 1. Enhance daily reimbursement rates.
  - 2. Enhanced rates are expected to be used for wage increases for staff.

Members of the House Human Services Committee, thank you for your attention to this matter.

I urge you to give House Bill No. 1196 a favorable due pass.

Respectfully submitted by:



Representative Merle Boucher

**Testimony on HB 1196**  
**House Human Services Committee**  
**January 17, 2001**

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1196. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of all of our members, nursing facilities, basic care facilities and assisted living facilities.

We are here today in united support of HB 1196 and respectfully request a "DO PASS."

Intergovernmental transfer (IGT) is a unique legal funding source, that will give North Dakota opportunities to address many needs, needs today that are faltering or in crisis. We appreciate the leadership of the five bill sponsors, Representative Devlin, Representative Boucher and Senator Solberg for guiding us in the basic principles of the bill and Senator Fischer and Senator Andrist for signing on in support of the merits of the bill.

There are only two issues I want to very briefly address:

1. What is the federal government's position on this money? IGT money is Federal Medicaid money and the intent by Congress and Health Care Financing Administration (HCFA) is that states use the money on Medicaid Services. That was a guiding principle our membership followed and one which is reflected in HB 1196. Attached please find correspondence from HCFA to the State Medicaid Directors, addressing this issue.

At the bottom of page two of the letter, HCFA official Timothy Westmoreland writes, "Some States are using the UPL (upper payment level) arrangement to finance other health programs. This results in Medicaid funding used for otherwise laudable health care purposes (such as providing community-based services for senior citizens or persons with disabilities) but for people and/or services not eligible for Medicaid coverage."

The letter goes on to say "some States have gone so far as to use or intend to use - the UPL arrangement for non-health purposes." Using the money for education, tax cuts or for reducing state debt. Westmoreland states, "This practice is inconsistent with the Medicaid statute, Congressional intent and Administration Policy." Westmoreland concludes his letter by saying, "The Medicaid program has been successful over the years in providing vital health care services to millions of low-income Americans. It will continue to be successful only to the extent that it adheres to that mission and ensures that the funds provided are used appropriately and that the program retains its integrity. The program will enjoy public support only if it maintains public trust."

ND  
Long  
Term  
Care  
Assoc.

We feel this letter should guide the state, as you struggle with the questions, "How should we use this source of Medicaid funding?"

That brings me to my second and final point -

2. We are in a staffing crisis and we need help! Staffing is without question the most critical ingredient in quality nursing facility care. The current shortage of available staff and our inability to retain current staff is the largest operations problem facing homes today. We have 10,000 employees working in nursing facilities, working very hard to assure our parents and grandparents get the care deserved. Congress just released a report this past summer, concluding "Quality of care suffers when staffing levels dip too low." We believe our top deficiency will soon be "insufficient staffing." That is not where we want to be. Residents deserve better and so do the caregivers.

We have over 1,000 open positions. Two out of every five nursing facilities stopped admission this past year. Why? Because we didn't have enough staff and it was the right thing to do. Our turnover of CNA's is 66%, we must get control of this. In asking CNA's "what can we do to solve this crisis?" The answer is money, they need money to feed their families and care for their children.

HB 1196 will help us do that. Not just better compensate the CNA's but everyone, all 10,000 people working in nursing facilities.

As you know, North Dakota is only one of two states that totally controls rate setting for nursing facilities. The legislature said in 1987, we will set the rates for public pay (Medicaid) and private pay and you shall not charge one cent more. The funding you provide will make us or break us, impacting us for years to come.

Thank you for your thoughtful attention today. We have testimony from our Chairman, the cities of McVille and Dunseith, an administrator from a rural nursing facility, and the North Dakota Healthcare Association. And last but not least and probably the telling and moving, a CNA who wants to share with you, what this legislation means to her.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660



# LTC PRIORITIES

## Salary & Benefit Adjustments for Nursing Facilities & Basic Care Facilities

July 1, 2001 – June 30, 2002 \$8,391,134

Nursing Facility \$8,189,054

Basic Care \$202,080

2. Rebasing for Nursing Facilities \$1,165,303

3. Bed Buy Out \$4,100,000

4. Scholarship/Loan for Nursing  
Facilities \$1,000,000

5. Personal Needs Allowance \$446,400

Nursing Facility \$266,400

Basic Care \$180,000

6. Nursing Facility & Basic Care 2% \$10,000,000 min  
Loan to Renovate

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\$25,102,837

# **“Caring for North Dakota’s Greatest Generation”**

## **Intergovernmental Transfer and the Health Care Trust Fund**

### ***What is the Intergovernmental Transfer?***

During the 1999 Legislative Session, lawmakers passed SB 2168 which established the Health Care Trust Fund.

The money for the trust fund comes from a funding mechanism called intergovernmental transfer. The intergovernmental funds originate from Medicaid and are intended to be used on Medicaid services.

### ***How Does North Dakota Qualify for this Funding?***

North Dakota qualifies for this unique funding source because we have at least one governmental nursing facility. Actually North Dakota has two governmental nursing facilities, located in Dunseith and McVille, but only one is necessary to qualify for this funding. The formula for calculating how much money North Dakota qualifies for is complex and is based upon the number of Medicaid resident days in all North Dakota nursing facilities. The total Medicaid resident days are then multiplied by the difference between our Medicare and Medicaid rates. Traditionally Medicare pays more for care than Medicaid.

After application of the formula, North Dakota applies for the Medicaid dollars, and the money is ultimately deposited in the North Dakota Health Care Trust Fund.



### ***How does this Benefit North Dakota?***

By bringing millions of extra Medicaid dollars to North Dakota this money can be used to enhance care and services to elderly North Dakotans.

North Dakota has a high percentage of people needing 24-hour skilled care, in fact the highest percentage per capita. This funding can play an extremely important role in maintaining a high-quality work force.

Today, over 10,000 North Dakotans work to care for our parents and grandparents in a nursing facility. We need them to continue delivering this care.

### ***How much money can North Dakota Receive?***

In the first year North Dakota received almost 26 million (\$25,902,730). In year two, the intergovernmental transfer generated another \$17.2 million. In the 2001 - 2003 biennium we are expecting to net another \$23 million.

### ***How were the Trust Fund Dollars used in 2000, the first year North Dakota received this type of funding?***

\$4.2 million was allocated to the state’s elderly and disabled program (SPED) that pays for home and community-based services. The remaining amount was to be available to nursing facilities and others to develop assisted living and other alternatives to nursing facilities.

**North Dakota  
Long Term Care**  
ASSOCIATION

As of December 2000, four projects have received funding, committing the trust fund for \$1.9 million. Another five projects are pending and if approved would commit the fund for another \$4.6 million. As of January 2001 it appears as though two projects will withdraw, saving the fund \$2 million dollars.

As of November 30, 2000 the Health Care Fund balance was \$44,084,659 with the above commitments yet to be subtracted.

Considering the funds balance, obligations and interest earnings a balance of \$36 million should remain on July 1, 2001, prior to receiving the next three transfers.

#### *Will this funding continue?*

Health Care Financing Administration has published rules to terminate the program by 2005. The rules allow North Dakota to receive their full transfer in 2001, 75% in 2002, 50% in 2003 and 25% in 2004.

#### *What are North Dakota Long Term Care Association Priorities for Intergovernmental Funding?*

We are supportive of HB 1196. The number one priority within HB 1196 is the use of intergovernmental funds to provide a wage/benefit enhancement to all nursing facility staff, all 10,000.

Staffing is without question the most critical ingredient in quality nursing facility care. The current shortage of available staff and our inability to retain current staff is the largest operational problem facing homes today. Funding of this initiative will cost the state four million dollars annually. The four million will generate another eighteen million dollars in federal and private pay funding, thus well over 20 million dollars will go to North Dakota caregivers annually. HB 1196 implements the salary/benefit increase on January 1, 2002. Each nursing facility would receive approximately another \$10.00 per day effective in their January 1, 2002 rates. This money provided for

salaries/benefits, would be spread to 10,000 long term care employees throughout North Dakota.

#### *What is the Cost of Wage/Benefit Enhancement in Future Years?*

In future years the state will need to maintain the wage/benefit pass-through in the regular Medicaid Program. The wage/benefit enhancement in outlying years will cost the state general fund four million dollars annually, plus inflation.

#### *HB 1196:*

The North Dakota Long Term Care Association participated in a statewide taskforce chaired by Senator Ken Solberg, and Representative Merle Boucher, and Representative William Devlin. The taskforce considered the best options for utilizing this great source of funding in the future and created HB 1196. Beside the wage/benefit enhancement other provisions of the bill include funding for reducing nursing facility beds, 2% loans for renovating long term care facilities, 2% loans to develop assisted living facilities, funds to remodel developmentally disabled group homes to more independent settings and training money for in-home caregivers. We support all provision of HB 1196.

#### *For More Information on Intergovernmental Funding or the Wage/Benefit Pass-Through Contact:*

North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660  
[www.ndltca.org](http://www.ndltca.org)

**North Dakota  
Long Term Care**  
ASSOCIATION

**Testimony on HB 1196**  
**House Human Services Committee**  
**January 17, 2001**

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1196. My name is Darwin Lee, Chairman of the North Dakota Long Term Care Association. I am here representing our members, providers of nursing care, basic care, and assisted living services.

On behalf of the North Dakota Long Term Care Association and myself, I am here to testify in support of HB 1196. HB 1196 relates to the use of federal funds generated by SB 2168 passed in the last legislature; and to new federal funds to be applied for in the next biennium.

I would like to take a few minutes to review some history and background that led to the formation of HB 1196.

During the time period of 1997 and 1998 our President, Shelly Peterson, learned of a federal funding source that was being utilized by other states. A state was eligible for this funding if it had one or more government owned nursing home(s). The basis for the funding relates to the difference between the federal Medicare rates and the state Medicaid rates paid to nursing homes in that state.

This was brought to the attention of the Department of Human Services in 1998 and later to certain members of the legislature, with hopes that legislation would be passed to apply for this source of funding to be used in the long term care setting.

SB 2168 was submitted and passed in the 1999 Legislative Session. It basically instructed the Department of Human Services to apply for intergovernmental transfer (IGT) funds and contained appropriations for a few small grants, loans for alternatives to nursing home care; the SPED program; and a token \$10,000 payment to each of the two government owned nursing homes - as they are key players in receiving the federal funds and in turn passing it on to the state.

As the application for the first batch of IGT funding proceeded and time for the first transfer approached, two things become evident: the amount of IGT funds was substantially larger than what had been anticipated, and no agreement had been reached with the two cities in regard to their participation or payment in the process.

Controversy swelled as a result of this, and the process for receiving and transferring this money seemed to have reached an impasse. In addition to this problem, there were growing concerns that the legislation passed in 1999 had not properly addressed the amount of funds available and the appropriations were not considered of much value to the long term care industry.

As frustrations built, Senator Solberg was informed of the situation by Jerry Jurena, Administrator of the Heart of America Medical Center in Rugby. Senator Solberg offered to step into the action and see if he could assist in reaching an agreeable compromise for everyone.

A gentleman's agreement was then worked out whereby the IGT funding process would proceed with the understanding that all parties involved would form a taskforce to develop new legislation for IGT funding.

The end result of all this was that Solberg solicited the assistance of two other legislators: Representatives Bill Devlin and Merle Boucher. These three legislators, along with representatives of the two city owned nursing homes (Dunseith and McVile), representatives of the North Dakota Long Term Care Association, and the Department of Human Services then formed a taskforce to work on legislation that would address the concerns of all parties involved and properly address the federal intent of this funding.

We think that objective was reached with the formation of HB 1196.

A summary of the features of HB 1196 is attached to my testimony (Attachment A). I would like to briefly comment on the nine items summarized on the attachment. First of all items 1, 2, 3, 4, and 6 relate to loans for remodeling, alternative care settings, etc. The group felt that grants were not appropriate, but that loans with low interest and matching requirements would help to minimize the cost of providing and maintaining good quality facilities; and provide an ongoing source of revenue to replenish the trust fund.

Feature #5 provides for special funding to the two cities that are key to the availability of these funds, and serve as the receiving and transferring agencies for these funds. These funds would be restricted for use at their respective nursing homes. In light of the amount of money involved and their role in this process, the taskforce feels the total of \$500,000 for five transfers is appropriate.

Feature #7 provides up to 9,000,000 (up to 15,000 / bed) for bed reductions. One could think this is an unnecessary give away. Not so! There are two major considerations supporting this feature of the bill. First of all, the Department of Human Services advocates for nursing home bed reductions. There are a number of things supporting this. North Dakota has about 75 beds / 1,000 people 65 and over, while the national average is about 50 beds / 1,000. There is a fairly large number of unoccupied beds in North Dakota. Appropriate bed reductions could lead to greater efficiency and reduced costs.

The other consideration relates to the financial stress placed on facilities during a downsizing process. Because of the way our rate setting system works and because it is not possible to adjust costs downward as fast as occupancy adjusts downward, a nursing home could be left in a financial bind that can be very hard to recover from.

Along this same line, there are facilities that cannot maintain the occupancy they have had in the past. For example; lets say that a community that had traditionally kept a 60 bed nursing home full, now has a need for only 50 nursing home beds because of population shifts, other alternatives, etc. This creates a financial crunch for this facility. Just because this community does not need as many beds to care for its people as it did before, does not mean that the residents of this community don't deserve to have the care they need. It doesn't mean that this nursing home should be shut down and its residents be forced to go somewhere else for care. Each of the remaining 50 residents needing care in this community are just as important as each of the 200, 400, or 800 residents needing care in a larger community. When a nursing home adjusts from a larger size to a smaller size it goes thru short term financial stress and shortcomings.

Funding for feature #7 would help facilities thru the financial crunch of adjusting from a larger to a smaller facility.

Staffing nursing homes with competent employees has been an increasing problem in recent times. Having reached what many facilities consider to be a crisis status (60%). Nursing homes currently need an additional 1,000 employees statewide. The result is the potential for poorer care and/or residents being turned away. In 1998, 17% of our nursing homes reported bans on admissions because of a staffing shortage - in 2000: 40%.

In our little nursing home, we have seen our employees checking on higher paying jobs and for the first time that I am aware of, have lost good employees to higher paying jobs. During the past year we have also had to turn away residents wanting to be admitted because of not enough staff - 6 in December.

Feature #8 would provide an up-front rate increase of about 10.00/day for the purpose of adjusting salaries and/or benefits for nursing home employees. We need to create a situation where working in a nursing home is a career - not just a job until a better one comes along. HB 1196 calls for this provision to be effective January 1, 2002. We would like to see this date moved up to July 1, 2001.

We realize that this feature of the bill provides for up front cash flow for these costs during the coming biennium and in the future these additional costs (about \$4 million a year) would have to be built into the rates resulting in a general fund increase. If we are to provide and maintain quality care in our nursing homes, we think it is necessary.

Feature #9 provides funds for the Department to train care givers for home and community bases services.

As you can see from Attachment B, there are 46 nursing homes not getting their costs back in their rates because of rate setting limits. 31 are penalized in their rates because of the occupancy limitation. Some of these overlap, however 60 of our nursing homes (over 70%) are not getting their full costs back in their rates because of some limitation. The provisions of HB 1196 will be a great boost in solving some of the limit problems. For example, many of the limits are currently exceeded because nursing homes are paying higher wages (labor accounts for about 75% of our costs) than we can afford simply to retain as much staff as possible. The bed buy out would provide justification for many of our nursing homes to reduce bed capacity, thus solving the occupancy limitation problem.

A lot of people have worked hard and long hours in formulating HB 1196. We express a special thanks to Representative Devlin, Representative Boucher and Senator Solberg.

There is a tremendous and a widespread need across our state. We think HB 1196 is fundamentally and ethically right. We are sincere in asking for your support.

Chairman Price and members of the House Human Services Committee; thank you for allowing time to testify on this bill, listening to our concerns and for giving consideration to HB 1196. Should you have any questions I would be happy to answer them at this time.

Darwin Lee, Chairman  
North Dakota Long Term Care Association  
120 3<sup>rd</sup> Street East / PO Box 366  
Westhope, ND 58793-0366  
(701) 245-6477

## HB 1196

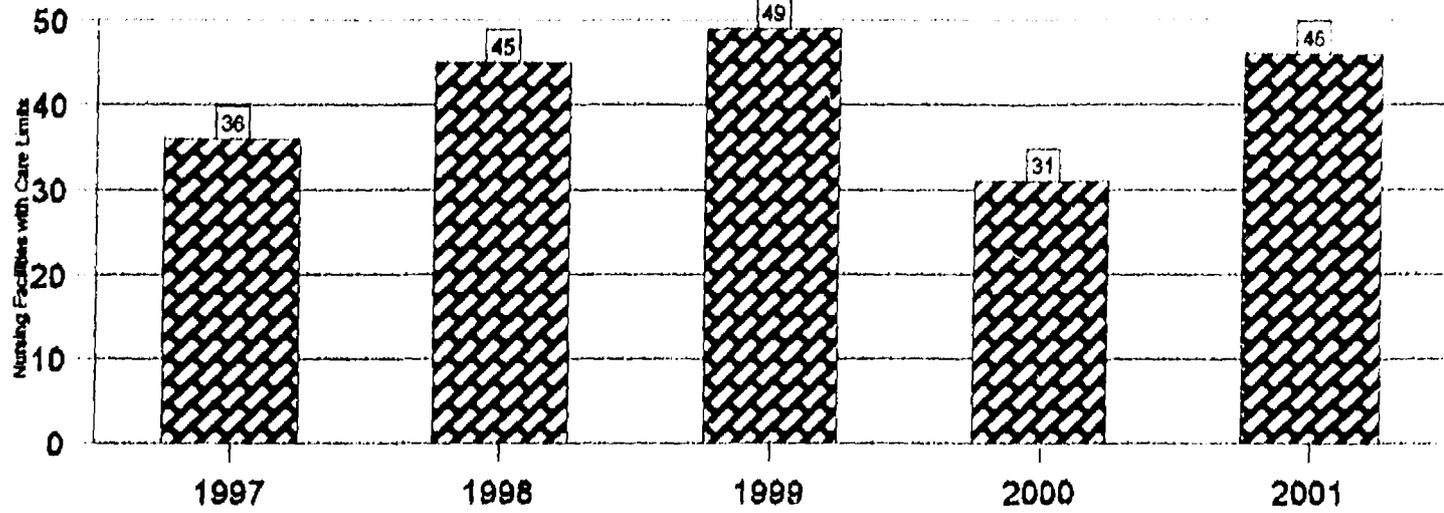
### **Bill Features:**

1. 2% Loans to remodel or construct existing nursing facilities, basic care facilities or assisted living facilities.
2. 2% Loans to renovate ICF-MR facilities to less restrictive alternatives - three million dollars.
3. 2% Loans for alternatives to nursing facilities.
4. One million dollar limit on loans, with 10% matching requirement.
5. McVilie & Dunselth each receive \$500,000.
6. Applicants who received funds from the first year of intergovernmental transfer will be eligible to convert their loans to 2% interest.
7. The Department will pay nursing facilities up to \$15,000 per bed to reduce beds. This will be on a competitive bidding process - nine million dollars will be set aside for this initiative.
8. On January 1, 2002 each nursing facility would receive in their rates an additional amount of approximately \$10 per day. The purpose of the increase is to provide up-front cash to adjust salaries and benefits for 10,000 nursing facility employees.
9. \$140,000 is set aside for the Department to provide grants to organizations for training qualified service providers.

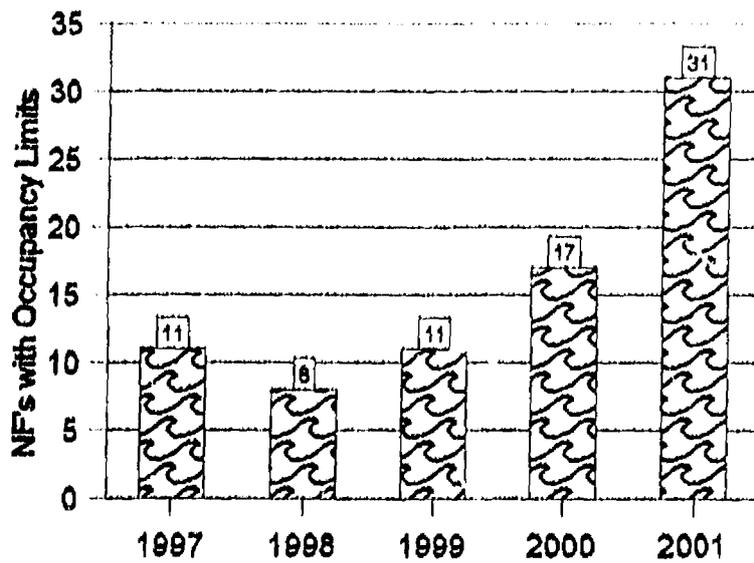
# Attachment B

## Nursing Facilities Exceeding Limits

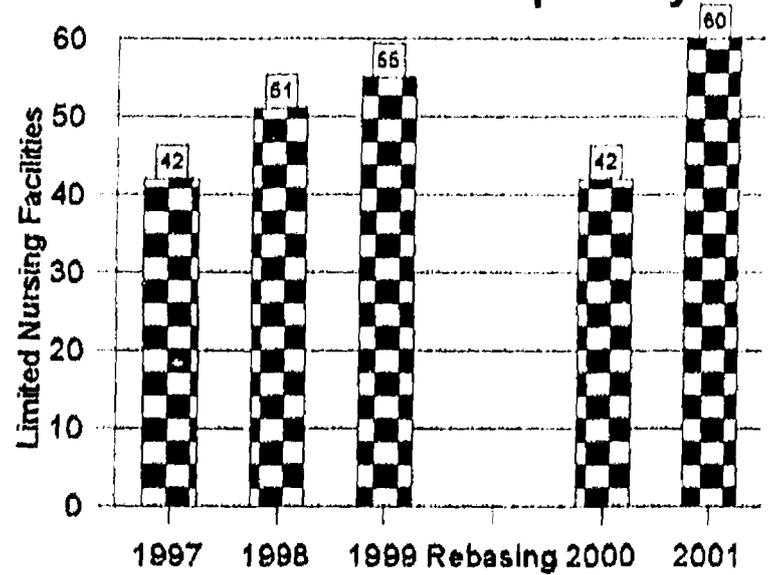
1997 - 1998 - 1999 - 2000 - 2001



## Occupancy Limitation

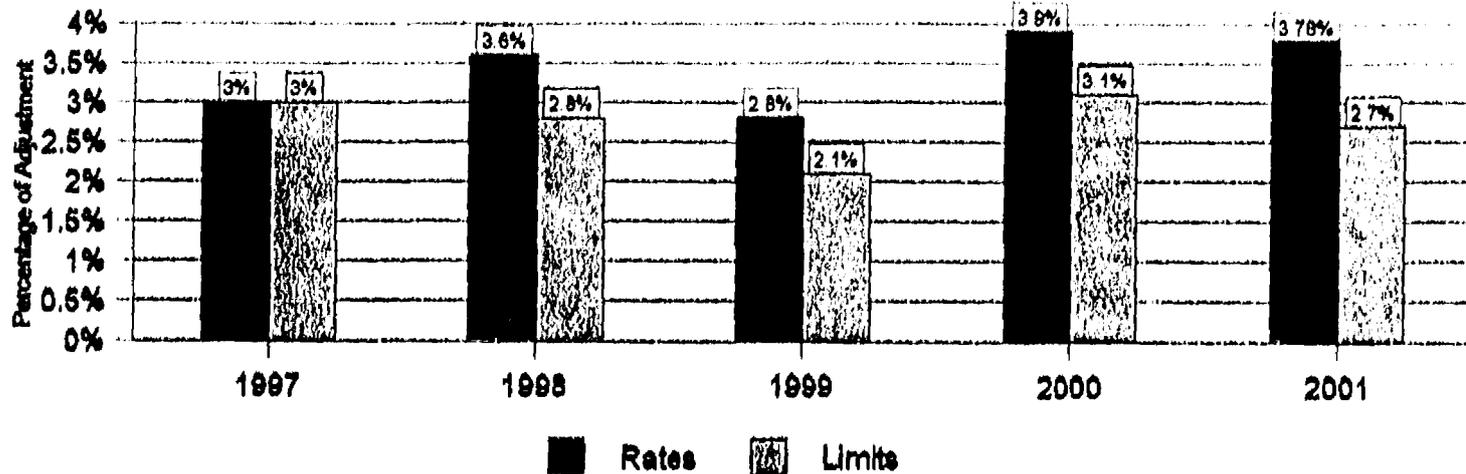


## Limits and Occupancy



## NF Price Adjustment on Rates & Limits

1997 - 2001



13

**Testimony on HB 1196**  
**House Appropriations - Human Resource Division Committee**  
**February 7, 2001**

Chairman Svedjan, Vice Chairman Delzer and members of the House Appropriations Committee - Human Resource Division, thank you for the opportunity to testify on HB 1196. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of our members, nursing facilities, basic care facilities and assisted living facilities.

We are here today in united support of HB 1196 and respectfully request a "DO PASS."

Intergovernmental transfer (IGT) is a unique legal funding source, that will give North Dakota opportunities to address many needs, needs today that are faltering or in crisis. We appreciate the leadership of the six bill sponsors, Representative Devlin, Representative Boucher and Senator Solberg for guiding us in the basic principles of the bill and Senator Fischer, Senator Andrist and Representative Severson for signing on in support of the merits of the bill.

In my testimony I have two goals, number one, outline the federal governments position on this money; and number two, outline the main features of the bill.

**Federal Governments Position:**

IGT money is Federal Medicaid money and the intent by Congress and Health Care Financing Administration (HCFA) is that states use the money on Medicaid Services. That was a guiding principle our membership followed and one which is reflected in HB 1196. Attached please find correspondence from HCFA to the State Medicaid Directors, addressing this issue.

At the bottom of page two of the letter, HCFA official Timothy Westmoreland writes, "Some States are using the UPL (upper payment level) arrangement to finance other health programs. This results in Medicaid funding used for otherwise laudable health care purposes (such as providing community-based services for senior citizens or persons with disabilities) but for people and/or services not eligible for Medicaid coverage."

The letter goes on to say "some States have gone so far as to use or intend to use - the UPL arrangement for non-health purposes." Using the money for education, tax cuts or for reducing state debt. Westmoreland states, "This practice is inconsistent with the Medicaid statute, Congressional intent and Administration Policy." Westmoreland concludes his letter by saying, "The Medicaid program has been successful over the years in providing vital health care services to millions of low-income Americans. It will continue to be successful only to the extent that it adheres to that mission and ensures that the funds provided are used appropriately and that the program retains its integrity. The program will enjoy public support only if it maintains public trust."

We feel this letter should guide the state, as you struggle with the questions, "How should we use this source of Medicaid funding?"

Main features of HB 1196:

1. **Salary and Benefit Enhancements for Employees of Nursing Facilities and Basic Care Facilities with an Effective Date of July 1, 2001.**

We are in a staffing crisis and we need help! Staffing is without question the most critical ingredient in quality nursing facility care. The current shortage of available staff and our inability to retain current staff is the largest operations problem facing homes today. We have 10,000 employees working in nursing facilities, working very hard to assure our parents and grandparents get the care deserved. Congress just released a report this past summer, concluding "Quality of care suffers when staffing levels dip too low." We believe our top deficiency will soon be "insufficient staffing." That is not where we want to be. Residents deserve better and so do the caregivers.

We have over 1,000 open positions. Two out of every five nursing facilities stopped admission this past year. Why? Because we didn't have enough staff and it was the right thing to do. Our turnover of CNA's is 66%, we must get control of this. In asking CNA's "what can we do to solve this crisis?" The answer is money, they need money to feed their families and care for their children. Two-thirds of the nursing facilities term themselves in a staffing crisis.

HB 1196 will help us to retain the staff we have and recruit more.

2. **Rebasing for Nursing Facilities.**

As you have heard in my previous testimony rebasing of nursing facility limits is one of our top priorities. Rebasing simply means updating the amount of money available to deliver care. Current limits are based upon 1996 costs and have been minimally inflated each year. Inflation adjustments have been so below costs that today, more than half (56%) of the nursing facilities are exceeding at least one limit. If limits are not rebased this legislative session it is anticipated 70% of the nursing facilities will exceed a limit next year, when the limit rate will be six years old.

Last week I was sharing with my colleague in Nebraska our concerns about rebasing. She shared with me her frustration with rebasing. Their Association was advocating for annual rebasing and the State decided on rebasing every three years. I told her North Dakota would be happy to settle for rebasing every three years. Remember Nebraska doesn't even have equalization of rates where the State controls all of your rates. If Nebraska finds themselves in a financial crisis they have the option of increasing private pay rates, we do not have that flexibility.

Tell me how a 2.7% adjustment on limits this year is going to pay for the fuel bill in the nursing facilities located in Northeastern North Dakota? Could you pay your fuel bill if it was limited to 1996 costs and inflated by 2 or 2.7% yearly? Probably not.

Rebasing is necessary to keep nursing facilities financially viable.

3. **Bed Buy-Out.**

HB 1196 provides up to \$10,000 per bed to nursing facilities that reduce eight or more beds and up to \$2500 per bed for facilities that reduce fewer than eight beds. Darwin Lee, Chairman of the Association will address why this is a benefit to the State, facilities, communities and sound public policy.

4. **Loan Repayment Program for Nurses.**

This million dollar feature will help us with retention and recruitment and hopefully alleviate the staffing crisis we are experiencing. This is sending a message to any North Dakotan, work in a nursing facility for four years and we'll pay for your nursing education. The program is mirrored after a federal program that is available to rural hospitals but not nursing facilities. To be eligible for the loan repayment program the licensed nurse must work in a nursing facility. Preference will be given to nurse applicants who have previous nursing facility experience and who are willing to work in a rural facility. The nurse could receive 100% forgiveness of her loan and interest if they work four years in a nursing facility (first year - 30% forgiven; second year - 30% forgiven; third year 25% forgiven, and fourth year - remaining amount of loan forgiven).

I am very excited about this feature in HB 1196 and believe it will have a positive impact on staffing.

5. **Personal Needs Allowance for Nursing Facility Residents and Basic Care Residents.**

HB 1196 would provide an extra \$10 per month to nursing facility residents and \$15 per month to basic care residents. A few sessions ago the legislature decreased the personal needs allowance for nursing facility residents by \$5, we would like this restored and increased by another \$5 dollars. A person living in the community on Social Security receives inflationary adjustments, nursing facility residents haven't received anything in years, in fact experienced the five dollar decrease.

Basic care residents as you know are still quite independent folks. They generally are quite independent in caring for themselves but need twenty-four hour supervision, nutritious meals and medication administration. They still have a lot of interaction with their community and families. The personal needs allowance covers such items as clothing, cable TV, telephone or long distance telephone calls, hair care, gifts, personal comfort items such as candy, pop, cigarettes. Think of what you spend on these items, as we get older and need care, it doesn't diminish our desire to give a family member a small gift, go out for dinner, have our hair curled or colored or have our own telephone in our room to receive daily calls from your children and grandchildren. Sixty dollars a month for basic care residents will improve their quality of life.

6. **Nursing Facility and Basic Care Two Percent Loans to Remodel.**

Most facilities are 30 to 40 years old and in need of repair and updating. This cost is an allowable cost in rates. By using two percent loan money, Medicaid will save funds by not having high interest loan costs in the rates. This is also a loan to the Healthcare Trust Fund so it will have a steady stream of revenue to replenish it for future needs or ongoing obligations from HB 1196.

The features that I've highlighted are the top priorities of the members of our Association. There are still many other fine features of HB 1196, such as:

- Two percent loans for technology projects related to the delivery of long term care or medical care.
- Allows nursing facilities to convert some of their beds to basic care or flex back and forth up to 20% of their beds for either license.
- Provides \$225,000 for a quick response unit pilot projects. This grant money would be used to convert rural ambulance services to quick response units.
- A long term care study for \$241,006.
- \$140,000 to organizations to provide training for in-home caregivers.

One final priority feature of this bill is the up-front money of \$400,000 designated each for Dunseith and McVile. Dunseith and McVile are the vital conduits for receiving this money. Without these two political subdivisions working with the State in partnership to receive the money, we wouldn't be here today.

We appreciate the State and these two political subdivisions working together to assure a bright future for our parents and grandparents in need of long term care and the caregivers who care for them.

Thank you for your thoughtful attention today. We have testimony from our Chairman, the cities of McVile and Dunseith and from representatives of long term care facilities. We also have two CNA's who want to share with you what this legislation means to them.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660

**Testimony on HB 1196**  
**Senate Human Services Committee**  
**February 28, 2001**

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1196. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of all of our members: nursing facilities, basic care facilities and assisted living facilities.

We are here today in united support of HB 1196 and respectfully request a "DO PASS."

Intergovernmental transfer (IGT) is a unique legal funding source, that will give North Dakota opportunities to address many needs, needs today that are faltering or in crisis. We appreciate the leadership of the six bill sponsors, Representative Devlin, Representative Boucher and Senator Solberg for guiding us in the basic principles of the bill and Senator Fischer, Senator Andrist and Representative Severson for signing on in support of the merits of the bill.

Intergovernmental transfer money is Federal Medicaid money and the intent of Congress and Health Care Financing Administration (HCFA) is that states use the money on Medicaid Services. Attached please find correspondence from HCFA to the State Medicaid Directors addressing this issue. As you may have heard the program is being phased out as we currently know it because of alleged abuses in some States. At the bottom of page two, the letter addresses this concern. The letter states, "some States have gone so far as to use or intend to use - the UPL arrangement for non-health purposes." Using the money for education, tax cuts or for reducing state debt. Westmoreland states, "This practice is inconsistent with the Medicaid statute, Congressional intent and Administration Policy." Westmoreland concludes his letter by saying, "The Medicaid program has been successful over the years in providing vital health care services to millions of low-income Americans. It will continue to be successful only to the extent that it adheres to that mission and ensures that the funds provided are used appropriately and that the program retains its integrity. The program will enjoy public support only if it maintains public trust." HB 1196, as passed by the House, provides vital health and long term care services.

North Dakota qualifies for this unique funding source because we have at least one governmental nursing facility. Actually North Dakota has two governmental facilities,

located in Dunseith and McVile, but only one is necessary to qualify for this funding. The formula for calculating how much money North Dakota qualifies for is complex and is based upon the number of Medicaid resident days in all North Dakota nursing facilities. The total Medicaid resident days are then multiplied by the difference between our Medicare and Medicaid rates. Traditionally Medicare pays more for care than Medicaid.

After application of the formula, North Dakota applies for the Medicaid dollars and the money is ultimately deposited in the North Dakota Health Care Trust Fund. If we did not have a governmental nursing facility we would not be able to access any of this money. Today twenty-six States are doing similar transfers. With the money received to date and the transfers anticipated in the 2001-2003 biennium North Dakota is projecting to have available over \$70 million dollars. HB 1196 proposes to spend \$35.6 million and hold in reserve \$34.8 million to cover on-going obligations in HB 1196 and future long term care needs.

Main features of HB 1196:

1. **Salary and Benefit Enhancements for Employees of Nursing Facilities and Basic Care Facilities with an Effective Date of July 1, 2001.**

We are in a staffing crisis and we need help! Staffing is without question the most critical ingredient in quality nursing facility care. The current shortage of available staff and our inability to retain current staff is the largest operations problem facing homes today. We have 10,000 employees working in nursing facilities, working very hard to assure our parents and grandparents get the care deserved. Congress just released a report this past summer, concluding "Quality of care suffers when staffing levels dip too low." We believe our top deficiency will soon be "insufficient staffing." That is not where we want to be. Residents deserve better and so do the caregivers.

We have over 1,000 open positions. Two out of every five nursing facilities stopped admission this past year. Why? Because we didn't have enough staff and it was the right thing to do. Our turnover of CNA's is 66%, we must get control of this. In asking CNA's "what can we do to solve this crisis?" The answer is money, they need money to feed their families and care for their children. Two-thirds of the nursing facilities term themselves in a staffing crisis.

This money will be used to increase staffing or hours per residents day and increase salary and/or benefit plans of all nursing facility and basic care staff.

2. **Rebasing for Nursing Facilities.**

Rebasing of nursing facility limits is one of our top priorities. Rebasing simply means updating the amount of money available to deliver care. Current limits are based upon 1996 costs and have been minimally inflated each year. Inflation adjustments have been so below costs that today, more than half (56%) of the nursing facilities are exceeding at least one limit. If limits are not rebased this legislative session it is anticipated 70% of the nursing facilities will exceed a limit next year, when the limit rate will be six years old. As you know when you exceed a limit you do not capture back any of those funds over the limit. And in a State with equalized rates, where you can't retrieve the lost revenue from any other source, exceeding a limit can be financially devastating. HB 1196 updates the nursing facility limit year to 1999.

Rebasing is necessary to keep nursing facilities financially viable.

3. **Bed Buy-Out.**

HB 1196 provides up to \$10,000 per bed to nursing facilities that reduce eight or more beds and up to \$2500 per bed for facilities that reduce fewer than eight beds. Darwin Lee, Chairman of the Association will address why this is a benefit to the State, facilities, communities and sound public policy.

4. **Nursing Facility Nurses Student Loan Payment Program.**

This million dollar feature will help us with retention and recruitment and hopefully alleviate the staffing crisis we are experiencing. This is sending a message to any North Dakotan, work in a nursing facility and we'll pay for your nursing education. The program is mirrored after a federal program that is available to rural hospitals but not nursing facilities.

In order to be eligible for the program, an applicant must: be a licensed nurse, be employed by a nursing facility and have an outstanding education loan balance. In the case of an eligible applicant who has a student loan with 48 or fewer monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to the regularly scheduled monthly payment amount. In the case of an eligible applicant who has a student loan with more than 48 monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to one forty-eighth of the amount of the outstanding balance of the educational loan on the date of application plus any applicable interest.

I am very excited about this feature in HB 1196 and believe it will have a positive impact on staffing.

5. **Personal Needs Allowance for Nursing Facility Residents and Basic Care Residents.**

HB 1196 would provide an extra \$10 per month to nursing facility residents and \$15 per month to basic care residents. A few sessions ago the legislature decreased the personal needs allowance for nursing facility residents by \$5, we would like this restored and increased by another \$5 dollars. A person living in the community on Social Security receives inflationary adjustments, nursing facility residents haven't received anything in years, in fact experienced the five dollar decrease.

Basic care residents as you know are still quite independent folks. They generally are quite independent in caring for themselves but need twenty-four hour supervision, nutritious meals and medication administration. They still have a lot of interaction with their community and families. The personal needs allowance covers such items as clothing, cable TV, telephone or long distance telephone calls, hair care, gifts, personal comfort items such as candy, pop, cigarettes. Think of what you spend on these items, as we get older and need care, it doesn't diminish our desire to give a family member a small gift, go out for dinner, have our hair curled or colored or have our own telephone in our room to receive daily calls from your children and grandchildren. Sixty dollars a month for basic care residents will improve their quality of life.

6. Provides 2% loans to remodel nursing facilities, basic care facilities or assisted living facilities. The Appropriation Committee removed the language for new construction. It was felt by the Committee that all new construction should be limited until we complete the study on need. If the study shows a demand and need for new construction then this issue could be revisited in the future.
7. Moratorium Changes - Allows nursing facilities to convert any of their licensed nursing facility bed capacity to basic care capacity, allows the existing Alzheimer's pilot projects to convert to basic care and allows others to develop additional basic care bed capacity if a need exists in the immediate geographic area. In some rural areas and in Fargo the basic care level of service is not available for low income individuals. HB 1196 would allow such services to be delivered.

8. "Flexing of nursing facility beds" - allows a nursing facility to convert to basic care, and after a year may convert their beds back to nursing facility beds. This conversion back and forth can occur once a year and converted beds must be located in the same block of rooms within the facility.
9. Provides money for in-home services to the elderly and disabled (SPED) \$6.9 million.
10. \$150,000 for senior citizens mill levy match grants.
11. Provides grant money to convert ambulance services to quick response units (\$225,000).
12. Provides money for a legislative council study on long term care (\$241,006).
13. Provides funding to train in-home caregivers (\$140,000).
14. Provides targeted case management services (HB 1117), which will help older people access services to remain independent (\$338,530).
15. Provides \$100,000 for grants to independent living centers.
16. Provides funding for all the approved or pending projects approved in the 1999-2001 biennium.

One final priority feature of this bill is the up-front money of \$400,000 designated each for Dunseith and McVile. Dunseith and McVile are the vital conduits for receiving this money. Without these two political subdivisions working with the State in partnership to receive the money, we wouldn't be here today.

We appreciate the State and these two political subdivisions working together to assure a bright future for our parents and grandparents in need of long term care and the caregivers who care for them.

Thank you for your thoughtful attention today.

**Testimony on HB 1196**  
**Senate Human Services Committee**  
**February 28, 2001**

Chairman Lee, Vice Chairman Kilzer and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1196. My name is Darwin Lee, Chairman of the North Dakota Long Term Care Association. I am here representing our members; providers of nursing care, basic care and assisted living services.

On behalf of the North Dakota Long Term Care Association and myself, I am here to testify in support of HB 1196. HB 1196 relates to the use of federal funds generated by SB 2168 passed in the last legislature; and to new federal funds to be applied for in the next biennium.

HB 1196 addresses many needs in long term care. The various aspects of this bill relate differently to each nursing facility, thus each aspect carries a different degree of importance to each facility.

For example, the provision to provide a 2% loan to renovate an older nursing home may be extremely valuable to some facilities, while to others it means nothing; the loan repayment provision for nurses may help provide staffing in some facilities, while in others it may do nothing; up-front rate adjustments will no doubt be a benefit to all facilities - but needed more in some areas than others; and adjusting the limits may not be a significant help to some facilities at this time, while to others it may be a lifesaver. However, collectively they provide a total beneficial package for the care of our elderly.

The provision I would like to address is the provision providing funding for bed reductions. This provision will do nothing for some facilities while for others it will be a tremendous benefit. It too, is part of a total package which will strengthen the financial viability and quality of care in our profession on a statewide basis.

The provisions in this part of HB 1196 would provide payments for bed reductions, by de-licensing a certain number of beds, which could not be put back into use. On the surface, some could easily view this as a grant or unnecessary give away. We don't see it that way at all. There are reasons why this is just as necessary and justifiable to some facilities as some of the other provisions are to other facilities.

First of all the Department of Human Services has advocated for bed reduction for some time. Our Association also is on record advocating for bed reduction. North Dakota has about 75 beds/1000 people age 65 and over, while the national average is about 50 beds/1000. There is a fairly large number of unoccupied beds in North Dakota. There is

not necessarily any consistency in the level of unoccupied beds in a given facility. There may be eight today and three next month, in a given facility and vice versa in the facility down the road.

Although we don't have any documentation or way of proving this theory; appropriate bed reduction should lead to greater efficiency and reduce costs. It should also lead to more appropriate placement, as nursing homes would not have empty beds to fill with someone who could be placed in a less restrictive setting. This provision should encourage facilities fitting these scenarios to make appropriate bed reductions.

A second and extremely important reason for this provision is to assist facilities with the financial stress resulting from a down-sizing process. Because of the way our rate setting system works and because it is seldom possible to adjust costs downward as fast as occupancy adjusts downward, a nursing home will most likely be left with a financial shortfall that will involve a difficult and long process to recover from.

As populations shift and other alternatives develop, several nursing homes are finding (for example) that where in the past they needed 60 beds to serve the needs in their communities; now or in the future they may only need 45 beds to serve their people. Adjusting to this creates a financial crunch that can leave a facility with damaging financial stress for a long time or even be the straw that broke the camel's back.

This should not happen, since the remaining individual 45 residents needing care in these communities are just as important as the individuals making up the occupancy of facilities and/or communities where no adjustments are necessary.

Funding provided for in this provision of HB 1196 will help facilities maintain financial stability while downsizing and adjusting to the needs of their communities.

We believe this provision of HB 1196 will encourage appropriate bed reductions and assist others in maintaining needed services for the residents of their communities.

Chairman Lee, Vice Chairman Kilzer and members of the Senate Human Services Committee; thank you for allowing time to testify on this bill, listening to our concerns and for your consideration of HB 1196. Should you have any questions, I would be happy to try and answer them at this time.

Darwin Lee, Chairman  
North Dakota Long Term Care Association  
120 3<sup>rd</sup> Street East / PO Box 366  
Westhope, ND 58793-0366  
(701) 245-6477

HB 1196

**Testimony on HB 1196  
Senate Appropriations Committee  
March 15, 2001**

Chairman Nething, Vice Chairman Solberg and members of the Senate Appropriations Committee, thank you for the opportunity to testify on HB 1196. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today on behalf of all of our members: nursing facilities, basic care facilities and assisted living facilities.

We are here today in united support of HB 1196 and respectfully request a "DO PASS."

Intergovernmental transfer (IGT) is a unique legal funding source, that will give North Dakota opportunities to address many needs, needs today that are faltering or in crisis. We appreciate the leadership of the six bill sponsors, Senator Solberg, Representative Devlin, and Representative Boucher for guiding us in the basic principles of the bill and Senator Fischer, Senator Andrist and Representative Severson for signing on in support of the merits of the bill.

Intergovernmental transfer money is Federal Medicaid money and the intent of Congress and Health Care Financing Administration (HCFA) is that states use the money on Medicaid Services. Attached please find correspondence from HCFA to the State Medicaid Directors addressing this issue. As you may have heard the program is being phased out as we currently know it because of alleged abuses in some States. At the bottom of page two, the letter addresses this concern. The letter states, "some States have gone so far as to use or intend to use - the UPL arrangement for non-health purposes." Using the money for education, tax cuts or for reducing state debt. Westmoreland states, "This practice is inconsistent with the Medicaid statute, Congressional intent and Administration Policy." Westmoreland concludes his letter by saying, "The Medicaid program has been successful over the years in providing vital health care services to millions of low-income Americans. It will continue to be successful only to the extent that it adheres to that mission and ensures that the funds provided are used appropriately and that the program retains its integrity." Additionally, the Office of Inspector General is reviewing the use of IGT funds in six states and has issued a final report regarding the state of Pennsylvania. The OIG has found Pennsylvania and other states have used IGT funds for non-medicaid purposes & have found city/county owned facilities have not benefitted from the fund, however, the State General fund has. The OIG finds this action unacceptable and recommends in the report, "We also recommended that HCFA take additional action to require that supplementation payments to Pennsylvania's county owned facilities are based on financial need and paid directly to the targeted nursing facilities for direct health care services of its Medicaid residents." I've supplied one complete copy of the February 9, 2001 OIG letter to HCFA, HCFA's response to the OIG report and a copy of the OIG Review of Pennsylvania. The reading is extensive. In essence HCFA agreed in principle with the OIG recommendation of requiring states to spend IGT funds on Medicaid residents in nursing facilities, however, they are not taking immediate steps to remedy this situation. HCFA's exact response is:

"While we concur in principle with this recommendation, outside of the regulatory process itself we believe we lack the authority to require States to make payments that are reflective of a facility's financial need with respect to services furnished to Medicaid residents. Having to promulgate a new regulation at this time would force us to divert resources away from our current UPL reform initiatives. However, as we indicate above, we are open to other courses of action and will give further consideration to this recommendation, but we believe our current proposal will most immediately curtail excessive spending."

HB 1196, as passed by the House, provides vital health and long term care services.

North Dakota qualifies for this unique funding source because we have at least one governmental nursing facility. Actually North Dakota has two governmental facilities, located in Dunseith and McVille, but only one is necessary to qualify for this funding. The formula for calculating how much money North Dakota qualifies for is complex and is based upon the number of Medicaid resident days in all North Dakota nursing facilities. The total Medicaid resident days are then multiplied by the difference between our Medicare and Medicaid rates. Traditionally Medicare pays more for care than Medicaid.

After application of the formula, North Dakota applies for the Medicaid dollars and the money is ultimately deposited in the North Dakota Health Care Trust Fund. If we did not have a governmental nursing facility we would not be able to access any of this money. Today twenty-six States are doing similar transfers. With the money received to date and the transfers anticipated in the 2001-2003 biennium North Dakota is projecting to have available over \$72 million dollars. HB 1196 proposes to spend \$35.6 million and hold in reserve \$37 million to cover on-going obligations in HB 1196 and future long term care needs.

Main features of HB 1196:

**1. Salary and Benefit Enhancements for Employees of Nursing Facilities and Basic Care Facilities with an Effective Date of July 1, 2001.**

We are in a staffing crisis and we need help! Staffing is without question the most critical ingredient in quality nursing facility care. The current shortage of available staff and our inability to retain current staff is the largest operations problem facing homes today. We have 10,000 employees working in nursing facilities, working very hard to assure our parents and grandparents get the care deserved. Congress just released a report this past summer, concluding "Quality of care suffers when staffing levels dip too low." We believe our top deficiency will soon be "insufficient staffing." That is not where we want to be. Residents deserve better and so do the caregivers.

We have over 1,000 open positions. Two out of every five nursing facilities stopped admission this past year. Why? Because we didn't have enough staff and it was the right thing to do. Our turnover of CNA's is 66%, we must get control of this. In asking CNA's "what can we do to solve this crisis?" The answer is money, they need money to feed their families and care for their children. Two-thirds of the nursing facilities term themselves in a staffing crisis.

This money will be used to increase staffing or hours per residents day and increase salary and/or benefit plans of all nursing facility and basic care staff.

2. **Rebasing for Nursing Facilities.**

Rebasing of nursing facility limits is one of our top priorities. Rebasing simply means updating the amount of money available to deliver care. Current limits are based upon 1996 costs and have been minimally inflated each year. Inflation adjustments have been so below costs that today, more than half (56%) of the nursing facilities are exceeding at least one limit. If limits are not rebased this legislative session it is anticipated 70% of the nursing facilities will exceed a limit next year, when the limit rate will be six years old. As you know when you exceed a limit you do not capture back any of those funds over the limit. And in a State with equalized rates, where you can't retrieve the lost revenue from any other source, exceeding a limit can be financially devastating. HB 1196 updates the nursing facility limit year to 1999. It is our recommendation to rebase to the year 2000.

Rebasing is necessary to keep nursing facilities financially viable.

3. **Bed Buy-Out.**

HB 1196 provides up to \$10,000 per bed to nursing facilities that reduce eight or more beds and up to \$2500 per bed for facilities that reduce fewer than eight beds. Other testifiers will address why this is a benefit to the State, facilities, communities and sound public policy.

4. **Nursing Facility Nurses Student Loan Payment Program.**

This million dollar feature will help us with retention and recruitment and hopefully alleviate the staffing crisis we are experiencing. This is sending a message to any North Dakotan, work in a nursing facility and we'll pay for your nursing education. The program is mirrored after a federal program that is available to rural hospitals but not nursing facilities.

In order to be eligible for the program, an applicant must: be a licensed nurse, be employed by a nursing facility and have an outstanding education loan balance. In the case of an eligible applicant who has a student loan with 48 or fewer monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to the regularly scheduled monthly payment amount. In the case of an eligible applicant who has a student loan with more than 48 monthly scheduled payments remaining on the loan at the date of application, the monthly payment amount is equal to one forty-eighth of the amount of the outstanding balance of the educational loan on the date of application plus any applicable interest.

I am very excited about this feature in HB 1196 and believe it will have a positive impact on staffing.

5. **Personal Needs Allowance for Nursing Facility Residents and Basic Care Residents.** HB 1196 would provide an extra \$10 per month to nursing facility residents and \$15 per month to basic care residents. A few sessions ago the legislature decreased the personal needs allowance for nursing facility residents by \$5, we would like this restored and increased by another \$5 dollars. A person living in the community on Social Security receives inflationary adjustments, nursing facility residents haven't received anything in years, in fact experienced the five dollar decrease.

Basic care residents as you know are still quite independent folks. They generally are quite independent in caring for themselves but need twenty-four hour supervision, nutritious meals and medication administration. They still have a lot of interaction with their community and families. The personal needs allowance covers such items as clothing, cable TV, telephone or long distance telephone calls, hair care, gifts, personal comfort items such as candy, pop, cigarettes. Think of what you spend on these items, as we get older and need care, it doesn't diminish our desire to give a family member a small gift, go out for dinner, have our hair curled or colored or have our own telephone in our room to receive daily calls from your children and grandchildren. Sixty dollars a month for basic care residents will improve their quality of life.

The Senate Human Services Committee amended HB 1196 to provide DD residents in ICF's with the same personal needs allowance increase as nursing facility residents.

6. Provides 2% loans to remodel nursing facilities, basic care facilities or assisted living facilities. The Appropriation Committee removed the language for new construction. It was felt by the Committee that all new construction should be limited until we complete the study on need. If the study shows a demand and need for new construction then this issue could be revisited in the future.

We have some nursing facilities that wish to add an addition on to their existing nursing facility to provide assisted living services & thus we request that the new construction deletion be reconsidered.

7. **Moratorium Changes** - Allows nursing facilities to convert any of their licensed nursing facility bed capacity to basic care capacity, allows the existing Alzheimer's pilot projects to convert to basic care and allow others to develop additional basic care bed capacity if a need exists in the immediate geographic area. In some rural areas and in Fargo the basic care level of service is not available for low income individuals. HB 1196 would allow such services to be delivered. The Department of Human Services will also be proposing amendments on the moratorium language. We have two bills dealing with the moratorium & their work is an attempt to have SB 2098 and HB 1196 state the same position on the moratorium.

8. "Flexing of nursing facility beds" - allows a nursing facility to convert to basic care, and after a year may convert their beds back to nursing facility beds. This conversion back and forth can occur once a year and converted beds must be located in the same block of rooms within the facility.
9. Provides money for in-home services to the elderly and disabled (SPED) \$6.9 million.
10. \$150,000 for senior citizens mill levy match grants.
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16. Provides funding for all the approved or pending projects approved in the 1999-2001 biennium.

One final priority feature of this bill is the up-front money of \$400,000 designated each for Dunseith and McVile. Dunseith and McVile are the vital conduits for receiving this money. Without these two political subdivisions working with the State in partnership to receive the money, we wouldn't be here today.

We appreciate the State and these two political subdivisions working together to assure a bright future for our parents and grandparents in need of long term care and the caregivers who care for them.

Thank you for your thoughtful attention today.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street  
Bismarck, ND 58501  
(701) 222-0660



Center for Medicaid and State Operations  
7500 Security Boulevard  
Baltimore, MD 21244-1850

July 26, 2000

Dear State Medicaid Director:

It has come to our attention that some States are using the flexibility in setting the maximum rates that can be paid under the Medicaid program (the so-called "upper payment limits") to pay government-owned facilities at a rate far exceeding their cost of serving Medicaid beneficiaries so that the States can gain Federal Medicaid matching payments without new State contributions. I am writing to say that we intend to address this problem, and to outline our concerns and the process for addressing them.

#### Background

As you know, under current Federal regulations, States have great flexibility in setting the Medicaid rates that they pay to nursing homes and hospitals. These regulations do establish an overall maximum payment; States may pay facilities a total amount up to the level that Medicare would pay for the same services. However, it appears that some States are:

- calculating the maximum amount that, in theory, could be paid to each Medicaid facility (referred to as the "upper payment limit" or "UPL");
- adding these amounts together to create excessive payment rates to a few county or municipal facilities;
- claiming Federal matching dollars based on these excessive payment rates; and then
- directing these county or municipal facilities to transfer large portions of the excessive payments back to the State government.

It appears that many States allow their county-owned providers to keep only a small fraction of the Federal funds (less than five percent) that are used to provide these excessive "reimbursements." The practical outcome is that the States using this financing mechanism actually gain Federal matching payments without any new State financial contribution. This practice is not consistent with the intent of the Medicaid statute that specifies that provider payments must be economic and efficient. If a State requires facilities to refund its own Medicaid contribution, the practice also effectively undermines the requirement that a State share in the funding for its Medicaid program.

Moreover, this practice appears to be creating rapid increases in Federal Medicaid spending, with no commensurate increase in Medicaid coverage, quality, or amount of services provided. There is preliminary evidence that this current practice has contributed to a spike in Federal Medicaid spending. The States' estimates of Federal Medicaid spending for FY 2000 have already increased by \$3.4 billion over earlier projections. We believe \$1.9 billion of this increase is likely due to the circulation of funds through the UPL loophole. The five-year cost of this growing State practice would be at least \$12 billion, and there is an influx of new State proposals. Currently, 17 States have approved plan amendments and another 11 have submitted amendments. This could have the long-term effect of undermining the core mission and the broad-based support for Medicaid, which guarantees critical health services to our most vulnerable populations: low-income children and families, people with disabilities, and the elderly.

The excess Federal Medicaid payments that are shared with State and local governments are put to any number of uses--both health- and non-health-related. It appears some States allow public hospitals to keep a portion of these funds to help pay for uncompensated care. While the Medicaid disproportionate share hospital (DSH) program was created to cover these costs and now accounts for more than \$14 billion annually in Medicaid spending, the DSH program has not always met the growing challenge of caring for the uninsured. Some States have, through the UPL arrangement, circumvented the statutory DSH limits--using indirect means to accomplish what the DSH statute does not allow.

Some States are using these payments to pay the statutory State share of Medicaid or of the State Children's Health Insurance Program (SCHIP). While Medicaid and SCHIP are Federal/State partnerships in which each partner pays a share established in statute, the UPL arrangements shift some portion of a State's share to the Federal government. The result is that Federal taxpayers in all States are forced to shoulder more than their fair share for Medicaid and SCHIP in a few States.

Some States are using the UPL arrangement to finance other health programs. This results in Medicaid funding being used for otherwise laudable health care purposes (such as providing community-based services for senior citizens or persons with disabilities) but for people and/or services not eligible for Medicaid coverage.

Other reports suggest that some States have gone so far as to use--or intend to use--the UPL arrangement for non-health purposes. Several States appear to have used it to fill budget gaps. Another State's local newspaper reported that Federal Medicaid funds would be used for State tax cuts or for reducing State debt. One State announced that it intended to use funds generated through the UPL system to pay for education programs. This practice, which is effectively general revenue sharing, is inconsistent with the Medicaid statute, Congressional intent, and Administration policy.

The HHS Office of Inspector General is conducting a review of UPL practices in a number of States and will be reporting on them soon. We are informed that the General Accounting Office may be investigating as well.

#### Administration Actions

The Administration is committed to supporting health care providers who serve the uninsured and chronically ill and to assuring that they can continue to do so. The President's budget includes more than \$100 billion over 10 years to expand health insurance to the uninsured. These funds would reduce the uncompensated care in public hospitals. It also includes a long-term care initiative and Medicare and Medicaid provider payment restoration initiative that explicitly target funding to nursing homes and hospitals, which will also help institutions directly. We have urged the Congress to pass this initiative this year and are developing a new, non-Medicaid program that would target money to public hospitals as part of our efforts to ensure access and quality of health care nationwide.

We are also committed to managing the Medicaid program efficiently under the current law so that it continues to serve Medicaid beneficiaries well and retain the confidence of the nation's taxpayers. The Administration is developing a proposal to ensure that Medicaid payments meet the statutory standard of efficiency and economy. We will publish a Notice of Proposed Rulemaking (NPRM) that modifies the current UPL within the next several weeks. As we work to develop this proposal we will continue to meet with you and representatives of consumers, public hospitals, nursing homes, labor, and others to hear concerns and suggestions. We will also explore the idea of legislation that puts an immediate end to paying States that file a UPL State plan amendment in the intervening period before any regulation takes effect.

Because a number of State health programs rely substantially on funds generated through this UPL loophole, our NPRM will include adequate transition provisions. We will be soliciting comments on our proposed changes to the UPL as well as the transition provisions. We understand that change will be difficult--just as it was in the early 1990's when the Federal/State financing relationship had to be re-adjusted because of now-illegal State funding mechanisms of donations and taxes. We will specifically solicit comments on proposed transitional periods to address this reliance.

The Medicaid program has been successful over the years in providing vital health care services to millions of low-income Americans. It will continue to be successful only to the extent that it adheres to that mission and ensures that the funds provided are used appropriately and that the

Page 4 - State Medicaid Director

program retains its integrity. The program will enjoy public support only if it maintains public trust. I look forward to working with you to preserve that.

Sincerely,



Timothy M. Westmoreland  
Director

cc:

All HCFA Regional Administrators

All HCFA Associate Regional Administrators  
for Medicaid and State Operations

Lee Partridge  
Director, Health Policy Unit  
American Public Human Services Association

Joy Wilson  
Director, Health Committee  
National Conference of State Legislatures

Matt Salo  
Director, Health Legislation  
National Governors' Association

**Memorandum**

FEB -9 2001

Date

From

*Michael Mangano*  
Michael F. Mangano  
Acting Inspector General

Subject

Review of the Commonwealth of Pennsylvania's Use of Intergovernmental Transfers to Finance Medicaid Supplementation Payments to County Nursing Facilities (A-03-00-00203)

To

Michael McMullan  
Acting Principal Deputy Administrator  
Health Care Financing Administration

Attached are two copies of a final report that presents the results of an Office of Inspector General review of the Commonwealth of Pennsylvania's use of intergovernmental transfers (IGT) to finance enhanced Medicaid payments to county nursing facilities. An IGT represents a transfer of funds from one level of government to another. This is one in a series of reports involving enhanced payments made in six States. At the completion of all the reviews, we will issue a summary report to the Health Care Financing Administration (HCFA) that will consolidate the results of the six States and include additional recommendations addressing enhanced payments financed through the IGT process.

The objectives of our review were to analyze the Pennsylvania Department of Public Welfare's (DPW) use of IGTs to finance enhanced payments to county-owned nursing facilities as part of its compliance with Medicaid upper payment limit regulations, and to evaluate the financial impact of these transfers on the Medicaid program. Under upper payment limit rules, States are permitted to establish payment methodologies that allow for enhanced payments to non-State owned government providers, such as county nursing facilities. In Pennsylvania, these enhanced payments are called supplementation payments. The supplementation payments, which trigger a Federal matching payment, are over and above the regular Medicaid payments made to nursing facilities.

In our opinion, DPW's use of the IGT as part of the supplementation payment program is a financing mechanism designed solely to maximize Federal Medicaid reimbursements without providing either additional funds to the participating county nursing facilities or additional medical services to their Medicaid residents. Under the program, counties obtained bank loans and transferred the borrowed funds to DPW, which immediately transferred the funds back to the counties as Medicaid supplementation payments. The counties used their supplementation payment to pay the bank loans that initiated the transaction. The DPW claimed, received, and kept Federal matching funds based on the supplementation payments. The participating county-owned nursing facilities received no direct supplementation payments for increasing services to Medicaid residents.

During the period State Fiscal Year (SFY) 1992 to SFY 1999, DPW reported \$5.5 billion in supplementation payments, none of which was ever paid to participating county nursing facilities. These reported supplementation payments generated \$3.1 billion in Federal matching funds without any corresponding increase in services to the Medicaid residents of the participating county nursing facilities. Further, in the last 3 years (SFYs 1997-1999) about 21 percent of the Federal financial participation generated by the IGT transactions was not even budgeted for Medicaid purposes, and another 29 percent remained unbudgeted and available to Pennsylvania for non-Medicaid related use.

The supplementation payments and the Federal match increased significantly over the past several years. The HCFA recognized that more States are starting to adopt aggressive payment methodologies for public providers using the flexibility of the upper payment limit rules and the IGT funding mechanism in order to maximize Federal reimbursement. In response, HCFA proposed regulatory changes aimed at limiting the amount available to State Medicaid programs through enhanced payments to public providers. We estimated that the regulatory changes HCFA proposed would have reduced the amount available for DPW to fund supplementation payments to county-owned nursing facilities from about \$1.7 billion to \$237 million for SFY 1999, resulting in savings of about \$731 million in Federal matching funds and reducing the average supplementation payment from \$425.93 to \$66.32 per Medicaid resident day.

In our draft report, we recommended that HCFA move as quickly as possible to issue regulatory changes involving the upper payment limit calculations. We also recommended that HCFA take additional action to require that supplementation payments to Pennsylvania's county-owned facilities are based on financial need and paid directly to the targeted nursing facility for direct health care services of its Medicaid residents.

In response to our draft report, HCFA agreed to our recommendation to place a control on the overall funding mechanisms being used by the States. The HCFA noted that it published, on October 10, 2000, proposed regulations to close the loophole in Medicaid regulations that costs Federal taxpayers billions of dollars without commensurate increases in coverage or improvements in the care provided to Medicaid beneficiaries. The HCFA also agreed in principle with our second recommendation to require that supplementation payments be need based and paid directly to the targeted nursing facilities for health care services of Medicaid residents. However, HCFA believed that a new regulation would be required which would force it to divert resources away from its current upper payment limit initiatives.

We commend HCFA for taking action to change the upper payment limit regulations. In December 2000, Congress passed legislation that the President signed, instructing HCFA to implement a transition period for States with plans approved or in effect before October 1, 1992. On January 5, 2001, HCFA finalized revisions to the upper payment limit regulations, and included the transition period passed by Congress. During the transition, the financial

Page 3 - Michael McMullan

impact of the new regulations will be gradually phased in and become fully effective on October 1, 2008. Pennsylvania is among the States eligible to receive the benefit of this transition period. In Pennsylvania alone, we estimate savings to the Federal Government of \$2.4 billion during the transition period. Once the regulatory changes are fully implemented, we estimate additional savings to the Federal Government of \$731 million annually, totaling a savings of \$3.7 billion over 5 years. We, therefore, recommend that HCFA take action to ensure that Pennsylvania complies with the phase in of the revised regulations.

Please advise us within 60 days on actions taken or planned on our recommendations. If you have any questions, please call me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits at 410-786-7104.

To facilitate identification, please refer to Common Identification Number A-03-00-00203 in all correspondence relating to this report.

Attachment



RECEIVED

2000 NOV -9 AM 9:05

The Administrator  
Washington, D.C. 20201

DATE: NOV -7 2000

OFFICE OF INSPECTOR  
GENERAL

IG	/
EAIG	/
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ExecSec	/
Date Sent	11-9

TO: June Gibbs Brown  
Inspector General

FROM: Michael M. Hash  
Acting Administrator

*Michael M. Hash*

SUBJECT: Office of Inspector General (OIG) Draft Report: "Review of the Commonwealth of Pennsylvania's Use of Intergovernmental Transfers (IGTs) to Finance Medicaid Supplementation Payments to County Nursing Facilities," (A-03-00-00203)

Thank you for the opportunity to review and comment on the above-referenced draft report. We appreciate the work OIG is doing in this area. The information that OIG has provided in this draft report is very useful to us as we develop new Medicaid payment policies.

Under current Medicaid requirements, States have considerable flexibility in setting payment rates for nursing facility services. States are permitted to pay in the aggregate up to a reasonable estimate of the amount that would have been paid using Medicare payment principles. This payment restriction is commonly referred to as the Medicare upper payment limit (UPL). This UPL permits States to set higher rates for services furnished in public facilities.

Within the last year, the Health Care Financing Administration (HCFA) has received a number of proposals from States that target payment increases to county and or municipal nursing facilities. The amount of payment is not directly related to cost of services furnished by the facilities, but on the aggregate difference between Medicaid payments and the maximum amount allowed under the Medicare UPL. While these types of proposals fit within current rules, HCFA became concerned when our review found that payments to individual public facilities were excessive, often many times higher than the rate paid private facilities or above the cost incurred by the public facility.

These excessive payments raise serious and troubling policy considerations. The practice appears to be creating a rapid increase in Federal Medicaid spending with no commensurate increase in Medicaid coverage, quality, or amount of services provided to Medicaid beneficiaries. While States claim these payment expenditures are for Medicaid

Page 2 – June Gibbs Brown

nursing facility services furnished to an eligible individual, these payments may ultimately be used for a number of purposes, both health care and non-health care related. In many cases, IGTs are used to finance these payments.

Earlier this month, we proposed regulations to close the loophole in Medicaid regulations that costs Federal taxpayers billions of dollars without commensurate increases in coverage or improvements in the care provided to Medicaid beneficiaries. The proposed regulation would revise Medicaid's "upper payment limit" rules, stopping States from using certain accounting techniques to inappropriately obtain extra Federal Medicaid matching funds that are not necessarily spent on health care services for Medicaid beneficiaries. The changes would be phased in to allow States time to adjust their Medicaid programs to meet the new requirements. In addition, the proposal also allows a continued higher limit on payments for public hospitals in recognition of their critical role in serving low-income patients.

We appreciate the effort that went into this report and the opportunity to comment on the issues raised. Our detailed comments on the OIG's recommendations follow.

#### OIG Recommendation

HCFA should take quick action to place a control on the overall financing mechanisms being used by States to circumvent the Medicaid program requirement that expenditures be a shared Federal/State responsibility.

#### HCFA Response

We concur. The Department published a Notice of Proposed Rulemaking (NPRM) on October 10. In July, we issued a letter to State Medicaid Directors outlining our concerns and informing them of our intent to issue the NPRM. The NPRM invited public comment on our proposal to preclude States from aggregating payments across private and public facilities. The proposed regulation would create a new reimbursement limit for local government providers, and in the case of outpatient hospital services and clinic services, an additional upper limit for State-operated facilities. This change would significantly reduce the amount of excessive payments that can and are being paid under the current UPL regulations.

To help States that have relied on UPL financing arrangements, our proposal includes a gradual transition policy. Recognizing the need to preserve access by Medicaid beneficiaries to public hospitals, we also included provisions to ensure adequate reimbursement rates for such facilities. We have solicited comments on our proposed changes to the UPL policy, as well as the transition provisions, and we are open to other courses of action that will accomplish the same goals set out in the proposed rule.

Page 3 – June Gibbs Brown

OIG Recommendation -

Pending the national improvements expected through regulatory action, OIG recommends that HCFA take additional action to require that claims for supplementation payments to county owned facilities be based on financial need and paid directly to the targeted nursing facilities for direct health care services for Medicaid residents.

HCFA Response

While we concur in principle with this recommendation, outside of the regulatory process itself we believe we lack the authority to require States to make payments that are reflective of a facility's financial need with respect to services furnished to Medicaid residents. Having to promulgate a new regulation at this time would force us to divert resources away from our current UPL reform initiatives. However, as we indicate above, we are open to other courses of action and will give further consideration to this recommendation, but we believe our current proposal will most immediately curtail excessive spending.

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF THE COMMONWEALTH OF  
PENNSYLVANIA'S USE OF  
INTERGOVERNMENTAL TRANSFERS  
TO FINANCE MEDICAID  
SUPPLEMENTATION PAYMENTS TO  
COUNTY NURSING FACILITIES**



**Inspector General**

**JANUARY 2001  
A-03-00-00203**



## Memorandum

FEB - 9 2001

Date

From

*Michael Mangano*  
Michael F. Mangano  
Acting Inspector General

Subject

Review of the Commonwealth of Pennsylvania's Use of Intergovernmental Transfers to Finance Medicaid Supplementation Payments to County Nursing Facilities (A-03-00-00203)

To

Michael McMullan  
Acting Principal Deputy Administrator  
Health Care Financing Administration

This final report provides the results of our review of the Commonwealth of Pennsylvania's use of intergovernmental transfers (IGT)<sup>1</sup> to finance Medicaid supplementation payments to county nursing facilities. This is one in a series of reports on enhanced payments made in six States. At the completion of all the audits, we will issue a summary report to the Health Care Financing Administration (HCFA) that will consolidate the results of the six States and include additional recommendations addressing enhanced payments financed through the IGT process.

The objectives of our review were to analyze the Pennsylvania Department of Public Welfare's (DPW) use of IGTs to finance enhanced payments to county-owned nursing facilities as part of its compliance with Medicaid upper payment limit regulations and to evaluate the financial impact of these transfers on the Medicaid program. Under upper payment limit rules, States are permitted to establish payment methodologies that allow for enhanced payments to non-State owned government providers, such as county nursing facilities. In Pennsylvania, these enhanced payments are called supplementation payments. The supplementation payments, which trigger a Federal matching payment, are over and above the regular Medicaid payments made to nursing facilities.

In our opinion, DPW's use of the IGT as part of the supplementation payment program is a financing mechanism designed solely to maximize Federal Medicaid reimbursements, thus effectively avoiding the Federal/State matching requirements. These supplementation payments were not provided directly to the participating county-owned nursing facilities for Medicaid residents' medical services.

During the period State Fiscal Year (SFY)<sup>2</sup> 1992 to SFY 1999, DPW, under its IGT program, reported \$5.5 billion in supplementation payments, none of which was ever paid

<sup>1</sup>Intergovernmental transfers are fund exchanges among or between different levels of government. For example, a State transfer of money to a county to support primary education constitutes an IGT.

<sup>2</sup>Pennsylvania's fiscal year is July 1 through June 30. The SFY 1992 began July 1, 1992.

directly to participating county nursing facilities. These reported supplementation payments generated \$3.1 billion in Federal matching funds without any corresponding increase in services to the Medicaid residents of the participating county nursing facilities. In fact, we noted that of the \$1.9 billion generated by the IGT program within the last 3 years of our review period, only 50 percent of the Federal matching funds were budgeted for Medicaid related activities. About \$407 million was budgeted for various non-Medicaid health and welfare programs, and \$557 million remained unbudgeted and available for other uses. Under the program, counties obtained bank loans and transferred the borrowed funds to DPW, which immediately transferred the funds back to the counties as Medicaid supplementation payments. The counties used their supplementation payments to pay the bank loans that initiated the transactions. The DPW claimed, received, and kept Federal matching funds based on the supplementation payments. The participating county-owned nursing facilities received no direct supplementation payments to increase services to Medicaid residents.

The supplementation payments and the Federal match increased significantly over the past several years. The HCFA recognized that more States are starting to adopt aggressive payment methodologies for public providers using the flexibility of the upper payment limit rules and the IGT funding mechanism in order to maximize Federal reimbursement. In response, HCFA proposed regulatory changes aimed at limiting the amount available to State Medicaid programs through enhanced payments to public providers. We estimated that the regulatory changes HCFA proposed would have reduced the amount available for DPW to fund supplementation payments to county-owned nursing facilities from about \$1.7 billion to \$237 million for SFY 1999, resulting in savings of about \$731 million in Federal matching funds and reducing the average supplementation payment from \$425.93 to \$66.32 per Medicaid resident day.

In our draft report, we recommended that HCFA move as quickly as possible to issue regulatory changes involving the upper payment limit calculations. We also recommended that HCFA take additional action to ensure that claims for supplementation payments to Pennsylvania's county-owned facilities are based on financial need and paid directly to the targeted nursing facilities for direct health care services for Medicaid residents.

In response to our draft report, HCFA agreed to our recommendation to place a control on the overall funding mechanisms being used by the States. The HCFA noted that it published, on October 10, 2000, proposed regulations to close the loophole in Medicaid regulations that costs Federal taxpayers billions of dollars without commensurate increases in coverage or improvements in the care provided to Medicaid beneficiaries. The HCFA also agreed in principle with our second recommendation to require that supplementation payments be need based and paid directly to the targeted nursing facilities for health care services of Medicaid residents. However, HCFA believed that a new regulation would be required which would force it to divert resources away from its current upper payment limit

initiatives. The HCFA comments to our draft report are included in their entirety in **APPENDIX E**.

We commend HCFA for taking action to change the upper payment limit regulations. However, we believe the transition period applicable to Pennsylvania is excessive. On December 15, 2000, Congress passed legislation that instructed HCFA to implement a transition period for States with plans approved or in effect before October 1, 1992. During the transition, the financial impact of the new regulations will be gradually phased in and become fully effective on October 1, 2008. Pennsylvania is among the States eligible to receive the benefit of this transition period. While we disagree with the need for such an extensive transition, in Pennsylvania alone, we estimate savings to the Federal Government of \$2.4 billion during the transition period. Once the regulatory changes are fully implemented, we estimate additional savings to the Federal Government of \$731 million annually, totaling a savings of \$3.7 billion over 5 years (see **APPENDIX D** for additional details). We, therefore, recommend that HCFA take action to ensure that Pennsylvania complies with the phase in of the revised regulations.

Although no recommendations were directed towards DPW, we requested and received a prompt response from DPW to our draft report. The DPW responded that the IGT program was created with the express authorization and approval of HCFA and Congress to help States offset the costs of unfunded Medicaid mandates. The DPW also believed that a number of factual statements in our draft report were inaccurate.

## INTRODUCTION

### BACKGROUND

Title XIX of the Social Security Act (Act) authorizes Federal grants to States for Medicaid programs that provide medical assistance to needy people. Each State Medicaid program is administered by the State in accordance with an approved State plan. While the State has considerable flexibility in designing its State plan and operating its Medicaid program, it must comply with Federal requirements. In Pennsylvania, DPW administers the Medicaid program.

The Federal Government and the States share in the cost of the program. States incur expenditures for medical assistance payments to medical providers who furnish care and services to Medicaid beneficiaries. The Federal Government pays its share of medical assistance expenditures to a State according to a defined formula. The Federal share of medical cost, referred to as Federal financial participation (FFP), ranges from 50 percent to 83 percent, depending upon each State's relative per capita income. The FFP rate in Pennsylvania is about 54 percent.

The Act requires a State Medicaid plan to meet certain requirements in setting payment amounts. In part, this provision requires that payment for care and services be consistent with efficiency, economy, and quality of care. Essentially, funds are to be used to pay for daily needs of Medicaid recipients in nursing facilities, including medical services, room and board expenses, personnel salaries, etc. This provision also provides authority for specific upper limits set forth in Federal regulations relating to different types of Medicaid covered services. These regulations stipulate that aggregate State payments for each class of service (for example, inpatient hospital services, nursing facility services, etc.) may not exceed a reasonable estimate of the amount the State would have paid under Medicare payment principles. In addition, aggregate payments to each group of State operated facilities may not exceed the amount that can reasonably be estimated would have been paid under Medicare payment principles. The FFP is not available for State expenditures that exceed the applicable upper payment limits.

Under upper payment limit rules, States are permitted to establish payment methodologies that allow for enhanced payments to non-State owned government providers, such as county-owned nursing facilities. The enhanced payments are over and above the regular Medicaid payments made to nursing facilities. States are not required to justify to HCFA the details of why these enhanced payments are needed.

#### **OBJECTIVE, SCOPE, AND METHODOLOGY**

The objectives of our audit were to analyze the DPW's use of IGTs to finance supplementation payments to county nursing facilities as part of its compliance with Medicaid upper payment limit regulations and to evaluate the financial impact of these transfers on the Medicaid program. Our audit was made in accordance with generally accepted government auditing standards. To accomplish our objectives, we reviewed DPW's use of IGTs as part of their supplementation payment program during SFYs 1997, 1998, and 1999. We interviewed DPW officials and others responsible for the implementation and operation of the supplementation payment and IGT process. These included officials from the offices of long-term care, budget, and controller. We also met with officials of the County Commissioners Association of Pennsylvania (CCAP) to gain their perspective on how supplementation payments were made and how the IGT process worked.

The DPW used a funding pool to determine the amount available to make supplementation payments to county nursing facilities. We reviewed DPW's computation of the IGT funding pool and attempted to track the dollars that were transferred between DPW and county governments. We estimated the financial impact of the DPW's use of IGTs on the Medicaid program as well as the potential impact of HCFA's regulatory changes on the DPW's IGT program.

The documentation we reviewed included: (1) Pennsylvania Medicaid State Plan Amendments (SPA) for payments to nursing facilities; (2) the DPW/CCAP agreement that implemented the IGT process; (3) DPW voucher and revenue transmittals; (4) bank statements and bank transaction forms associated with the IGT activity; (5) county resolutions and/or ordinances authorizing and coordinating the IGT process; and (6) Medicaid cost reports for several county nursing facilities filed with DPW for Calendar Years 1997, 1998, and 1999. The cost reports contained data used in the IGT pool computation. We also obtained HCFA data on DPW's IGT activity in SFYs 1992 through 1996. Our review was conducted in Harrisburg, Pennsylvania between May 2000 and July 2000.

## RESULTS OF REVIEW

### DPW'S IGT PROGRAM IS DESIGNED SOLELY TO MAXIMIZE FEDERAL FUNDING

The DPW's IGT program, in our opinion, was designed solely to maximize Federal Medicaid reimbursements but did not provide either additional funds to the participating county-owned nursing facilities or additional medical services to the Medicaid residents of these

nursing facilities. Since SFY 1992, DPW received \$3.1 billion in Federal matching funds based on a reported \$5.5 billion in supplementation payments to county nursing facilities, payments that never left the bank that processed the supplementation payment transactions. It is clear that the reported supplementation payments were never directly made to the county nursing facilities that supposedly were to receive these payments for medical services provided to their Medicaid residents. In the last 3 years (SFYs 1997-1999), about 21 percent of the FFP generated by the IGT transactions was not even budgeted for Medicaid purposes, and another 29 percent was unbudgeted and available to Pennsylvania for non-Medicaid related use. The HCFA made regulatory changes that, when fully implemented, will significantly reduce the Federal share generated by supplementation payments. We commend HCFA for issuing these regulatory changes and believe HCFA should consider further action to ensure that supplementation payments intended for specific facilities are retained by these facilities to provide care to their Medicaid residents.

---

**DPW generated \$3.1 billion in Federal Medicaid matching funds based on \$5.5 billion in supplementation payments to county nursing facilities that, in reality, never received these payments. In the last 3 years, at least 21 percent of the FFP was budgeted for non-Medicaid purposes.**

---

### Implementation of the DPW IGT Program

The DPW began the supplementation payment program in the early 1990s. The SPA provided for supplementation payments to county-owned nursing facilities with more than 270 beds if their Medicaid resident days accounted for at least 80 percent of their total

resident days. There are 20 counties operating 23 nursing facilities that met the SPA requirements and qualified for supplementation payments. The SPA also specified that supplementation payments were subject to the availability of sufficient county, State, and Federal funds based upon an executed IGT agreement and subsequent transfer of funds. The SPA was updated several times since 1991 but still provides for enhanced payments to county nursing facilities.

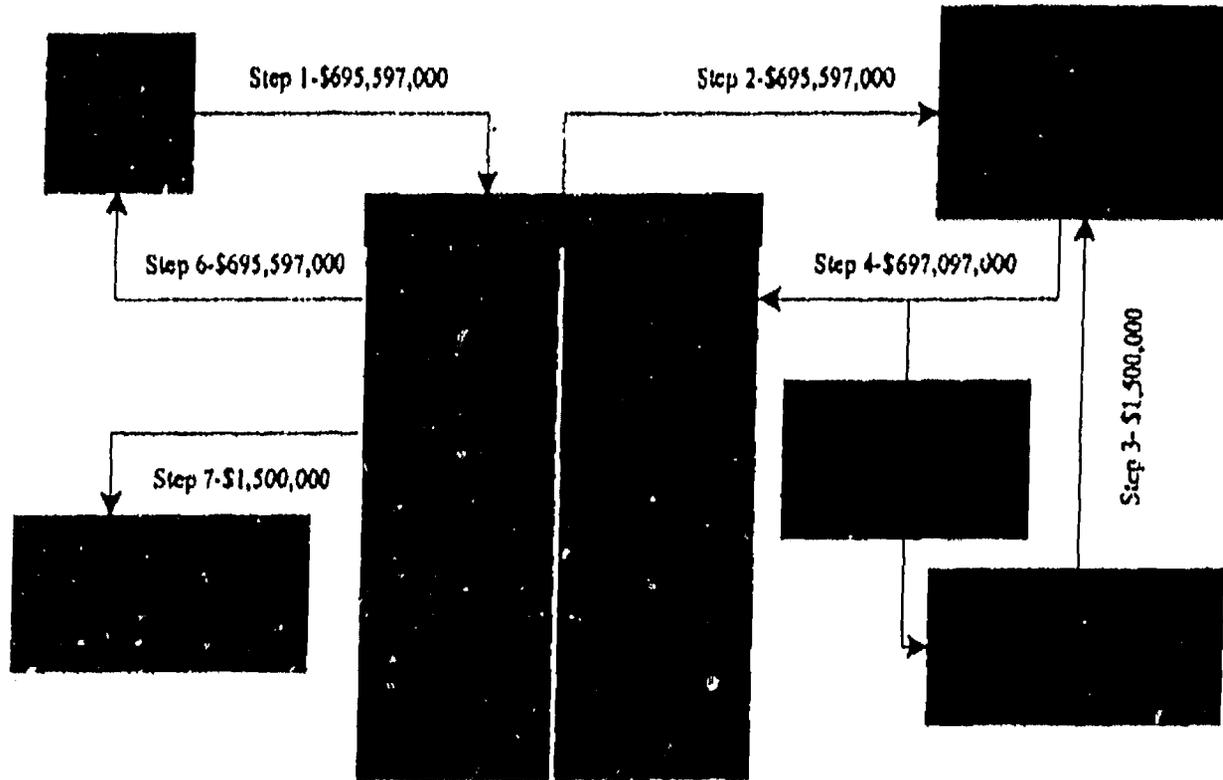
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**Supplementation payments purportedly for county-owned nursing facilities never left the bank that processed the IGT transactions.**

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As part of the supplementation payment process, each year DPW determined the available funding pool by calculating the amount of Medicaid funds available under the upper limit regulations. It then entered into an agreement with CCAP whereby the counties borrow funds from a single bank (referred to as the transaction bank) using tax and revenue anticipation notes which may be equal to the total amount of the funding pool. The county funds maintained at the transaction bank were then transferred to a DPW bank account, also at the transaction bank, as the initial source to fund the pool. Within 24 hours of receipt, DPW transferred the amount received from the counties, plus a \$1.5 million program implementation fee, back to the county bank accounts maintained at the transaction bank as Medicaid supplementation payments for nursing facility services. The counties used the supplementation payments to pay the bank notes. The counties then forwarded the program implementation fee to CCAP. The DPW reported the supplementation payments to HCFA as county nursing facility supplementation payments and claimed FFP. As demonstrated, the reported supplementation payments to the county nursing facilities were not really payments at all. They were merely transfers of funds between county bank accounts and the account maintained by DPW. The transactions were generally completed within one banking day, and except for the \$1.5 million program implementation fee, the funds never left the bank that maintained the accounts for DPW and the counties. The chart below illustrates the flow of funds for the most recent IGT transaction of June 14, 2000.

## INTERGOVERNMENTAL TRANSFER JUNE 14, 2000

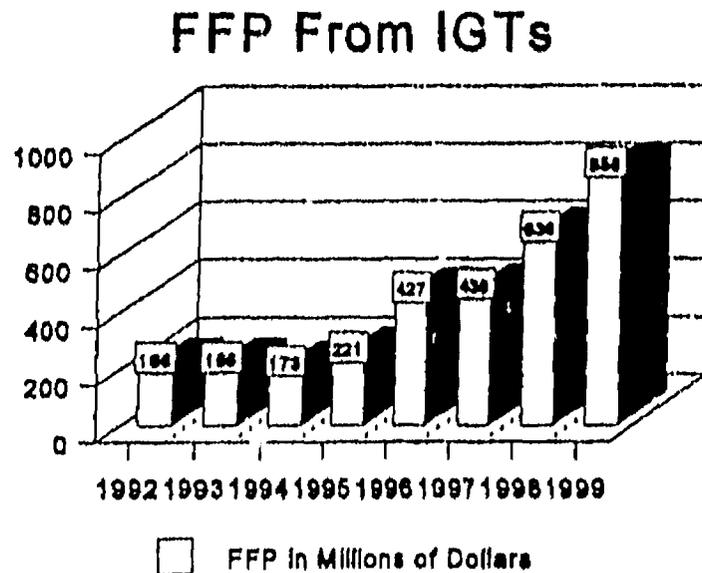


As shown in the illustration, the counties borrowed \$695,597,000 (Step 1) and transferred it to the DPW transaction account (Step 2). The DPW added the \$1,500,000 transaction implementation fee to the DPW transaction account (Step 3), transferred \$697,097,000 as Medicaid supplementation payments to the county bank accounts (Step 4), and claimed \$393,342,145 in FFP (Step 5). The counties used the supplementation payments to satisfy the bank loans (Step 6) and transferred the transaction implementation fee to CCAP (Step 7). None of the supplementation payments reached the participating nursing facilities, and the Medicaid residents received no additional services. Pennsylvania retained the entire \$393,342,145 in FFP to use as it pleased.

This was the second of two IGT transactions processed in SFY 1999. The first IGT provided for supplementation payments of \$823,907,000, generating \$464,793,744 in FFP. APPENDIX A shows supplementation payments and FFP resulting from IGT activity for SFYs 1992 to 1999.

### The Growth of the Supplementation Payment Program and Use of the FFP Generated by It

The supplementation payment program grew significantly in Pennsylvania, and the original FFP generated by this growth was used by DPW to generate additional FFP which, in some cases, was budgeted for non-Medicaid related health activities. Since SFY 1992, the growth in DPW's supplemental payments generated corresponding increases in FFP. For example, the FFP generated from this financing technique doubled from \$221 million in SFY 1995 to \$438 million in SFY 1997 and nearly doubled again to \$858 million in SFY 1999.



The net effect of DPW's IGT financing mechanism was that the Federal Government paid significantly more for the same level of Medicaid services, while the DPW paid significantly less. By first deducting the supplementation payments from DPW's total medical assistance expenditures, we determined that for Federal Fiscal Year (FFY) 2000, the effective FFP matching rate was about 65 percent of total Medicaid expenditures, or 11 percent higher than the 54 percent average FFP rate under the statutory formula (See APPENDIX B).

Regarding how the FFP generated by the supplementation payment program was to be used, DPW entered into an agreement with CCAP that detailed the intended use of the FFP. For the past 3 years, DPW reported supplemental payments to county nursing facilities totaling \$3.4 billion, with the Federal share totaling approximately \$1.9 billion. The DPW provided us with a schedule showing how it budgeted these Federal matching funds. The DPW budgeted about \$968.6 million of the FFP, or about 50 percent, as DPW's State matching share to draw down an additional \$1.3 billion in Federal matching funds to pay for various Medicaid health care services. In effect, Federal funds were used to obtain additional funds. The remaining \$964.4 million in FFP was budgeted for various non-Medicaid health and welfare programs (\$406.9 million, or 21 percent) or remained unbudgeted and available for other uses (\$557.5 million, or 29 percent). APPENDIX C shows the budgeted uses for FFP generated from IGT activity for SFYs 1997 to 1999.

Since the inception of the Medicaid program, the fiscal responsibility and integrity of the program were to be shared by the Federal and State governments. However, even though some of the FFP received on the supplementation payments might have been used for health

Page 9 - Robert Berenson, M.D.

care purposes, the funds consist of only Federal dollars. Thus, the use of the funds for an otherwise worthwhile health care purpose resulted in a wholly Federal-funded activity rather than the shared Federal/State activity intended by the Medicaid program.

#### **HCFA's Regulatory Change to the Upper Payment Limit Rule**

The HCFA has taken action to change the upper payment limit regulations which, when fully implemented, will significantly reduce DPW's funding pool and, correspondingly, decrease the

FFP generated by it. However, we believe HCFA should consider further steps to ensure that supplementation payments are actually retained by the facility for which they were intended.

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**HCFA's regulatory changes would have saved \$731 million of FFP in SFY 1999.**

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The DPW determined the available funding pool for supplementation payments by calculating the amount of Medicaid funds available under upper payment limit regulations. These regulations specified that aggregate State payments for each class of services--in this case, nursing facility services--may not exceed a reasonable estimate of the amount the State would have paid under Medicare payment principles. First, DPW estimated the amount it would have incurred under Medicare payment principles related to skilled nursing facilities. Next, it determined how much it paid in regular Medicaid nursing facility payments. The difference between these two amounts represented the potential funding pool for supplementation payments to county nursing facilities. The funding pool represented the maximum amount that may be used for enhanced supplementation payments (over and above regular nursing facility payments) to nursing facilities without exceeding upper payment limit regulations.

The HCFA allowed the States to determine how their specific nursing facility enhanced payments were to be calculated for purposes of determining upper payment limit related funding pools. The DPW computed its funding pool by multiplying the annual medical assistance days per facility by the difference between Medicare and Medicaid per diem rates. The DPW's funding pool calculation was based on 604 nursing facilities in SFY 1997, 627 in SFY 1998, and 670 in SFY 1999.

The HCFA has taken action to make regulatory changes that would require States to modify which facilities are a part of specific categories against which the upper payment limit rule would be applied. The upper payment limits would continue to be based on Medicare skilled nursing facility payment principles. From discussions with HCFA officials, we determined that the effect on DPW's program would be to reduce the pool of nursing facilities from 670 to 41. Currently there are 41 county-owned nursing facilities in Pennsylvania, of which 23 qualify for supplementation payments.

We recalculated DPW's IGT pool for SFY 1999 limiting the nursing facilities to the 41 county-owned facilities. We determined that the regulatory changes would have reduced DPW's funding pool from about \$1.7 billion to \$237 million for SFY 1999. The change would limit FFP to about \$127 million per year if DPW made supplementation payments equal to the IGT pool. This represents a reduction of \$731 million in FFP from the \$858 million in FFP claimed for SFY 1999.

We also estimated the effect of HCFA's regulation changes to DPW's supplementation payment program on a per diem basis. For SFY 1999, the regular Medicaid payments to the 23 participating county-owned nursing facilities averaged \$146.59 per Medicaid resident day. The supplementation payments (over and above the regular Medicaid payments) averaged \$425.93 per Medicaid resident day. The regulatory changes would reduce the average supplementation payment to \$66.32 per Medicaid resident day, a reduction of \$359.61.

Based on HCFA's fully implemented revisions to the upper payment limit rules, DPW's supplementation payment program would continue to generate about \$127 million of FFP every year. We believe that this amount remains excessive considering that supplementation payments are not based on need, the funds are not paid to the targeted county-owned nursing facilities, and the Medicaid residents receive no additional benefits. In addition, DPW would still be able to use Federal funds to obtain additional Federal funds without a joint Federal/State expenditure.

### CONCLUSION AND RECOMMENDATIONS

Our review found that DPW's supplementation payment program was a financing mechanism designed to maximize Federal Medicaid reimbursements without providing either additional funds to the participating county-owned nursing facilities or additional medical services to the Medicaid residents of these nursing facilities. Since SFY 1992, DPW reported to HCFA \$5.5 billion in supplementation payments to county-owned nursing facilities, payments that never left the bank that processed the IGT supplementation transactions. The reported supplementation payments were never directly made to the county nursing facilities that supposedly receive these payments for medical services provided to their Medicaid residents. The DPW received \$3.1 billion in FFP for the supplemental payments that were never received by the nursing facilities. Further, in the last 3 years (SFYs 1997-1999), about 21 percent of the FFP generated by the IGT transactions was not even budgeted for Medicaid purposes, and another 29 percent remained unbudgeted and available to Pennsylvania for non-Medicaid related use.

The supplementation payments and the Federal match increased significantly over the past several years. The DPW's supplementation payment program generated \$858 million in FFP during SFY 1999. Based on fully implemented revisions in the calculation of the upper payment limit rule, the FFP received by DPW would have dropped from \$858 million in

SFY 1999 to about \$127 million, a savings to the Federal Government of \$731 million and a reduction of the average supplementation payment from \$425.93 to \$66.32 per Medicaid resident day.

Once the upper payment limit revisions are fully implemented, the DPW will continue to receive about \$127 million per year in FFP generated by the supplementation payments. This continues to be excessive considering supplementation payments are neither based on need nor paid to the county-owned nursing facilities. The FFP generated by these payments could be budgeted for non-Medicaid related activities.

In our draft report, we recommended that HCFA move as quickly as possible to issue regulatory changes involving the upper payment limit calculations. We are pleased to note that HCFA has taken action to change the upper payment limit regulations. However, we believe the transition period applicable to Pennsylvania is excessive. On December 15, 2000, Congress passed legislation that instructed HCFA to implement a transition period for States with plans approved or in effect before October 1, 1992. During the transition, the financial impact of the new regulations will be gradually phased in and become fully effective on October 1, 2008. Pennsylvania is among the States eligible to receive the benefit of this transition period. While we disagree with the need for such an extensive transition, in Pennsylvania alone, we estimate savings to the Federal Government of \$2.4 billion during the transition period. Once the regulatory changes are fully implemented, we estimate additional savings to the Federal Government of \$731 million annually, totaling a savings of \$3.7 billion over 5 years (see APPENDIX D for additional details). We, therefore, recommend that HCFA take action to ensure that Pennsylvania complies with the phase in of the revised regulations.

We continue to recommend that HCFA take additional action to require that claims for supplementation payments to Pennsylvania's county-owned facilities be based on financial need and paid directly to the targeted nursing facilities for direct health care services for Medicaid residents.

#### **HCFA Comments**

In its general comments to our draft report, HCFA noted that it received a number of proposals from States that target payment increases to county nursing facilities. These excessive payments raise serious and troubling policy considerations. The practice appears to be creating a rapid increase in Federal Medicaid spending with no commensurate increase in Medicaid coverage, quality, or amount of services provided to Medicaid beneficiaries. While States claim these payment expenditures are for Medicaid nursing facility services furnished to an eligible individual, these payments may ultimately be used for a number of purposes, both health care and non-health care related. In many cases, IGTs are used to finance these payments.

With respect to our specific recommendations, HCFA agreed to place a control on the overall funding mechanisms being used by the States. The HCFA noted that it published, on October 10, 2000, proposed regulations to close the loophole in Medicaid regulations that costs Federal taxpayers billions of dollars without commensurate increases in coverage or improvements in the care provided to Medicaid beneficiaries. The proposed regulation, which included a gradual transition policy<sup>3</sup>, would create a new reimbursement limit for local government providers, and in the case of outpatient hospital services and clinic services, an additional upper limit for State-operated facilities. The HCFA believed that the proposed change would significantly reduce the amount of excessive payments that can and are being paid under the current upper payment limit regulations.

The HCFA also agreed in principle with our second recommendation to require that supplementation payments be need based and paid directly to the targeted nursing facilities for health care services of Medicaid residents. However, HCFA believed that a new regulation would be required which would force it to divert resources away from its current upper payment limit initiatives. The HCFA comments to our draft report are included in their entirety in APPENDIX E.

#### OIG Comments

We commend HCFA for taking action to control these costly financing mechanisms used by States to maximize Federal Medicaid reimbursements. However, the regulations limit but do not end this practice. When HCFA's changes to the upper payment limit rules become fully implemented, DPW's supplementation payment program would continue to generate at least \$127 million each year in excessive Federal Medicaid reimbursements. These reimbursements result from a financing mechanism that does not provide either additional funds to the participating county-owned nursing facilities or additional medical services to the Medicaid residents of these nursing facilities. Moreover, the Federal funds derived from these financing methods may continue to be used for non-Medicaid purposes.

Therefore, we believe that HCFA should take the necessary action to implement our recommendation to require that claims for supplementation payments to Pennsylvania's county-owned facilities be based on financial need and paid directly to the targeted nursing facilities for direct health care services for their Medicaid residents.

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<sup>3</sup>For States with approved SPAs before October 1, 1999, HCFA is proposing a 3-year transition period beginning in the SFY that begins in Calendar Year 2002. In effect, HCFA's proposal would result in a 5-year transition period except for those States with SPAs approved after October 1, 1999 which would have a transition period ending September 30, 2002. In addition, Congress passed legislation instructing HCFA to implement an 8-year transition period for States with plans approved or in effect before October 1, 1992. Pennsylvania is among the States receiving the benefit of the longer transition period.

### **DPW Comments**

Although no recommendations were directed towards DPW, we requested and received a prompt response from DPW to our draft report. The DPW responded that the IGT program was created with the express authorization and approval of HCFA and Congress to help States offset the costs of unfunded Medicaid mandates. The DPW cited expansion of long-term care services for the elderly, the Early Periodic Screening, Diagnosis and Treatment Program for children, and the Medicaid managed care patient bill of rights as specific examples of unfunded Medicaid mandates. The DPW added that the reason that neither Congress nor HCFA acted to limit IGTs was that all parties recognize that it was unfair to withdraw this source of relief to the States without addressing the larger problem of how to fund the expanding list of Federal mandates imposed on States through Medicaid legislation.

The DPW also believed that a number of factual statements in our draft report were inaccurate. The DPW presented a detailed critique of our description of its IGT process. It argued that the account into which the program supplementation payment was made was the one designated by the county nursing facility, therefore, DPW did make a payment to the participating nursing facility. The DPW added that Federal law allows providers to use Medicaid payments in any manner they choose. Referring to its latest IGT transaction (described on pages 6 and 7), the DPW disagreed with our statement that, "Pennsylvania retained the entire \$393,342,145 in FFP to use as it pleased." The DPW contended that it retained approximately \$393 million in county-provided funds, not \$393 million in FFP. The DPW, in a footnote, said it was merely using the term "county-provided funds" to distinguish these funds from Federal funds. The "county-provided funds" are, in fact, funds in the State Treasury and, therefore are "State funds" for the purpose of the IGT transaction. The DPW stated that the \$393 million in FFP was included in the \$697 million supplementation payment. Therefore, the DPW contended that our statements concerning the uses of Federal funds were incorrect.

### **Additional OIG Comments**

The DPW in its response did not provide any additional information that would cause us to change our findings and recommendations. The DPW's comment that the IGT program was implemented to help pay for unfunded Federal Medicaid mandates was contrary to its HCFA approved SPA which stated that DPW would pay supplementation payments to county nursing facilities. The SPA made no mention of using Federal matching funds to offset the costs of unfunded Federal Medicaid mandates. In addition, our review found that during the last 3 years DPW's IGT program generated \$1.9 billion in FFP. The DPW provided us with a schedule showing how it budgeted these Federal matching funds. The DPW budgeted about \$968.6 million of the FFP, or about 50 percent, as DPW's State matching share to draw down an additional \$1.3 billion in Federal matching funds to pay for various Medicaid health care services. In effect, Federal funds were used as the State's share to obtain additional Federal funds. The remaining \$964.4 million in FFP was budgeted for various

Page 14 - Robert Berenson, M.D.

non-Medicaid health and welfare programs (\$406.9 million, or 21 percent) or remained unbudgeted and available for other uses (\$557.5 million, or 29 percent). The DPW's schedule did not identify any of the programs as unfunded Federal Medicaid mandates.

We strongly disagree with DPW's criticism of our description of its IGT financing mechanism. We believe that DPW's argument was a matter of semantics. We clearly and accurately described the circle of transactions involved in this financing mechanism which allow DPW to get Federal matching funds and effectively avoid Medicaid's State matching requirement.

Also, DPW's contention that the supplementation payments reached the nursing facilities was not correct. The DPW provided no documentation to prove that the participating nursing facilities own, control, or had access to the county bank accounts used in the IGT transactions. In fact, DPW's agreement with CCAP specified that the county bank accounts maintained at the transaction bank shall be used solely and exclusively for IGT undertakings. The agreement went on to state that upon payment of the supplementation payment into the county bank account, the county must take all actions necessary to assure that the bank loan was repaid and the implementation fee was paid to CCAP. These two payments consume the entire supplementation payment and there were no funds remaining for distribution to the participating nursing facilities.

APPENDIX A

PENNSYLVANIA NURSING FACILITY  
 SUPPLEMENTATION PAYMENTS  
 SFYs 1992 - 1999

Year	Supplemental Payments	Basic State
1999	\$1,521,004,000	\$858,135,889
1998	\$1,128,818,000	\$636,385,542
1997	\$783,011,000	\$438,487,474
1996	\$769,114,996	\$426,582,090
1995	\$397,144,466	\$220,514,302
1994	\$304,071,438	\$172,927,545
1993	\$323,596,000	\$185,686,355
1992	\$320,676,000	\$186,200,700

<sup>4</sup>The 1992 through 1996 figures were provided by HCFA.

APPENDIX B

COMMONWEALTH OF PENNSYLVANIA  
EFFECTIVE FFP RATE  
FEDERAL FISCAL YEAR 2000

Form HCFA-64, Quarterly Report of Expenditures  
Line 30, Total Current Expenditures

1 <sup>st</sup> Qtr	\$1,270,070,140	\$2,358,940,341	53.84%	\$215,952,118	\$2,142,988,223	59.27%
2 <sup>nd</sup> Qtr	\$1,242,560,070	\$2,307,884,460	53.84%	\$215,952,118	\$2,091,932,342	59.40%
3 <sup>rd</sup> Qtr	\$1,695,427,778	\$3,149,153,782	53.84%	\$946,799,658	\$2,202,354,124	76.98%

<sup>3</sup>Expenditures for first three quarters of FFY October 1999 through June 2000. Pennsylvania's fiscal year began July 1, 1999.

**PENNSYLVANIA'S PLANNED BUDGET FOR THE USE OF THE  
FEDERAL PORTION OF SUPPLEMENTATION PAYMENTS**

Medicaid Services Eligible for FFP	\$968,593,000	\$1,120,618,000	\$2,089,211,000
State Only Programs Not Eligible for FFP	\$406,926,000	\$0	\$406,926,000
Unallocated Funds	\$557,489,905	\$194,961,000	\$752,450,905

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<sup>1</sup>Original Federal money received from supplementation payments that is now being used as the State share for the identified services.

<sup>2</sup>New Federal funds resulting from the use of the original Federal share of the supplementation payments, where applicable.

<sup>3</sup>Total State Budget plan for the identified services which consist of only Federal funds.

PENNSYLVANIA'S PLANNED BUDGET FOR THE USE OF THE  
FEDERAL PORTION OF SUPPLEMENTATION PAYMENTS  
FOR MEDICAID SERVICES

Regular Medical Assistance Payments to County Nursing Facilities	\$745,170,000	\$862,761,000	\$1,607,931,000
Aging Services	\$62,180,000	\$71,779,000	\$133,959,000
DPW Litigation - DME Supplies in Nursing Facilities	\$44,163,000	\$51,170,000	\$95,333,000
Disproportionate Share Incentive Payments	\$24,235,000	\$28,153,000	\$52,393,000
Nursing Facility Transition Payments	\$19,379,000	\$22,311,000	\$41,690,000
Services for Disabled	\$17,568,000	\$20,300,000	\$37,868,000
Alternate Long-Term Care Services	\$16,186,000	\$18,695,000	\$34,881,000
Home and Community Based Services	\$15,455,000	\$17,318,000	\$32,773,000
Managed Care Demonstration Project	\$15,022,000	\$17,469,000	\$32,491,000
Supplemental Home & County Based Waiver	\$5,372,000	\$6,235,000	\$11,607,000
Contracts/EDP Costs	\$3,863,000	\$4,422,000	\$8,285,000

<sup>1</sup>Original Federal money received from supplementation payments that is now being used as the State share for the identified services.

<sup>2</sup>New Federal funds resulting from the use of the original Federal share of the supplementation payments, where applicable.

<sup>3</sup>Total State Budget plan for the identified services which consist of only Federal funds.

**PENNSYLVANIA'S PLANNED BUDGET FOR THE USE OF THE  
FEDERAL PORTION OF SUPPLEMENTATION PAYMENTS FOR  
STATE ONLY PROGRAMS NOT ELIGIBLE FOR FFP**

10% County Share Medical Assistance Payments to Nursing Facilities	\$216,286,000	\$0	\$216,286,000
SSI Domestic Care Payment Support	\$80,955,000	\$0	\$80,955,000
Behavioral Health Services Payments	\$46,214,000	\$0	\$46,214,000
Additional Payments to Certain Nursing Facilities	\$14,600,000	\$0	\$14,600,000
Community Mental Health/Mental Retardation Services	\$14,249,000	\$0	\$14,249,000
Contracts/EDP Costs	\$8,559,000	\$0	\$8,559,000
Program Implementation Fee	\$7,500,000	\$0	\$7,500,000
Final Hospital Cost Settlements	\$6,400,000	\$0	\$6,400,000
County Invoicing Fees	\$4,063,000	\$0	\$4,063,000
Substance Abuse Research	\$2,600,000	\$0	\$2,600,000
Managed Care Risk Pool	\$2,500,000	\$0	\$2,500,000
Home Modification Program	\$2,000,000	\$0	\$2,000,000
County Nursing Facility Case-Mix Rate Payments	\$1,000,000	\$0	\$1,000,000

<sup>1</sup>Original Federal money received from supplementation payments that is now being used as the State share for the identified services.

<sup>2</sup>New Federal funds resulting from the use of the original Federal share of the supplementation payments, where applicable.

<sup>3</sup>Total State Budget plan for the identified services which consist of only Federal funds.

PENNSYLVANIA'S PLANNED BUDGET FOR THE USE OF THE  
FEDERAL PORTION OF SUPPLEMENTATION PAYMENTS FOR  
UNALLOCATED FUNDS

To be Allocated for Medicaid Programs in SFY 1999	\$167,370,000	\$194,961,000	\$362,331,000
To be Allocated for State Programs in SFY 1999 (Not Medicaid Approved)	\$261,721,000	\$0	\$261,721,000
To be Allocated for County Programs in SFY 1999 (Not Medicaid Approved)	\$37,954,000	\$0	\$37,954,000
Not Budgeted	\$90,444,905	\$0	\$90,444,905

<sup>1</sup>Original Federal money received from supplementation payments that is now being used as the State share for the identified services.

<sup>2</sup>New Federal funds resulting from the use of the original Federal share of the supplementation payments, where applicable.

<sup>3</sup>Total State Budget plan for the identified services which consist of only Federal funds.

APPENDIX D

**SCHEDULE OF FEDERAL SAVINGS IN PENNSYLVANIA  
 BASED ON IMPLEMENTATION OF REVISED UPPER PAYMENT  
 LIMIT REGULATIONS (INCLUDING TRANSITION PERIOD)**

<u>State Fiscal Year</u>	<u>Fiscal Period</u>	<u>Federal Savings</u>	
2000	07/01/00 - 06/30/01	\$ 0	
2001	07/01/01 - 06/30/02	0	
2002	07/01/02 - 06/30/03	0	
2003	07/01/03 - 06/30/04	110	
2004	07/01/04 - 06/30/05	219	
2005	07/01/05 - 06/30/06	329	
2006	07/01/06 - 06/30/07	439	
2007	07/01/07 - 06/30/08	548	
2008	07/01/08 - 06/30/09	713	
2009	07/01/09 - 06/30/10	731	
2010	07/01/10 - 06/30/11	731	
2011	07/01/11 - 06/30/12	731	
2012	07/01/12 - 06/30/13	731	
2013	07/01/13 - 06/30/14	731	



North Dakota Healthcare Association

**Vision**

*The North Dakota Healthcare Association will take an active leadership role in the healthcare issues.*

**Mission**

*The North Dakota Healthcare Association exists to advance the health status of persons served by the membership.*

Amendment to HB 1196 to allow IGT funds to be used for salary and fringe benefit enhancements for hospital employees in combination facilities.

HB 1196

10131.0300 Line 19, Page 12 insert after the word employees

“, or if a facility is combined with a hospital to nursing facility and hospital employees,”

ND  
Health  
Care  
Association

**Testimony on HB 1196**  
**House Human Services Committee**  
**January 17, 2001**

Chairman Price and members of the House Human Services Committee. My name is Jerry Peak, administrator of the Dunseith Community Nursing Home and Chairman of the Dunseith Commercial Club representing the business interest of the City of Dunseith.

With me here today is Brenda Gottbreht, a member of the Nursing Home Board. George Gottbreht is a member of the City Council, and Kris Peak, Director of Nursing at Dunseith Community Nursing Home.

I am here this morning to speak in favor of HB 1196.

I hope you will not think it trite if I present a scenario for your consideration. Suppose that you suddenly receive a bonus in the amount of thousands and thousands of dollars! You are very excited as you contemplate the things you will be able to do with these thousands of dollars and you came home to tell your spouse of your good fortune! But your spouse declares that you are to have no part in how these thousands and thousands of dollars are to be used. Your spouse is to make all the decisions. You can offer a suggestion, but all decisions on your money will be made by someone else.

And I hear you saying; "But that was my money! I brought that money home. If it were not for me there would be no money!" But again you are told to step aside that someone else will decide how your money will be used.

Do you sense the frustration. A usurping of power - the feeling of hopelessness, the analogy gives you some idea of how the nursing homes and the cities of Dunseith and McVillage feel about what has happened. If it were not for these two communities, the State of North Dakota would not have these millions and millions of free dollars. And because these communities brought those dollars into the State they feel a sincere interest in their use. But we are told that someone else will determine their use, the communities are tossed a bone with the hope that we will be quiet and go away. Is there frustration - YES!

That is why three legislators, the two communities, representative from the Department of Human Services and the Long Term Care Association spent many hours and much effort into developing some ideas and suggestions on how these monies could best be used for the benefit of those for whom the monies were intended, which lead to HB 1196. This bill was carefully crafted following the guidelines of the Federal Government and thoughtful input from the various entities mentioned above. It addresses many interests of these entities and give those who are responsible for bringing these millions of dollars into the State at least a voice in their use. And these communities will not just be quiet and go away!

"Well" you say, "What do the communities want and why is it so important?" We believe that the needs of long-term care are clearly articulated in the bill and this bill is so important because of those needs. Unless you are in long-term care you can only guess the complexities of hiring and retaining staff in light of the competition there is for this limited amount of people. This problem is further compounded when you realize that with the legislature controlling nursing home revenues and that it takes up to eighteen months to get back any pay enhancements through the cost report mechanism, it is almost impossible for nursing homes - on their own- to start paying the kind of wages that are required in today's marketplace.

So what should this committee do?

The answer clearly is that you must keep focused on the reason for this bill, the needs that it addresses, and the responses to those needs expressed in this bill. There will be many voices out there who are capable of making an eloquent appeal for some of these funds. But do not focus on eloquence. Do not focus on how much money may be in the fund. Do not focus on those who may try to make desperate appeals. Instead, focus on the fact that the Federal Government will be looking over your shoulder. Focus on how the Federal Government intended for these monies to be used. Focus on how these millions of dollars came into the State and who made it all possible. Focus on relieving any frustration and focus on the needs of important players. Focus on the needs of the old and frail members of our society and of the State of North Dakota. Focus on the good that can come through your support of House Bill #1196.

Thank you for focusing on this testimony!

Jerry Peak, Administrator  
Dunseith Community Nursing Home  
15 First Street Northeast  
PO Box 669  
Dunseith, ND 58329-0669  
(701) 244-5495

Jerry Prake

2-7-01

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Chairman Svedjan and members of the Appropriations Committee, Human Resources Division. Thank you for this opportunity to speak to you about a matter that is very close to my heart.

The task of this committee is not easy, and I am here to offer my appreciation for the work you do.

I am here to speak in favor of HB 1196.

The reason I feel so very close to the issues addressed in this legislation is because I was, in part, responsible for bringing these millions of dollars into the State of North Dakota. And while I understand that when I endorsed the check I was no longer responsible for how these funds were used, still I am keenly interested in what ways they will bring good to the people of North Dakota.

Please be reminded that the very survival of Nursing Homes in this State is intimately related to the decisions that every member of this committee makes. This is because North Dakota is one of only two States that requires equalization of rates. I believe this to be a good thing for the people of North Dakota but it does present certain challenges to those who operate those Nursing Homes because we have no options for additional revenues above what the legislature provides.

Because of the mechanics of our payment system it takes up to eighteen months to recoup expenses. This makes it very difficult - if not impossible - to keep up with wages during this time when new technical businesses are being brought into North Dakota, who then compete for the same employees that Nursing Homes use. That is why it is so important to be able to access monies up-front so that we can at least have a chance to survive.

It is not my intention to speak to each point of this bill but I do want to share with you some of my personal concerns and observations.

It seems so very important that even though this committee has the authority to use these Intergovernmental Transfer Funds as they choose, that they will want to be aware of the "intent" of the Feds for the use of these funds. It was about a year ago when I was talking about the use of these funds and was told several times about the "intent" of the legislation. This "intent" was so critical that there was not even any wiggle room!

It is clear that the intent of the Feds is to use these funds for Medicaid purposes and for the benefit of Government Nursing Facilities. It may be the sentiment out there that this government program is going away so it will not make a difference anyway. If it is true that it will not make a difference, why does the Federal Government have its hook into the State of North Dakota for thirteen million dollars because they claim the State did not do it right the first time? If the Feds can come in after the fact and take their money back once, they can certainly do it again! What a loss that would be to North Dakota!

HB 1196 appears to be in line with the intent of the Feds, who provided these funds through the Government Nursing Facilities, and we therefore encourage you to vote a "Do Pass" on this legislation.

Jerry D. Peak  
Administrator  
Dunseith Community Nursing Home

February 7, 2001

Chairman Lee and members of the Senate Human Services Committee. My name is Jerry Peak, administrator of the Dunseith Community Nursing Home and Preident of the Dunseith Commercial Club which represents the business interests of the City of Dunseith.

Thank you for creating an opportunity for me to speak to you this morning. I am here to speak in favor of HB 1196, which represents a matter of great importance to the City of Dunseith and its Nursing Home.

I hope you will not think it trite if I present a scenario for your consideration. Suppose that you suddenly receive a bonus in the amount of thousands and thousands of dollars! You are very excited as you contemplate the things you will be able to do with these thousands of dollars and you came home to tell your spouse of your good fortune! But your spouse declares that you are to have no part in how these thousands and thousands of dollars are to be used. Your spouse is going to make all the decisions. You are allowed to offer a suggestion, but all of the decisions on your money will be made by someone else.

And I hear you saying; "But that was my money! I brought it home. If it were not for me there would be no money!" But again you are told to stand aside because someone else will decide how your money will be used.

Do you sense the frustration - the usurping of power - the feeling of hopelessness? The analogy may give you some idea of how the nursing homes and the cities of Dunseith and McVillage feel about what has happened. If it were not for these two communities, the State of North Dakota would not have these millions and millions of free dollars. And because these communities brought those dollars into the State they feel a sincere interest in their use. We have been told that someone else will determine how our dollars are to be used and the communities have been tossed a bone with the hope that we will be quiet and go away. But our interest and concern remains.

That is why three legislators, the two communities involved, representatives from the Department of Human Services and the Long Term Care Association spent many hours and much effort into developing some ideas and suggestions on how these monies could be best used for the benefit of those for whom

the monies were intended, which lead to HB 1196. This bill was carefully crafted following the guidelines of the Federal Government and thoughtful input from the various entities mentioned above. It addresses many interests of these entities and give those who are responsible for bringing these millions of dollars into the State at least some input into their use. And these communities will not just be quiet and go away!

"Well" you say, "What do the communities want and why is it so important?" We believe that the needs of long-term care are clearly articulated in the bill and this bill is so important because of those needs. Unless you are in long-term care you can only guess the complexities of hiring and retaining staff in light of the competition there is for this limited amount of people. This problem is further compounded when you realize that with the legislature controlling nursing home revenues and that it takes up to eighteen months to get back any pay enhancements through the cost report mechanism, it is almost impossible for nursing homes - on their own - to start paying the kind of wages that are required in today's marketplace.

So what should this committee do?

The answer clearly is that you must keep focused on the reason for this bill, the needs that it addresses, and the responses to those expressed in this bill. There will be many voices out there who are capable of making an eloquent appeal for some of these funds. Do not focus on those who may try to make desperate appeals. Instead, focus on the fact that the Federal Government will be looking over your shoulder. Focus on how the Federal Government intended for these monies to be used. Focus on how these millions of dollars came into the State and who made it all possible. Focus on relieving the needs of important players. Focus on the needs of the old and frail members of our society and of the State of North Dakota. Focus on the good that can come through your support of HB 1196.

Thank you for focusing on this testimony!

Chairman Nething, Vice-Chairman Solberg and members of the Senate Appropriations Committee. Thank you for creating this opportunity to speak to you about a matter of much importance to me.

My name is Jerry Peak, Administrator of the Dunseith Community Nursing Home and also from the Dunseith Commercial Club which represents the business interests in the City of Dunseith.

With me today are George Gottbreht representing the City Council, Brenda Gottbreht representing the Nursing Home Board, and Kris Peak, Director of Nursing.

I am here today to speak in favor of HB 1196.

In dealing with HB 1196 you have the opportunity of positively influencing thousands of lives in North Dakota. There are thousands of nursing home employees whose lives can be made better. There are thousands of nursing home residents who will be directly affected by an enhanced quality of care. There are scores of towns and communities that will feel the effect that increased wages bring. There will be tens of nursing homes that will have a better chance of survival because of a more adequate funding source. And there will be two communities, Dunseith and McVillage, who will experience a sense of recognition for being the only conduit to bring these Intergovernmental Transfer dollars into the State which makes all this happen.

Nursing Homes have a very unique business structure because the State completely controls every dollar of their revenue. This is due to the fact that North Dakota is one of only two States that requires equalization of rates. I believe this to be a good thing for the people of North Dakota but it does present certain challenges to those who operate those Nursing Homes because we have no option for additional revenues above what the legislature provides.

Because of the mechanics of our payment system it takes up to eighteen months to recoup expenses. This makes it very difficult - if not impossible - to keep up with wages during this time when new technical businesses are being brought into North Dakota, who then compete for the same employees that Nursing Homes

use. That is why it is so important to be able to access monies up-front so that we can at least have a chance to survive.

In referring to technical businesses, such as Telemarketing, they are brought into communities and touted as being a boon to the town. But their employees come from somewhere and many times that somewhere is either directly at the expense of a nursing home employee or at least from any potential pool of employees. And why would a nursing home employee opt for telemarketing?! Consider this, it is probably easier to sit down and work then to run up and down hallways and into and out of rooms, and it is easier to talk on the telephone all day then it is to attend to the personal needs of a resident who is incontinent or combative, and where, if during the cleaning up process you inadvertently wipe in the wrong direction the State Surveyor will give the facility a deficiency. Besides that, the telemarketer can pay a bigger wage. Again, we need up-front monies so that we can compete for employees and still maintain some sort of cash flow.

It seems so very important that even though this committee has the authority to use these Intergovernmental Transfer Funds as they choose, that they will want to be aware of the "intent" of the Feds for the use of these funds. It was about a year ago when I was talking about the use of these funds and was told several times about the "intent" of the legislation. This "intent" was so critical that there was not even any wiggle room!

It is clear that the intent of the Feds is to use these funds for Medicaid purposes and for the benefit of Government Nursing Facilities. It may be the sentiment out there that this government program is going away so it will not make a difference anyway. If it is true that it will not make a difference, why does the Federal Government have its hook into the State of North Dakota for thirteen million dollars because they claim the State did not do it right the first time? If the Feds can come in after the fact and take their money back once, they can certainly do it again! What a loss that would be to North Dakota!

Because HB 1196 has had so much input from so many various interests who represent the intent of the Feds, including Dunseith Community Nursing Home who was instrumental in bringing the funds into the State, we therefore encourage you to vote a "Do Pass" on this legislation.

# Dunseith Community Nursing Home

Box 669  
Dunseith, North Dakota 58329

Telephone 701-244-5495

## FAX COVER SHEET

Date: 3-05-01

Time: 10:30 AM

To:  
Name: Senator Judy Lee

Co. Name: Senate

Telephone: \_\_\_\_\_

Fax Number: 701-328-1997

From:  
Name: Staff at DCNH

Co. Name: Dunseith Community Nursing Home

Telephone: 1-701-244-5495

Fax Number: 1-701-244-5431

Total number of pages being faxed including cover page 4

Please do all that you  
 can in support of HB 1196!  
 It is important to keep this  
 money for Long Term Care!!

Dunseith Community Nursing Home —

~~Ken Wood~~ CNA  
 Yas Lagerquist  
 Kimberly P... CNA/CMA

Ricky Counts Act. Dir.  
 Paula Witt DNR  
 Carrie Hubert  
 Justina Ormoy  
 Valerie LaRoque ASW

~~Anna~~  
 Sharon Amyotte CNA  
 Sheila Belgarde CNA  
 Theresa Rasmussen

Yessie Valle  
 Lucy Belgarde CNA

C. Jones RN  
 Robert Biard  
 Dail Krause  
 Betty Carboneau  
 Viola Rye

Linda Thomas CNA  
 Rochelle Tasto CNA  
 Mary Myers CNA  
 Lori St. Claire  
 Laurel Lafambone CNA

Loris Dubois  
 Michelle Mally  
 Michelle Haggerty CNA  
 Bridget Gonzalez

Isabelle de la... CNA  
 Elizabeth Henry  
 Jennifer Willison  
 Shaun Larson CNA

**Testimony on HB 1196**  
**House Human Services Committee**  
**January 17, 2001**

Good morning Chairman Price and members of the House Human Services Committee. I want to thank you for this opportunity to testify in support of HB 1196. My name is Jim Opdahl, Administrator of Nelson County Health System (NCHS) located in McVille, North Dakota. I am here to testify on the behalf of NCHS, NCHS Care Center, the City of McVille, and the people and communities we serve.

NCHS is a not-for-profit, tax-exempt health services organization serving the people and communities in and around Nelson County. Our organization includes a 19-bed critical access hospital licensed as a primary care hospital, medical clinic with two full-time physicians and one full-time nurse practitioner, home care agency, health service foundation, and a 52-bed skilled nursing facility, the NCHS Care Center which we manage for the City of McVille. The Care Center is one of the two government-owned skilled nursing facilities making it possible for the State of North Dakota to access millions of Federal dollars to fund the North Dakota Health Care trust Fund. The other facility is the Community Nursing home in Dunseith. NCHS and other providers of long-term care services contribute significantly to the overall social and economic well-being of people and communities throughout North Dakota. The successful passage of HB 1196 is essential, if not critical, to ensure not only our future, but the future of all long-term care providers in providing for the long-term care needs of the people and communities serviced.

This past summer I had the pleasure, as did representatives from NCHS and the City of McVille to serve on a special intergovernmental taskforce to draft important legislation pertaining to the use of intergovernmental transfer funds to benefit long-term care. Other participants included Representative William Devlin, Representative Merle Boucher, Senator Kenneth Solberg, Shelly Peterson and Darwin Lee representing the North Dakota Long Term Care Association (NDLTCA), David Zentner representing the North Dakota Department of Human Services (Department), and representatives from the City of Dunseith and Dunseith Community Nursing Home. This taskforce was initiated by Senator Solberg, along with Representatives Devlin and Boucher and supported by then Governor Schafer, in response to the concerns expressed by the City

of McVille, City of Dunseith, the NDLTCA, and the two government-owned nursing facilities. HB 1196 is the product of our efforts. At this time I would like to thank Representative Devlin, Representative Boucher, and Senator Solberg for their time, efforts, and leadership in bringing the participants on this task force together to form a true "working partnership" in the drafting of responsible and important legislation to address the immediate and future needs facing the state's long-term care industry.

North Dakota is one of 23 states currently using intergovernmental transfers to help fund their needs in long-term care, community-based programs, assisted living conversions and hospitals. SB 2168 was passed during the 1999 Legislative Session initiating North Dakota's participation in this program. The bill established the North Dakota Health Care Trust Fund, governmental nursing facility funding pool, mechanism (intergovernmental transfer) to fund the trust fund, and the use of Trust Funds for grants and loans to develop alternative programs in providing long-term care.

SB 2168 was initiated, prepared, and submitted to the Legislature by the North Dakota Department of Human Services. The NDLTCA and government-owned nursing facilities were never involved in nor requested to provide input in the development of this legislation. Even though both are beneficiaries, play "key" roles in the intergovernmental process, and the Department was informed of the intergovernmental transfer program in a July 1998 letter sent by Shelly Peterson. The following September Shelly Peterson had a brief discussion with Carol Olson, executive director of the Department, with Ms. Olson commenting that the intergovernmental transfer program was an "intriguing" concept. It wasn't until the early part of December 1998, during a NDLTCA membership meeting that a draft of SB 2168 was presented. The NDLTCA and its membership, including the two government-owned nursing facilities, supported this legislation based on its merits in providing grants and loans to long-term care providers to develop alternative programs in providing long-term care services to the elderly and disabled. However, the general feeling of the NDLTCA and its membership was concern over not being involved in development of this legislation and that more pressing concerns were not being addressed.

In January 2000 the Department co-sponsored a conference with the NDLTCA and the UND Center for Rural Health. This conference focused on future planning for long-term care. During this conference the Department informed the membership of the

administrative rules and application process for SB 2168, and that the total amount of Federal dollars would be substantially higher than what was originally projected and provided for in SB 2168. I came away from this conference as I feel others did that the intergovernmental transfer program could provide a needed source of funding to address significant issues facing long-term care providers, in addition to the development of alternative programs in providing long-term care. Some of these issues include access to low interest loans for skilled nursing facilities not incumbent upon development of alternative programs; funding to address long-term care staffing needs by increasing wages/benefits; funding to provide an incentive and source of funding for facilities to downsize or delicense beds; and other issues.

Up to this point our two facilities and respective city governments were remiss in taking the initiative to learn more about the intergovernmental transfer program, the intent of these dollars, and why the government-owned nursing facilities were essential in the transfer process. With the news of significantly more funds being made available through this program and the fact that SB 2168 would not address significant issues facing our respective facilities, we felt that it was important to research our role at this time and communicate this to our respective City Councils prior to the transfer of these funds. There is little question that we were concerned about "missing an opportunity" to acquire or retain more of the intergovernmental transfer funds to be used in addressing our immediate needs. We were also concerned that these funds, once transferred to the Trust Fund, could be utilized for other purposes unrelated to long-term care. Thereby missing yet another opportunity to provide a needed funding source to address long term care issues and concerns.

In the weeks that followed the City of McVile and City of Dunseith joined forces to learn more about the intergovernmental transfer program, the intent of these funds, the role of the communities, and how additional dollars could be retained in excess of the \$10,000.00 provided for in SB 2168 and established independently by the Department. We met several times to jointly coordinate an aggressive process in researching the intergovernmental transfer program. This process included: meetings with the leadership and membership of the NDLTCA; meetings with ND Department of Human Services; meetings with legislators; researching law, testimony and minutes; and discussions with individuals involved in intergovernmental programs in other states.

Based on our research it became increasingly clear to us and we strongly believe that the Federal intent of the funding source is to benefit government-owned skilled nursing facilities and long-term care services. States are allowed to pay government-owned nursing facilities more than what they pay other nursing facilities. Payment is limited so that it doesn't exceed what Medicare would pay. This payment is the difference between the Medicaid rate paid by the state and the Medicare rate multiplied by the total number of Medicaid resident days. Because of a "loophole" states are able to include all the state's nursing facilities to establish the government-nursing facility funding pool. The intent of the state is to access these dollars through a mechanism called "intergovernmental transfer". The state's share along with the Federal share of this funding pool is paid to the government nursing facilities, who in turn retain a portion of these funds, and transfer the remainder back to the state. The state uses these funds to fund the state's share and deposits the remainder in the North Dakota Health Care Trust Fund. We believe that these funds retain their original intent in benefitting government-owned nursing facilities and other purposes relating to providing long term care services.

We found that other states involved government facilities (primarily county-owned facilities) in the beginning to inform them of the program, the "key" role played by the government entities in accessing Federal dollars, and negotiated with them an amount the governmental entities could retain. An amount consistent with the Federal intent to provide a funding source for government-owned nursing facilities and compensation for their role in transferring significant dollars back to the state.

The Cities worked together and took action to approach the Department requesting additional funds to be retained by the government-owned nursing facilities in excess of the \$10,000.00 provided for in SB 2168. We met with the Department on several occasions. We were informed that SB 2168 did not provide a mechanism for the Department to provide additional compensation. It was suggested that additional compensation could only be provided through legislation for the next biennium. The Department and then Governor Schafer denied our request. On March 7<sup>th</sup> we sent a letter to the Department informing them that it was our intent to not accept or receive the intergovernmental payment unless additional compensation was provided.

As a result of our action Senator Solberg initiated discussion with the Cities, the Department, NDLTCA, legislators, and Governor Schafer, proposing the establishment of a special intergovernmental taskforce to draft legislation for the next biennium, to address the compensation issue with the Cities and other issues and concerns of the Cities and long-term care providers. This initiative was supported by Governor Schafer. Public forums were initiated and conducted by Governor Schafer in the McVile and Dunseith communities. More than 200 people attended the forum held in McVile. These forums provided an opportunity to publicly discuss the intergovernmental transfer program and the concerns of the two Cities. Following these meetings Governor Schafer agreed to allow the Cities to retain the payment for a period of time to generate interest to be retained by the Cities. It was the opportunity for the Cities and government-owned nursing facilities to be involved on the special intergovernmental taskforce, the opportunity presented us through the public forums, and the additional compensation or good-will gesture of Governor Schafer that the Cities agreed to accept and transfer the intergovernmental funds.

The City of McVile, City of Dunseith, and the two government-owned nursing facilities play "key" roles in the intergovernmental transfer program. Because of our important role in making millions of Federal dollars available to the State of North Dakota to fund the North Dakota Health Care Trust Fund, we feel that we have a responsibility to ensure that these dollars are being used for the purposes intended. That being for the benefit of government-owned nursing facilities and long-term care. We have exercised this responsibility by making previous transfers possible; through our involvement and participation on the special intergovernmental taskforce in the drafting of HB 1196; and by our presence here today to express our support of HB 1196. We believe very strongly that intergovernmental transfer program funds are to be used to provide sources of funding for the benefit of government-owned nursing facilities and long-term care. We feel that they should not be used for any other purpose. Many of you may be aware of the recent actions being taken by the Health Care Financing Administration (HCFA) to phase out this funding program. One reason cited is states are using these funds for purposes other than what the Federal government intended these funds to be used for. This is a further indication that the intergovernmental transfer dollars are intended to be used for long-term care. It's worth mentioning that HCFA is not phasing out the funding source allowing state to pay government-owned nursing facilities more than that paid to other nursing facilities. Nursing facilities owned by the City of McVile and City of Dunseith could continue

benefitting from this funding source for years to come, as would other communities facing the same situation of having to step in to ensure that the long-term care needs of their communities are addressed.

HB 1196 will provide funding to address significant issues facing government-owned nursing facilities and other providers of long-term care services throughout North Dakota. The bill will provide a source of funding to continue with the grant and loan programs initiated in SB 2168, provide low interest loans to skilled nursing facilities, provide dollars to address staffing recruitment and retention needs, and provide funding as an incentive and source of funds to delicense nursing home beds. More than 50,000 people living in North Dakota are directly affected by long-term care as employees, residents, and their respective family members. There are more than 80 nursing homes located in communities throughout North Dakota with many located in smaller rural communities. They often represent the largest employer in the communities they serve, providing significant social and economic benefits to their respective communities. Nursing homes are evolving in response to the demographic and other changes occurring in North Dakota. They are providing other housing options, developing special care units, providing home care and clinic services, and doing many other things in order to survive, continue meeting the needs of the elderly and disabled, and continuing to meet the needs of their communities. The landscape in North Dakota is changing. The issues faced by rural communities and long-term care providers are many. The future is uncertain. HB 1196 will provide a significant opportunity for the State of North Dakota to provide a needed and essential source of funding to enable long-term care providers to address immediate and future issues. Success with help contribute to the success in our rural communities and success throughout the State of North Dakota.

On behalf of NCHS, NCHS Care Center, City of McVile, and the people and communities we serve, I urge you to support HB 1196. It's critical to our future and the future of other long-term care providers. Thank you.

Jim Opdahl, Administrator  
Nelson County Health System Care Center  
108 East Nyhus Avenue  
PO Box 427  
McVile, ND 58254-0790  
(701) 322-4314

**Testimony – HB 1196**  
**House Appropriations Subcommittee**  
**February 7, 2001**

Good morning Chairman Svedjan, Vice Chairman Delzer and members of the House Appropriations Subcommittee. My name is Jim Opdahl, administrator of Nelson County Health System (NCHS) located in McVille, North Dakota. On the behalf of NCHS, NCHS Care Center, City of McVille, and the people and communities we serve, I want to thank you for this opportunity to testify in support of HB 1196.

NCHS manages the NCHS Care Center for the City of McVille. One of the two government-owned nursing facilities who play a "key" role in accessing millions of Federal dollars to fund the North Dakota Health Care Trust Fund. The other nursing facility is the Dunseith Community Nursing Home. Since January 1999, the City of McVille, City of Dunseith, and the governing bodies of the two nursing facilities have worked in partnership to better understand the important role played by the government-owned nursing facilities, the intergovernmental transfer program (IGT), and the intent and use of the IGT funds.

We feel we have a responsibility, a responsibility we have taken seriously, to ensure that the IGT funds are used for the purposes intended. Throughout this past year, we have exercised this responsibility through our many meetings together and with others researching the IGT program, involvement in two previous IGT money transfers, participation on the IGT Task Force in drafting HB 1196, providing testimony at the House Human Services Committee Hearing on HB 1196, and our testimony here today. We will continue to be actively involved during this legislative session, working to ensure IGT funds are used for the purposes intended and that HB 1196 responds in addressing the immediate and future needs of long-term care.

We feel strongly that the intent of the IGT funds is to benefit government-owned nursing facilities and long-term care. The Federal Medicaid program allows states to pay government-owned nursing facilities more than they pay other nursing facilities. How much is paid is based on the difference between a facilities Medicare and Medicaid rates multiplied by the number of Medicaid resident days. Due to a "loophole" the state can create a huge funding pool, called the "government-owned nursing facility funding pool", by including the calculations for all nursing homes in the state. The mechanism to pay government-owned nursing facilities more than other nursing homes, the fact that the amount of the "government-owned nursing facility funding pool" was established based on all nursing homes providing long-term care, and the fact that the IGT dollars must first be paid to government-owned nursing facilities, in our view, clearly shows that the intent of the IGT dollars is to benefit government-owned nursing facilities and long-term care.

The Health Care Financing Administration (HCFA) has weighed in on this issue as well. HCFA is taking steps to phase out this funding program. One of the reasons cited is that some states are using these funds for purposes other than Medicaid. It's worth mentioning that HCFA is not phasing out the funding source to allow states to pay government-owned nursing facilities more than that paid to other nursing facilities. They are however,

phasing out the methods used to create the large funding pools and the use of these dollars for purposes other than Medicaid. Nursing facilities owned by the City of McVille and City of Dunsleith could continue benefiting from this funding source for years to come. As could other communities facing the same or similar situation requiring local government to step in to ensure that the long-term care needs of their communities are met. The recent actions of HCFA further supports that the IGT dollars should not be used for purposes other than long-term care or Medicaid.

The IGT program is an opportunity, hopefully not a missed opportunity, to address significant issues facing government-owned nursing facilities and the state's long-term care industry. We are concerned that IGT dollars will be used for purposes other than those we believe they were intended for. It is indeed a significant "pot of money". Money which could be used to address many other worthwhile projects in North Dakota. However, by doing so, we believe that the State of North Dakota would be missing a rare opportunity to strengthen the state's long-term care industry and its current and future potential to contribute to the future success in our rural communities and throughout the State of North Dakota.

This past summer I had the pleasure as did representatives from NCHS and the City of McVille to serve on a special IGT task force to draft important and responsible legislation pertaining to the use of the IGT funds to benefit long-term care. HB 1196 as introduced into the House Human Services Committee was the results of our efforts. We were encouraged by and applaud the work of the House Human Services Committee on HB 1196 and support the changes which were made. We feel that the changes were positive, consistent with the intent of IGT funds being used for long-term care, strengthen the original Bill, and provide additional benefits in identifying, addressing, and meeting the long-term care needs of people and communities of North Dakota.

We are pleased with the progress being made with HB 1196 and encourage this committee to continue and support the work of the IGT task force and House Human Service Committee. Whatever changes this committee makes to HB 1196, we are hopeful that they will be consistent with the intent of the IGT funds to be used to benefit government-owned nursing facilities and long-term care, and when your work is completed, HB 1196 will be an even stronger Bill in meeting the present and future needs of the long-term care industry in North Dakota.

Thank you.

Jim Opdahl, Administrator  
Nelson County Health System  
PO Box 427  
McVille, ND 58254

**Testimony on HB 1196**  
**Senate Human Services Committee**  
**February 28, 2001**

Good morning Chairman Lee, Vice Chairman Kilzer and members of the Senate Human Services Committee. My name is Jim Opdahl, Administrator of Nelson County Health System (NCHS) located in McVille, ND. On the behalf of NCHS, NCHS Care Center, the City of McVille, and the people and communities we serve, I would like to thank you for this opportunity to testify in support of HB 1196.

NCHS manages the NCHS Care Center for the City of McVille. One of the two government-owned nursing facilities that play a "key" role in accessing millions of Federal dollars to fund the North Dakota Health Care Trust Fund. The other nursing facility is the Dunseith Community Nursing Home located in Dunseith. Since January 1999 the City of McVille, City of Dunseith, and the governing boards and administrators of the two nursing facilities have worked in partnership to better understand the important role played by government-owned nursing facilities, the intergovernmental transfer program (IGT), and the intent and use of IGT funds to benefit government-owned nursing facilities and long-term care in the State of North Dakota.

Because of the important role played by the two communities and government-owned nursing facilities, we believe we have a responsibility, a responsibility we take very seriously to ensure that the IGT funds are used for the purposes intended. Throughout this past year we have exercised this responsibility through our many meetings together and with others researching the IGT program, participating in two previous IGT money transfers, participation on a special IGT Task Force in drafting HB 1196, providing testimony to the House Human Services and House Appropriations Subcommittee, and our testimony here today. We will continue to be actively involved during this legislative session, working to ensure that IGT funds are used to respond to the immediate and future needs of government-owned nursing facilities and long-term care throughout the State of North Dakota.

North Dakota is one of more than 20 states currently using the intergovernmental transfers to fund their needs in long-term care, community-based programs, assisted living conversions, and hospitals. SB 2168 was passed during the last legislative session initiating North Dakota's participation in this program. This bill established the North Dakota Health Care Trust Fund, government nursing facility funding pool, mechanism (intergovernmental transfer) to fund the trust fund, and the use of trust funds for grants and loans to develop alternative programs in providing long term care to the elderly and disabled in North Dakota. HB 1196 expands upon SB 2168 in addressing immediate and future needs of long-term care.

We feel strongly that the intent of the IGT funds is to benefit government-owned nursing facilities and long-term care. The Federal Medicaid program allows states to pay government-owned nursing facilities more than what they pay other nursing facilities. How much is paid is based on the difference between a government-owned nursing facilities Medicare and Medicaid per diem rates, multiplied by the number of Medicaid resident days. Due to a "loophole" the state can create a huge funding pool called "the government-owned nursing facility funding pool" by including the calculations for all nursing homes in the state. This funding pool includes

State and Federal dollars, which are then paid to the two government-owned nursing facilities. The government-owned nursing facilities retain a portion of these funds and return the remainder back to the State of North Dakota. These funds are deposited into the North Dakota Health Care Trust Fund less the State's share. The intergovernmental transfer enables the State of North Dakota to access millions of Federal dollars. It is our feeling based on the mechanism allowing states to pay government-owned nursing facilities more than other nursing homes, the fact that the amount of the "government-owned nursing facility funding pool" was established based on all nursing homes providing long-term care, and the fact that IGT dollars must first be paid to government-owned nursing facilities clearly shows that the intent of the IGT dollars is to benefit government-owned nursing facilities and long-term care.

The Health Care Financing Administration (HCFA) has weighed in on this issue as well. HCFA is taking steps to phase out this funding program in the near future. One of the reasons cited is some states are using these funds for purposes other than Medicaid. It's worth mentioning that HCFA is not phasing out the funding source to allow states to pay government-owned nursing facilities more than that paid to other nursing facilities. They are however, phasing out the methods used to create the large funding pools and the use of these dollars for purposes other than Medicaid. Nursing facilities owned by the City of McVile and City of Dunseith could continue benefiting from this funding source for years to come, as could other communities requiring local government to step in to ensure that the long-term care needs of their communities are met. The recent actions of HCFA further support that the IGT dollars should not be used for purposes other than long-term care or Medicaid.

The IGT program is an opportunity, hopefully not a missed opportunity, to address significant issues facing government-owned nursing facilities and the state's long-term care industry. We are very concerned that IGT dollars will be used for purposes other than those we believe they are intended for. It is indeed a significant "pot of money". Money which could be used to address many other worthwhile projects in North Dakota. However, by doing so, we believe the State of North Dakota would be missing a rare opportunity to strengthen the state's long-term care industry and its current and future potential in contributing to the future success of our rural communities and the state as a whole.

We are very pleased with our contributions and the contributions of many in the drafting of HB 1196 under consideration by this committee. Throughout its development HB 1196 has evolved to better respond to the needs of long-term care and the people and communities of North Dakota. It is our sincere hope that whatever changes this committee makes to HB 1196, the changes will be consistent with the intent of the IGT funds to be used to benefit government-owned nursing facilities and long-term care. When your work is completed, we are hopeful that HB 1196 will be an even better bill in meeting the present and future needs of the people and communities served by the long-term care providers in North Dakota.

Thank you.

Jim Opdahl, Administrator  
Nelson County Health System  
Box 367, McVile, ND

HB 1196

**Testimony on HB 1196  
Appropriations Committee  
March 15, 2001**

Chairman Nething, Vice Chairman Solberg and committee members, thank you for this opportunity to testify on HB1196. My name is Cindy Bjornstad, mayor of the City of McVille. I am here representing our City Council and our community.

Jim Updahl, our administrator, will testify as to how the City of McVille became involved and the part we played in working on HB1196, but I would like to also share some of our views and feelings on this bill and the intergovernmental transfer (IGT) funds.

When our City Council first learned of the IGT funds and the bill that was passed during the last legislative session, we were very ignorant of what was in the bill, what the IGT fund was and what our involvement as the owner of our nursing home was. The more we studied and learned about the IGT funds and our current law, the more concerned we became. We were very concerned about the IGT trust care fund and how the money could be spent for purposes other than for what it was intended.

We, the City of McVille, along with Representative Bill Devlin, Representative Merle Boucher, Senator Ken Solberg, representatives from Nelson County Health System, the City of Dunseith, the Dunseith Community Nursing Home, ND Long Term Care Association and the Department of Human Services worked together as a task force to learn more about the IGT process and issues and concerns facing nursing homes in ND. We made many conference calls, sent letters and went to numerous meetings. HB 1196 is the result of our work. We feel this is a very important bill and tried to be very careful so the IGT moneys are used as they were intended to be used.

As I said earlier, when the City of McVille first became involved we knew very little about the IGT funds, but we have learned that it is the intent of the Federal Government that the IGT funds be used to benefit government owned nursing facilities and for Medicaid purposes. The money is coming to the state of ND as a direct result of the Cities of McVille and Dunseith. The amount of the money is determined by all of the nursing homes we have in every single community in ND. Because of this, the City of McVille, along with the task force that worked on HB1196 feels these moneys should be used for long term health care. We know there are many programs in ND that also need funding and I'm sure most of them are very good programs, but these moneys were intended for long term health care and we hope you will use them for long term health care.

The IGT fund is an unexpected and much needed opportunity for us to help every community in our state. Our nursing homes need HB1196. our community's will all benefit, and our senior citizens deserve the right to spend their final years in their own communities, being comfortable and well taken care of.

I strongly encourage you to use HB1196 and the IGT funds for long-term health care in ND where it was intended and where it is so desperately needed.

Thank you for giving me this opportunity to testify and work on this very important bill, HB1196.

HB 1196

January 16, 2001

Clara Sue Price, Chairman  
Human Services Committee

While working with Senator Solberg on the Intergovernmental funds, I was asked to submit a proposal regarding a bed reduction process. The criterion was there had to be a long-term savings for the Department of Human Services.

As I reviewed options I learned one method of appraising a healthcare facility was based on licensed beds. With this information, I proceeded to value beds at Heart of America Medical Center.

Attached is information I prepared this summer, and information that has been updated as of January 1, 2001. My projection is based on the lowest rate for Heart of America Medical Center. As of January 1, 2001 a LTC bed in Heart of America Medical Center if filled would have a value of \$33,978 annually. Over a ten-year period of time with no increase in rates we could expect a return of \$339,780.00 for one bed.

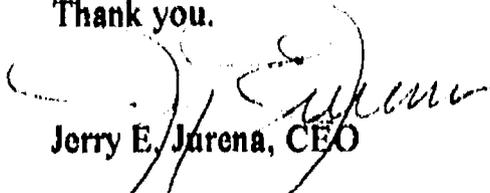
If I could fill 36 additional beds, annually this would represent an additional \$1,223,208. Our current rate of Medicaid at Heart of America Medical Center is 75%. This is \$917,406 at the lowest state rate. The state portion of this would be \$247,700 annually. Currently I have a waiting list and 48 empty beds. My limitation is acquiring enough staff to provide quality of care.

I proposed to Senator Solberg to purchase beds back at one half of the value of an annual rate at the lowest level. After discussion we settled on an amount of \$15,000.

At Heart of America Medical Center a \$15,000 bed purchase would reduce an obligation to the State of \$33,978 per year/per bed. This is a savings of 55.9% in year one, and a savings of \$159,890 in 5 years or 91.2% per bed.

In turn for a reduced obligation at the State level, facilities choosing to reduce beds could use the addition funds to improve quality of care. This could be done by providing more private rooms or other building improvements for rural facilities with limited capital this could be a major enhancement in quality or services.

Thank you.

  
Jerry E. Jarena, CEO

(2) Attachments

Heart of  
America  
Rugby

**Heart of America LTC Facility  
As of January 1, 2001**

1. Rates are set by ND Department of Human Services, January 1<sup>st</sup> of every year from the Cost Report ending June 30<sup>th</sup>.
  - a. Lowest Rate \$93.09
  - b. Highest Rate \$230.15
  - c. Average for Year 2001 is \$119.13 (1,000 x 119.13)
  - d. There are 34 different rates
  - e. HAMC exceeds rates in all areas
  - f. There are limits to rates based on four areas:

	<u>Limit</u>	<u>Our Cost</u>
• Direct Cost	\$68.53	\$73.08
• Indirect Cost	\$30.83	\$31.77
• Other Direct Cost	\$13.16	\$16.17
• Property	None	\$ 4.22
  
2. LTC is licensed for 118 beds
  - a. Currently 70 beds are being used
  - b. 48 beds are open
  - c. Current staffing using HCFA standards we should have 64 beds filled.
  
3. Medicaid currently makes up 75% of total reimbursement.
  - a. Medicaid rates effective January 1 for year
  - b. Current rates based on '96 costs
  - c. Rates made up of 72% Federal and 27% State dollars
  
4. Based on lowest rates each bed is worth \$33,978 (93.09 x 365) annually
  
5. In LTC Expenses
  - a. 74.5% is salaries & benefits
  - b. 61.6% is just salaries
  - c. At the lowest rate each bed is worth \$20,930 in annual salaries
  
6. Assuming we had staff and operated at 90% occupancy; 106 beds utilized
  - a. This would be an additional 36 beds utilized
  - b. At \$33,978 this would be \$1,223,208 annually
  - c. 75% would be Medicaid reimbursed \$917,406  
• The State would be responsible for \$247,700
  - d. Wages added to community would be \$753,496 annually
  - e. To add 36 patients employment needs are:
    - 5 RN's
    - 4 LPN's
    - 17 CNA's

## Heart of America LTC Facility

- 1) Rates are set by ND Department of Human Services
  - a) Lowest Rate \$90.16
  - b) Highest Rate \$223.64
  - c) Average for Fiscal Year 2000 = \$117.25 (1015 x 115.52)
  - d) There are 34 different rates
  - e) There are limits to rates based on four areas:
    - Direct Cost
    - Indirect Cost
    - Other Direct Cost
    - Property
  - f) HAMC exceeds rates in all areas
  
- 2) LTC is licensed for 118 beds
  - a) Currently 78 beds are being used
  - b) 40 beds are open
  - c) Current staffing using HCFA standards we should have 64 beds filled.
  
- 3) Medicaid currently makes up 55% of total reimbursement.
  - a) Medicaid rates effective January 1 for year
  - b) Current rates based on 96 costs
  - c) Rates made up of 72% Federal & 27% State dollars
  
- 4) Based on lowest rates each bed is worth \$32,908 (90.16 x 365) annually
  
- 5) In LTC Expenses
  - a) 74.6% is salaries & benefits
  - b) 60.6% is just salaries
  - c) At the lowest rate each bed is worth \$19,942 in annual salaries.
  
- 6) Assuming we had staff and could operate at 90% occupancy:
  - a) This would be an additional 28 beds utilized.
  - b) At 32,908 this would be \$921,424 annually.
  - c) 55% would be new money (tax dollars) \$506,783.
  - d) Wages added to community would be \$558,383 annually
  - e) To add 28 beds employment needs are:
    - 8 full time aides
    - 8 part time aides
    - 2 full time LPN or RN's
    - 2 part time LPN or RN's

HB 1196

March 15, 2001

Dave Nething, Chairman  
Appropriations Committee

In February of 2000, I became aware of a problem in regards to the Intergovernmental funds. At that point, I contacted Senator Solberg for advice. The result of our initial meeting was an ad hoc committee was formed. The committee consisted of Legislation representation, Department of Human Service members, representation from the Long-Term Care Association, representation from Dunseith and McVile. As the committee met, Senator Solberg and I visited as to how the funds would and could affect Long-Term Care services. One area that Senator Solberg asked that I explore regarding the Intergovernmental funds was a proposal on a bed reduction process. The criterion was, there had to be a long-term savings for the Department of Human Services.

As I reviewed options, I learned one method of appraising a healthcare facility was based on licensed beds. With this information, I proceeded to determine a value of the beds at Heart of America Medical Center.

Attached is information I prepared this summer, and information that has been updated as of January 1, 2001. My projections are based on the lowest rate for Heart of America Medical Center. As of January 1, 2001 a LTC bed in Heart of America Medical Center if filled would have a value of \$33,978 annually. Over a ten-year period of time with no increase in rates we could expect a return of \$339,780.00 for one bed.

In 2000, if I could have filled 28 additional beds, this would have represented an additional \$921,424 annually. Our current Medicaid utilization rate at Heart of America Medical Center is 75%. This represents a Medicaid reimbursement of \$691,068 at the lowest state rate. The state portion of this would be \$186,588 annually.

Currently I have a waiting list and 48 empty beds. My only limitation is acquiring enough staff to provide quality of care.

Using the 2000 rate information, I proposed to Senator Solberg to purchase beds back at one half of the value of an annual rate at the lowest level. After our discussions, we settled on an amount of \$15,000.

At Heart of America Medical Center a \$15,000 bed purchase would reduce an obligation to the State of \$33,978 per year/per bed. This is a savings of 55.9% in year one, and a savings of \$154,890 in five years or 91.2% per bed. If the average Medicaid utilization rate were 55%, this would still be a savings of \$3,688 per bed on year one, and a savings of \$78,440 per bed in five years.

March 15, 2001

Page Two (2)

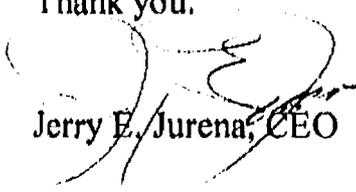
In turn for a reduced obligation at the State level, facilities choosing to reduce beds could use the additional funds to improve quality of care, by providing more private rooms, exploring alternative methods of care, or addressing building improvements. Regarding rural facilities with limited capital, this could be a major enhancement in quality or services.

The second issue that I would like to bring to your attention is the re-basing issue. Attachment C explains some of the terms in regard to the re-basing issue.

I believe in order for the nursing home industry to continue to provide quality of care and to address the current regulations imposed upon our industry, we need to have our expenses covered. In Rugby 74.5% of our expenses are salaries and benefits to the employees. It has become difficult to maintain our standards when we are reimbursed on costs that are 4 years old and were based on expenses that go back another 18 months. In order to have a proactive health care system that provides quality of care we need to realistically address the cost to provide those services.

If re-basing were brought up to June 30<sup>th</sup> of 2000 we would still be reimbursed on cost that are 18 months old.

Thank you.



Jerry E. Jurena, CEO

(3) Attachments

## NURSING FACILITY PAYMENT SYSTEM RATE CALCULATIONS

**Direct Care Rate** - This limit is established at the 99th percentile rate. Any facility over the 99th percentile (5 in 2001) will be limited and not get reimbursed for any costs over the percentile. Costs in the Direct Care Category: nursing and therapy salary and benefits, OTC drugs, minor medical equipment and medical supplies.

**Other Direct Care** - This limit is established at the 85th percentile. Any facility over the 85th percentile (24 in 2001) will be limited and not get reimbursed for any costs over the 85th percentile. Costs in the Other Direct Care Category: all food, laundry, social services and activity salaries and supplies.

**Property** - Property rate includes depreciation, interest expense, property taxes, lease and rental costs, start-up costs and reasonable legal expenses. If a facility's occupancy falls below 90% they receive a penalty. In 2001, thirty-one or 38% of nursing facilities received an occupancy penalty resulting in lost reimbursement.

**Operating Margin** - All nursing facilities receive an operating margin of three percent based on their historical direct care costs and other direct care costs (up to their limits). The operating margin provides needed cash flow to cover up-front salary adjustments, replacement of needed equipment, unforeseen expenses, and dollars to implement ever-increasing regulations. The operating margin covers the gap between the cost report and the effective date of rates (this can be up to 18 months). In 2001, the average operating margin was \$1.96 per resident per day.

**Inflation** - Rates are adjusted for inflation annually. Today, the rates are adjusted utilizing the average of DRI and the CPI.

**Limits** - Limits are also adjusted annually, however, the adjustment is lower than the inflation adjustment for rates. In 2001, 46 nursing facilities exceed at least one limit. Limits are based upon the 1996 rate year and have been minimally inflated each year. If limits are not rebased for the 2002 rate year it is anticipated 70% of the nursing facilities will exceed a limit.

**Indirect Care** - This limit is established at the 75th percentile. Any facility over the 75th percentile (39 in 2001) will be limited and not reimbursed for any costs over the 75th percentile. Costs in the Indirect Care Category: Administration, Pharmacy, Chaplin, Housekeeping and Dietary salaries and supplies, medical records and plant costs.

**Testimony Before The  
Senate Appropriations Committee  
March 15, 2001**

Chairman Nething and members of the Committee, my name is Brian Arett. I am the Executive Director of Fargo Senior Commission, Inc. We are an agency that provides services to senior citizens in a six county area in southeastern North Dakota. I am also here on behalf of the North Dakota Senior Services Project Directors Association, an organization made up of forty-one non-profit agencies who provide services to senior citizens throughout North Dakota. I am here to testify on House Bill 1196. In particular, I am here to ask the committee to consider increasing funding for in-home services in HB 1196.

**Attachment 1** to this testimony is a chart that shows the amount of funding spent by the state of North Dakota for institutional and in-home services for senior citizens in the current biennium and proposed spending in the next biennium. This chart includes spending contained in HB 1012 and spending contained in HB 1196.

You will note in reviewing this chart that the state is projected to spend approximately \$248.9 million for institutional care this biennium versus \$21.3 million for in-home services. This represents spending of \$11.66 on institutional care for every dollar spent on in-home services. Proposed spending for the 2001-03 biennium, including spending contained in HB 1196, will be \$323.2 million for institutional care versus \$24.6 million on in-home services. This represents spending of \$13.14 on institutional care for every dollar spent on in-home care. These figures are different from testimony I gave to the committee on February 28<sup>th</sup> because of amendments to HB 1196 that increased funding for nursing home providers.

Our request of the Senate Appropriations Committee is that the appropriation for Senior Citizen Mill Matching Grants contained in Section 36 of the Reengrossed

Funding  
includes  
services

version of HB 1196 be increased from \$150,000 to \$650,000. This increase will allow providers of in-home services to keep up with the growth in cost and demand for the services we provide. It will allow us to continue providing Meals on Wheels, transportation, and other supportive services to even the remotest of areas in our state.

As outlined in **Attachment 2**, this additional funding will result in a reduced ratio of spending for Institutional versus In-home services. It changes the Spending on Institutional Care for Every Dollar Spent on In-home Care figure contained in the chart from \$13.14 to \$12.88. While this is still a dramatic increase over the \$11.66 figure for the current biennium, it will provide additional funding for services that can be used as an alternative to nursing home care.

In previous testimony to this committee I stated that providing services to people in their homes is more cost effective and more desirable from the standpoint of the person receiving services. HB 1196 provides an opportunity for the state to increase funding for in-home services at the same time that a significant increase in funding is being provided for institutional care.

As the director of an agency that serves people in their homes, I have the opportunity to visit with people regularly about where they would like to live. And I am aware of the difficulty, particularly in rural areas, of generating the resources necessary to fund those services that can truly make it possible for people to continue living in their homes. I am asking for your help in maintaining a service delivery system that will give people the option of living in the least restrictive setting for as late in life as possible.

Thank you for your time. I would be happy to answer any questions you might have.

FUNDING FOR LONG TERM CARE IN THE STATE OF NORTH DAKOTA

SPENDING ON INSTITUTIONAL  
CARE PER DOLLAR OF  
IN-HOME CARE

INSTITUTIONAL CARE	NURSING HOMES	BASIC CARE	HOUSE BILL 1196	TOTAL
2001-2003	268,782,282	9,306,586	45,111,041	323,199,909
1999-2001	241,728,393	7,200,000	N/A	248,928,393
INCREASE	27,053,889	2,106,586	N/A	74,271,516
PERCENT	11.19%	29.26%	N/A	29.84%

IN-HOME SERVICES	SPED	EX-SPED	MEDICAID WAVER	MILL LEVY	TOTAL
2001-2003	13,415,595	1,203,280	8,519,405	1,462,945	24,601,225
1999-2001	12,814,290	898,044	6,374,484	1,262,945	21,349,763
INCREASE	601,305	305,236	2,144,921	200,000	3,251,462
PERCENT	4.69%	33.99%	33.65%	15.84%	15.23%

**FUNDING FOR LONG TERM CARE IN THE STATE OF NORTH DAKOTA**

<b>INSTITUTIONAL CARE</b>	<b>NURSING HOMES</b>	<b>BASIC CARE</b>	<b>HOUSE BILL 1196</b>	<b>TOTAL</b>	<b>SPENDING ON INSTITUTIONAL CARE PER DOLLAR OF IN-HOME CARE</b>
<b>2001-2003</b>	268,782,282	9,306,586	45,111,041	323,199,909	<b>\$12.88</b>
<b>1999-2001</b>	241,728,393	7,200,000	N/A	248,928,393	<b>\$11.66</b>
<b>INCREASE</b>	27,053,889	2,106,586	N/A	74,271,516	
<b>PERCENT</b>	11.19%	29.26%	N/A	29.84%	
<b>IN-HOME SERVICES</b>	<b>SPED</b>	<b>EX-SPED</b>	<b>MEDICAID WAVER</b>	<b>MILL LEVY</b>	<b>TOTAL</b>
<b>2001-2003</b>	13,415,595	1,203,280	8,519,405	1,962,945	25,101,225
<b>1999-2001</b>	12,814,290	898,044	6,374,484	1,262,945	21,349,763
<b>INCREASE</b>	601,305	305,236	2,144,921	700,000	3,751,462
<b>PERCENT</b>	4.69%	33.99%	33.65%	55.43%	17.57%



"Brian Arett"  
<barett@fsc.fargopark  
s.com>

03/01/01 04:13 PM

To: <jlee@state.nd.us>  
cc:  
Subject: HB 1196

Judy -

I've gone through the Reengrossed version of HB 1196 and have some comments. This bill authorizes \$45,111,041 in new spending for institutional care in the state of North Dakota. It also includes \$6,898,302 for SPED - but because that is an offset of General Fund spending it is not new dollars.

I'm attaching an updated version of the chart I showed you on Wednesday that lists the amount of money North Dakota spends on institutional versus in-home care. Based on HB 1196 and HB 1012 the state will spend \$13.14 on institutional care for every dollar spent on in-home services in the 2001-03 biennium. That compares to a figure of \$11.66 on institutional care for every dollar of in-home care in the current biennium.

The Task Force on Long Term Care Planning, which I serve on, has been making recommendations to the legislature for the last five years on expanding the continuum of long term care so that people can live in the least restrictive setting as late in life as possible. Based on legislation that has been approved by the House, we are going backwards.

I know you have already taken testimony on this bill. I would certainly be willing to give additional testimony if that is appropriate. I will be forwarding a copy of this e-mail to Tim Mathern and Tom Fischer as a follow-up to conversations I had with both of them on Wednesday. You are free to share this e-mail with the members of your committee. Do you have any other suggestions for what I can do?

Brian



- LONG TERM CARE.123

HS 1196

# Hi-Acres Manor Nursing Center

March 15, 2001

Senator Dave Nething, Chairman  
Senator Ken Solberg, Vice Chairman and  
Members of the Senate Appropriations Committee  
Harvest Room, North Dakota State Capitol  
Bismarck, ND 58501

### TESTIMONY

My name is Gary Riffe, Administrator and President of Hi-Acres Manor Nursing Center in Jamestown, North Dakota. We are a 142-bed skilled care facility and one of two family-owned facilities left in the state of North Dakota.

I am here speaking in favor of House Bill 1196 and specifically talking about the areas of rebasing, salary, and benefit enhancements and I will also spend a couple of moments with regard to property and liability insurance. It is critically important that rebasing is done on an every two-year basis as a minimum. We have costs that we have no control over and even with inflationary adjustment, it does not cover our costs, especially when 1996 is used as our cost basis in the year 2001, and then we will still be over the limit. On two occasions prior to the last rebasing, our facility had gone over in the direct care categories. This means we were spending and not getting reimbursed for those extra costs.

Example:	1999 - Direct Care Costs	= \$ 60.08 per day
	Direct Care Limits	= \$ 59.49 per day
	Difference	.59 per day
	.59 per day x 50,726 residents census days = \$29,928.34	

As a taxpaying entity (for profit), we have no other resources to go to other than the dollars that we can generate from our income being greater than our expenses. In our particular operation, we will use our operating margin and incentives to pay for those direct expenses. When our costs are so closely controlled by the State government, it leaves us no wiggle room and with equalization of rates, we can't pass those unreimbursed costs on to the customer. So, it is very important that rebasing is a part of House Bill 1196 and it will continue to be a very important part in the future for long-term care.

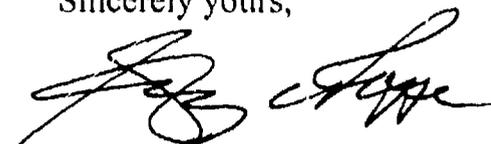
Senate Appropriates Committee Testimony  
Page 2  
March 15, 2001

The salary and benefits enhancement, of course, is a very critical part of House Bill 1196. For a change, it gives us an opportunity to upfront our costs and be reimbursed immediately. Our staff, like all the nursing homes who will testify, feel that our people work very, very hard and deserve an opportunity to get a one time salary adjustment to encourage them to stay in our field and reward those who have been a part of our field for many years. In our facility, we would look at the salary adjustment for spending those dollars if they are appropriated.

The last area I would like to talk about, and it is not necessarily a specific piece of the legislation of HB 1196, but it goes back to reflect the importance of rebasing. We recently received notification from our insurance carrier that they will no longer insure our nursing home. Their first reason is that we are a taxpaying entity and they have chosen not to cover taxpaying facilities nationwide. Last year, they provided us coverage, but we had a 50% increase in our liability insurance alone. Now, for our facility, that meant our liability costs went from \$7,500 to \$14,765. Please understand in 1999 our total premium for all of our insurance including vehicles, property, and the other types of insurance barely cost \$14,000. So, when you have your liability premium cost as much as the previous year's total premium, that is quite a shock to your cash flow and those costs do not get reflected until the following year in our cost report. For the year 2000 we are over the limits in the indirect category, so this extra unforeseen expense will not be a part of reimbursement. Liability insurance is going to be a very difficult situation in the next few years for all long-term care facilities whether they are taxpaying or tax-exempt. Vaaler Insurance is presently assisting us in attracting three proposals for insurance companies to consider us. Our past rep went to bat for us, telling his company that a facility like Hi-Acres is not your ordinary taxpaying facility and is an excellent facility for them to insure, but he was told to forget it for this year. We have no choice, if we are going to stay in business, at least for now, we have to pay the higher rate, even though we have had no claims. Another reason to make rebasing an issue each biennium.

I would ask for your full support in passing House Bill 1196.

Sincerely yours,



Gary M. Riffe, CNHA Fellow\*  
Administrator/President

\*Certified Nursing Home Administrator - Fellow  
American College Health Care Administrators

GMR:drf

HB 1196

Testimony on HB 1196

For the record my name is Chuck Stebbins and I am employed at the Dakota Center for Independent Living here in Bismarck. Thank you for the opportunity to provide testimony on this Bill.

My concern is that we still seem to be depending more on institutions to provide long-term care to North Dakota citizens. There continues to be too big a gap between what is appropriated to the nursing homes and institutions and what is appropriated to HCBS. Eighty percent goes to nursing homes, and twenty percent goes to HCBS. HB 1196 continues to widen this gap.

Intergovernmental Transfer money, as you have heard in prior testimony, was to be used for Medicaid related services, and developing alternatives to institutional care. As the bill currently reads, only Nursing, Basic Care, or Assisted Living Facilities are eligible for a loan from the Health Care Trust Fund, "Other entities providing alternatives to nursing facility care" has been stricken out. This means that any agency providing in-home care could not apply, even though they are providing an "alternative to nursing facility care. IL Centers could not apply for a loan to start up a personal assistance service to keep people out of nursing homes or get people out of nursing homes. It defeats the purpose of "developing alternatives to nursing home care."

As interest in this IGT money grew, the focus started to shift away from the development of alternatives. Now we have the IGT money being used for an increase in wages to nursing home staff (which I am not against, the growing turn over rate in the nursing homes does need to be addressed). The transaction fee to the two government owned homes that allowed for the transfer in the first place, has grown from \$10,000.00 to \$50,000.00, \$100,000.00 for IL Centers, and other proposed appropriations that I'm sure you are aware of, that chip away at this fund. My point again is, HCBS remain stagnant, while more dollars flow to long-term institutional care.

The funding coming out of the IGT that would go to Independent Living Centers concerns me, and makes me a bit nervous, because as I stated earlier, I do work for one. I need to say this for record, if this bill does pass as written with the IL Centers getting \$100,000.00 from the IGT. I will be pressing hard that the Centers use that money for the specific purpose of

Chuck Stebbins

developing alternatives to institutional care and nothing more. It's not a lot over the Biennium, but it's something to start with.

If you want to save money for the state money in the long term.. You must invest more in HCBS. Increasing the funding level of the SPED and Expanded SPED programs is the right thing to do in continuing to develop alternatives to institutional care. The number of people that both these Programs have served indicates the need to increase the funding to them. The SPED Program right now is serving more people per month than it is projected to serve in the next biennium. The SPED Program averages over 1,300 people per month at the current funding level. It is projected to serve 1,342 people per month in the next biennium. The average cost per client for SPED is \$416.42. January alone at the current funding level cost \$421.00 per client.

Expanded SPED was estimated to serve 110 people per month in the last biennium. Expanded SPED served 163. In the next biennium Expanded SPED is expected to serve 177 the next biennium. The numbers should tell you that there is interest in this HCBS and it is cheaper to keep those people served in their own homes at less cost.

I would like to offer an amendment to increase the funding level to these two programs back to the Governors original budget. I will get it to the committee clerk as soon as possible.

Finnally, increasing the funding to HCBS is the right thing to do, more people would be able to take advantage of personal assistance and more people would be able to stay out of nursing homes. It is the original intent of the IGT dollars. Move HCBS ahead, don't let it be stagnant. The writing on the wall is clear. People are not going to want to go to an institution if they can stay in their own homes and communities.

HS 1/96

My name is Sharon Haugen. I live  
at \*13118 in Wakpeton. In <sup>July 23</sup> 1999 I  
moved to a grouphome. I want  
personal allowances increased. I  
want more money from the legislature  
for clothes, to go out, to have more  
funding -- for things I need. Vacations  
like when I went to my mom and  
dad's -- its far away. I always call  
them and pay for calls.

Personal  
allowances

SHARON

3/13/01

(\* ICF-MR grouphome)  
(Adm. Date: June 1, 1994) Vally Braaten (son)

March 5, 2001

FAX 701-328-1997

Senator Judy Lee  
Bismarck, North Dakota

I'm just a plain country girl at heart born and raised in North Dakota. As I listened to the testimony of several fellow North Dakotans at the committee hearings I wanted to get up and testify but I came unprepared to do so. I'd like to take this opportunity to write to each of you.

I chose to get married and I chose to have a large family instead of going to college. We dreamed of owning our own farm and went into debt and bought one. Just when we thought we were getting our heads above water my husband suffered a massive heart attack, at the time I was working as a nurses aide (had been for 4 years) because the local hospital needed extra help (flu season). I knew when the doctor said he could no longer farm, we needed more income to survive. The farm loan still needed to be paid, and we needed enough for food and clothes for our family - seven in school, the oldest a senior and one boy at home 2½ years old - 3½ when I started school. Thanks to a State government with the foresight to set up an LPN program starting at Belcourt and transferring to Rolla due to temporary closure of the Belcourt hospital. This program was connected with Devils Lake College. I was able to stay home, raise my family and be there for my husband during the time I received my training and became an LPN.

I heard two CNAs testify to difficulty in going to the grocery store on their salary - also indicated the love they had for their job and the people they cared for. Before I started training I did consider how easy it would be for all of us to forget everything and go on welfare, but chose not to. Life is full of choices some bad some good but lets give our youth or even older people a chance at choices. We speak of wanting to decrease our welfare liability in the state, I see all these bills as a chance to do just that. Our people, given an opportunity, would, for the most part, choose to work to make a living. Lets give them back to pride and dignity of being able to do just that.

Lets look at my situation, had we chosen to go on welfare (give up) chances are my children, all eight of them, would have done the same (follow my example) instead all eight are in North Dakota, a productive part of North Dakota's work force, 6 want to college, the other two hold good jobs, one also being on the farm.

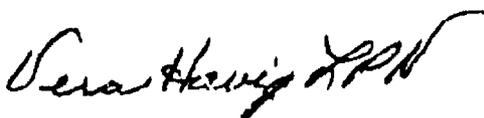
Now to get to the part of the bill #1196 concerning our elderly (I'm soon there). They have given (for the most part) the best of their life to make a better North Dakota for us to live in, do we not owe them the dignity of a few extra dollars for them to buy pop or maybe a treat, maybe new clothes or maybe a perm/color or something that gives them back a little of the pride and dignity they once had. Please pass HB #1196.

Use the money as it was intended in Bill #1196. Think of the future of our state and think of the parents/grandparents who worked to make it what it is today, a state we can be proud of. I leave you with some advice an LPN, who worked with me my first week as a nurses aide, gave me "When you work with a patient treat them as if it were you in that bed. How would you want to be taken care of." As you consider this bill think of yourself as the CNA trying to make a living for him/herself and his/her family. A person wanting to go to college to be a nurse and work in North Dakota unable to due to finances. Or an elderly person who lived a good hard life and now can't make it through the month with \$40 as a skilled care resident for personal use.

I'm not asking this for myself. I'm asking this so we can continue to have a state to be proud of, a state our youth want to stay in and work. A state who cares about everyone from the youngest to the oldest. I love North Dakota we have a good state with good people.

Thank you for all your hard work and dedication to improve the welfare of our people.

God Bless,



Vera Havig, LPN

Dunseith Community Nursing Home

**Raylynn Lauderdale**

HF 1196

**From:** Great Hunter [darwin\_58237@yahoo.com]**Sent:** Wednesday, March 14, 2001 9:34 AM**To:** Raylynn Hapip

Dear Legislators,

Thursday morning I understand you are meeting to discuss a bill section 27 of HF1196. This bill directly effects me, as I live at the Developmental Center. You will be discussing the personal care allowance for residents in nursing homes, ICF/MR's and SDC. The people served in these facilities are asking you to increase the current amount of \$40.00 to \$50.00.

We have been receiving \$40.00 per month since July 1st, 1993. The cost of living is also going up for us—clothes, recreation and leisure activities, purchasing personal items, TV, VCR, telephone, etc. We have to make due each month. Even though I appreciate receiving the money monthly, I'm sure you can see that \$40.00 is difficult to stretch into a full month.

I have certain goals in my life. Ones that may be similar to you or your family-members. I want to move into the community and have things in my home that are personal to me. I want to experience community events and access services. I hope to save for these things, but in the mean time, I would sure appreciate the extra \$10.00 per month. I would put it to good use. Imagine if for the past 8 years, you had \$40.00 to spend each month. Wouldn't you love to have an extra \$10.00? Thank you for your time. I understand you have a difficult job ahead of you.

Please consider how many people your vote would benefit.

Respectfully submitted,

Darwin Hime

Developmental Center

West 6<sup>th</sup> Street

Grafton, ND 58237

Read By Shirley Baennan

3/14/01

HS 1196

3/14/01

I am a Residential Coordinator at a group home for individuals with developmental disabilities. I am asking you to look deep in your hearts and think about how much you are allowed to spend each month. Don't these people deserve as much.

One new outfit or a good pair of shoes costs at least \$40, a trip to the movies with popcorn and a drink \$14, one bottle of pop per day \$33.47 per month, Eating out at a local restaurant \$10 to \$15. What about the dignity of bringing Christmas gifts to family functions, sending Birthday gifts, or Easter cards? What about having their own "stuff", decorating their room, owning a stereo or TV, a VCR, buying CD's or renting videos? What about saving for a vacation? Don't these people have the same rights as you and I?

We get an annual cost of living increase. Their spending money has actually been decreased. Why is that?. Are they less human? Don't they have the same wants and needs as we do ? These individuals go to a work program or day training program 40 hours each week and they get to spend \$40 dollars per moth. They are not children yet hey are receiving a child's allowance. If it were you wouldn't you be outraged?

Please look into your hearts and make the right decision.

Thank You,

Tammie M. Schaffer, RC.

*Tammie M. Schaffer, RC*

*Read By Raygan Louderdale*

March 13, 2001

To whom it may concern:

This letter is in regards to the personal spending issues for people living in an ICF/MR residential setting. The personal spending allowances for these people are not sufficient enough to purchase the many extra items they need every month.

I am a member of an employee driven "Casual Day" fund. We have a "casual day" once a week, which employees can participate by wearing jeans or a hat for a donation of \$1.00 to the "casual day" fund. The money from the fund is used to help individuals purchase many needed things they cannot afford themselves. Some of the items that money have been requested for include; haircuts, clothing, winter coats, hats, mittens, concert tickets, family weekends, bicycles, basketball hoops, and vacations. Many of these items are general necessities that other people take for granted. If someone needs a winter coat and it costs \$80.00, it would take someone two months to save for it and that means not buying any other items for two months, no haircuts, can of pop, movie passes, nothing.

Our "Casual Day" fund is a way for our employees to help the individuals we serve. Other people in other agencies may not be so lucky. Just think of the extra items generally purchased in a month. I would bet it is over \$40.00. This personal spending amount is very inappropriate.

Many individuals want to work to get more money, but it doesn't pay. They work their hearts out, for what?? The same \$40.00 they received when they didn't work. It doesn't make sense. They need more spending money to have the quality of life they desperately need and deserve.

Sincerely,

*Wendy Kahler*

Wendy Kahler  
Marketing Director

*Attached - Val Braaten*

1115 1196

March 14, 2001

To whom it may concern:

I am writing in support of Bill # 1196. Having worked with individuals with developmental disabilities for over 10 years, I have observed many situations in which having discretionary income limited to \$40.00 has adversely affected the quality of their lives.

Limiting personal allowances to \$40.00 means limiting opportunities for individuals to participate in their communities; limiting their opportunities to learn social skills in the community; and limiting their opportunities to learn financial responsibility. The present system creates frustration and anger for those individuals presently in it. How much sense does it make to have somebody to receive anger management training so they can learn how to cope with only being able to go out to eat one time each month because all of their other money needs to be saved for the purchase of a winter jacket?

Thank for considering this issue.

Sincerely,



Blake Peterson  
Psychologist

Read By Katelynn Frolunda

AS 1196

March 14, 2001

To whom this concerns:

For three years, I have been working as a Case Manager for an agency in Wahpeton. Starting in 1986, I worked as Direct Care for work activity programs, as well as, Congregate Care, ISLA, Access, ICF-MR, and Transitional Living residential settings in Fargo. I was also a Citizen Advocate Program Coordinator for the ARC of Cass County.

The people who live in the ICF-MR settings have the most care needs, yet the least flexible spending money. Also, because of their needs, many have not learned to nor are they able to communicate their rights to their own money. In order to fully integrate into the community, these individuals need enough personal money to buy appropriate clothing, and be able to be involved in community activities. Often they require extra funding for gas, and the expenses of the staff person accompanying them. \$40.00 dollars a month does not extend very far in their lives.

Sincerely Yours,

*Val J. Braaten LSW*

Val J. Braaten, LSW,  
HCBS Case Manager

617 3<sup>rd</sup> St. North  
Wahpeton, ND 58075

*ATTN: Rev. N. Val. Brewster*

March 14, 2001

We are requesting that your vote be cast to support HB 1196 to increase the \$40.00 personal allowance that currently exists for people who live in an ICF/MR facility.

We have worked with people with developmental disabilities for the past several years. In this time we have seen great strides in their protection of rights and enhanced dignity. One of the greatest challenges we still see people with developmental disabilities facing is their right to maintain the financial status you and I have the opportunity to accomplish today. It is disheartening to watch these people, who have greater mental and physical challenges than ourselves, go to work on a daily basis and not see the rewards of their efforts. For them, increased productivity and the reward of a larger paycheck does not equal the reward of a greater standard of living.

The people who live and work in this community want to enjoy and deserve to partake in the same life style as the rest of us. They too enjoy going to shows, sporting events, plays, etc. Today they easily spend \$5.00 or more per event. They also enjoy going out for an occasional meal at a restaurant. These community functions are so essential to being an active participant in their community and in many situations it is the basis for making and maintaining friendships. Along with the cost of socialization, you need to consider the financial needs of obtaining their basic necessities such as clothing, coats for various seasons, haircuts, boots, gloves and shoes. These people have the right to be able to afford the above, especially when you consider the fact that they are working the same as every other citizen. At the present, \$40 falls extremely short of being sufficient funds to meet their needs. The passing of this bill is essential. WE WOULD CHALLENGE ANY ONE OF US TO SUCCESSFULLY LIVE ON A PERSONAL ALLOWANCE OF \$ 40 A MONTH.

Thank you for your time and attention to this request. We again urge you to PLEASE vote in favor of HB 1196.

Sincerely,

*Deborah Gehring RC*

Deborah Gehring/Residential Coordinator  
P.O. Box 563  
Wahpeton, ND 58074

*Deborah Reynolds, LSW*  
Deborah Reynolds, LSW, ICF Case Manager  
911 Western Road Apt # 4  
Wahpeton, ND 58075

*Don J. Leinen, Jr., QMRP*  
Don J. Leinen, Jr., LSW, ICF QMRP  
75 River Road  
G.B. Wahpeton, ND 58075

Date 3/14/2001

TO Whom it May Concern:

As the bill comes before you regarding increasing the personal allowance for individuals with disabilities, I encourage you to vote yes to such a measure. Many of our individuals need to buy their clothing and personal effects 30 to 40 dollars a month isn't enough to provide those needs. Also the individuals have jobs which they are paid a piece rate not minimum wage and yet they are unable to keep these checks. Again I encourage you to raise the personal allowance per month for individuals with disabilities.

Sincerely yours,

*Melinda Barth, DTS*

Melinda Barth, Day Trainer  
Supervisor

*Attached - OAC Broster*

March 14, 2001

Dear Legislative Committee,

This letter is to support an increase in the personal allowance for individuals with developmental disabilities. I provide occupational therapy to these individuals at Red River Human Services Foundation. Many times there are items that are recommended for an individual to improve their quality of life. These are not medically necessary items, so medicaid will not pay for them. Due to the limited amount they have to spend per month, outside agencies are pursued for assisting in paying for items, or they go without.

I have also seen behaviors that arise due to insufficient amounts of money to participate in normal socialization activities. To be truly integrated into our society, one needs to be able to afford to go out to a movie, dinner, dancing, vacation and also buy cloths and other essentials.

I beg you to please allow them to have more money per month to improve their quality of life and socialization into our society.

Thank you for consideration of this issue

Sincerely,

*Linda Woytassek, COTA/L*  
Linda Woytassek, COTA/L

*Attached - LAL BRAATEN*