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DESCRIPTION

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Operator's Signature

LaCosta Rickford

Date

10/15/03

2003 SENATE HUMAN SERVICES

SB 2086

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 14, 2003

Tape Number	Side A	Side B	Meter #
1		X	1126 - 3443
Committee Clerk Signature <i>Donna Kramer</i>			

Minutes:

SENATOR JUDY LEE opened the Public Hearing on SB 2086. This bill is relating to the purchase of services provided to individuals with developmental disabilities and allowing providers of services to individuals with developmental disabilities to transfer funds between budget categories and line items; and to provide an effective date. Fiscal note attached.

ROBBIN HENDRICKSON, testified in place of Gene Hysjulien of the Department of Human Services. (Written testimony attached) (Meter # 1222 -1649) He provided an explanation of the proposals.

SENATOR FISCHER: Was this legislation given to the providers prior to its being introduced?

ROBBIN HENDRICKSON: Not to my knowledge.

SENATOR FISCHER: I am wonder about Section 50-06-18. Could you explain that?

ROBBIN HENDRICKSON: Provides for provider flexibility in use of funds budgeted to them.

Prior to establishing that section, providers were held a certain line item costs in their budgets

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Lacosta Rickford 10/15/03
Operator's Signature Date

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date January 14, 2003

and in the final settlement of rates. But, with the inception of that, they are allowed to move funds within line items.

SENATOR FISCHER: What was the reason for taking that out? I attended those meetings and I don't remember that being discussed.

ROBBIN HENDRICKSON: That section would be repealed effective July 1, 2005 with the inception of the new fee for service system and it really wouldn't be necessary. (See Meter # 1866)

SENATOR LEE: Just for the benefit of committee in looking at repealers, on page 4 where it talks about the repeal of 25-16-10, Century Code Section about care for developmentally disabled, relates to purchase of services. So, it allows for private providers. So it would be repealed under this?

ROBBIN HENDRICKSON: No, it would not. It simply consolidates that section from another section into this section. (Meter #1953)

SENATOR LEE: And 25-16-15 ... has that been replaced in here somewhere?

ROBBIN HENDRICKSON: No, it isn't.

SENATOR LEE: Okay, that one is repealed. (Meter # 1979)

And 25-16-10.1 is the maximum annual return on investment. That is repealed, also?

ROBBIN HENDRICKSON: That is repealed with the repeal effective July 1, 2005.

SENATOR LEE: And 25-16-16 order compensation for services provided.

ROBBIN HENDRICKSON: That section is reincorporated and repealed from a different section. (Meter #2083)

Page 3

Senate Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date January 14, 2003

SENATOR LEE: And 50-06-18, the Department of Human Services will allow providers transfer funds received between budget categories and line items. So, was that put somewhere else? (Meter # 2148)

ROBBIN HENDRICKSON: No, it isn't.

TOM NEWBERGER, President of the North Dakota Association of Community Facilities, testified in support of SB 2086, but proposed changes to the bill. (Written testimony provided, also attachment with proposed changes or amendments) (Meter #2300 - 2895)

JON LARSON, Executive Director of Enable, Inc. testified in support of the bill. (Written testimony provided) (Meter #3004 - 3162)

JACK MCDONALD, testified in behalf of ARC, in support of the proposed amendments.

(Written testimony provided) (Meter # 3210 - 3245)

SENATOR FISCHER: I would like to make one comment as far as people who have worked on this. There have been a lot of people who have worked very hard in the last years putting this together from the Department and the providers. I expect that this will move along and in the next two years provide a reimbursement system that will be beneficial, not only to the state of North Dakota but to the people who have been provided services.

No further testimony.

Public Hearing closed on SB 2086. (Meter # 3443)

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Human Services Committee

☐ Conference Committee

Hearing Date January 22, 2003

Tape Number	Side A	Side B	Meter #
1		X	2915 - 4182
Committee Clerk Signature			

Minutes:

SENATOR JUDY LEE opened the discussion on SB 2086 regarding services for developmental disabilities. This bill follows up on SB 2307 in the last session.

SENATOR FISCHER indicated he had amendments done on the implementation of rates. He explained what the amendments were and when they will go into effect. This is a prospective budget.

SENATOR FISCHER made a motion to accept the amendments.

SENATOR ERBELE seconded the motion.

Discussion.

Roll call was taken. 5 yes 1 no.

SENATOR BROWN made a motion to do pass and rerefer to Appropriations.

SENATOR FISCHER seconded the motion.

Roll call was taken. 6 yes 0 no.

La Costa Rickford
Operator's Signature

10/15/03
Date

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date January 22, 2003

SENATOR FISCHER will be the carrier. (Meter # 4182)

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Human Services Committee

☐ Conference Committee

Hearing Date April 1, 2003

Tape Number	Side A	Side B	Meter #
1	X		1950 - 2242
Committee Clerk Signature <i>Donna Kramer, Clerk</i>			

Minutes:

SENATOR JUDY LEE opened the committee discussion on SB 2086 relating to rate setting.

SENATOR FISCHER carried the bill.

Committee review of the proposed amendments. ... One amendment removes the existing system from existence.

SENATOR LEE: There was something big that went on this.

SENATOR FISCHER: What happens is they have to put a new reimbursement system together for the DD providers. With this amendment, there is no choice and they said they could do it without this bill. Representative Price went back and modified it so that if the department doesn't do their job, ... there's going to be no reimbursement ~~without~~ at all. ... Dates have been changed ...

NOT CONCUR.

(Meter # 1950 - 2242)

FISCAL NOTE
Requested by Legislative Council
03/28/2003

Amendment to: SB 2086

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						(\$20,848)
Expenditures					(\$22,763)	(\$20,848)
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill creates a new chapter to Title 25 of the North Dakota Century code relating to the implementation of a fee for service rate setting system of payment to Developmentally Disabled providers.

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

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

The reduction in other revenues for the 2005-2007 biennium relates to the federal funds which will no longer be claimed due to the decrease of expenditures.

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

1 FTE will be eliminated from Fiscal Administration - Provider Audit Unit of the Department of Human Services during the 2005 - 2007 biennium. This will result in the following savings:

	General	Other
Salary Line	(21,679)	(19,856)
Operating Line	(1,084)	(992)
Total	(22,763)	(20,848)

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 has no effect on the 2003-2005 biennial appropriation.

Name:	Brenda M. Welsz	Agency:	Dept. of Human Services
Phone Number:	328-2397	Date Prepared:	03/28/2003

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10/15/03
Date

FISCAL NOTE
Requested by Legislative Council
03/26/2003

Amendment to: SB 2086

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$21,000		(\$20,848)
Expenditures			\$21,000	\$21,000	(\$22,763)	(\$20,848)
Appropriations			\$21,000	\$21,000		

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill creates a new chapter to Title 25 of the North Dakota Century code relating to the implementation of a fee for service rate setting system of payment to Developmentally Disabled providers. It also provides for an appropriation to pay a facilitator and/or consultant to aid the workgroup to be established in it's duties.

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

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

The increase in revenues for the 03-05 biennium is from Medicaid funds that are allowed for 50% of the anticipated cost of the facilitator/consultant included in the bill.

The reduction in other revenues for the 2005-2007 biennium relates to the federal funds which will no longer be claimed due to the decrease of expenditures.

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

The bill allows for the hiring of a facilitator/consultant to aid in the duties of the workgroup established in the bill. This will result in increased operating expenditures of \$42,000 total funds; \$21,000 general funds.

During the 2005 - 2007 biennium, 1 FTE will be eliminated from Fiscal Administration - Provider Audit Unit of the Department of Human Services during the 2005 - 2007 biennium. This will result in the following savings: Salary Line (\$21,679) general funds; (\$19,856) other funds; Operating Line (\$1,084) general funds; (\$992) other funds for a total savings of (\$22,763) general funds, (\$20,848) other funds.

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.

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10/15/03
Date

This bill allows for an appropriation of \$21,000 in general funds and \$21,000 of federal funds to pay for a facilitator/consultant to aid in the duties of the workgroup. These expenditures were not included in the Governor's budget, therefore, for the 03-05 biennium, the appropriation would need to be increased \$42,000 in total; \$21,000 in general funds.

Name:	Brenda M. Welsz	Agency:	ND Department of Human Services
Phone Number:	328-2397	Date Prepared:	03/26/2003

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LaCosta Rickford

Date

10/15/03

FISCAL NOTE
Requested by Legislative Council
02/20/2003

Amendment to: SB 2086

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$21,000		(\$20,848)
Expenditures			\$21,000	\$21,000	(\$22,763)	(\$20,848)
Appropriations			\$21,000	\$21,000		

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill creates a new chapter to Title 25 of the North Dakota Century code relating to the implementation of a fee for service rate setting system of payment to Developmentally Disabled providers. It also provides for an appropriation to pay a facilitator and/or consultant to aid the workgroup to be established in it's duties.

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

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

The increase in revenue for the 03-05 biennium is from Medicaid funds that are allowed for 50% of the anticipated cost of the facilitator/consultant included in the bill.

The reduction in other revenues for the 2005-2007 biennium relates to the federal funds which will no longer be claimed due to the decrease of expenditures.

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

The bill allows for the hiring of a facilitator/consultant to aid in the duties of the workgroup established in the bill. this will result in increased operating expenditures of \$42,000 total funds; \$21,000 general funds.

During the 2005 - 2007 biennium, 1 FTE will be eliminated from Fiscal Administration - Provider Audit Unit of the Department of Human Services. This will result in the following savings: Salary Line (\$21,679) general funds, (\$19,856) other funds; Operating Line (\$1,084) general funds, (\$992) other funds for a total savings of (\$22,763) general funds, (\$20,848) other funds.

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 bill allows for an appropriation of up to \$42,000 in general funds to pay for a facilitator/consultant to aid in the duties of the workgroup. The Department anticipates the ability to claim a 50% medical administration match on the proposed appropriation. These expenditures were not included in the Governor's budget, therefore, for the 03-05 biennium, the appropriation would need to be increased \$42,000 in total; \$21,000 in general funds.

Name:	Brenda M. Welsz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	02/20/2003

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FISCAL NOTE
Requested by Legislative Council
01/27/2003

Amendment to: SB 2086

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$100,000		(\$20,848)
Expenditures			\$100,000	\$100,000	(\$22,763)	(\$20,848)
Appropriations			\$100,000	\$100,000		

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill creates a new chapter to Title 25 of the North Dakota Century code relating to the implementation of a fee for service rate setting system of payment to Developmentally Disabled providers. As amended, it also provides for an appropriation to pay a facilitator and/or consultant to aid the workgroup to be established in it's duties.

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

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

The increase in revenue for the 03-05 biennium is from Medicaid funds that are allowed for 50% of the anticipated cost of the facilitator/consultant included in the amendment.

The reduction in other revenues for the 2005-2007 biennium relates to the federal funds which will no longer be claimed due to the decrease of expenditures.

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

The amendment allows for the hiring of a facilitator/consultant to aid in the duties of the workgroup established in the bill. This will result in increased operating expenditures of \$200,000 total funds; \$100,000 general funds.

During the 2005 - 2007 biennium, 1 FTE will be eliminated from Fiscal Administration - Provider Audit Unit of the Department of Human Services. This will result in the following savings: Salary Line \$(21,679) general funds, \$(19,856) other funds; Operating Line \$(1,084) general funds, \$(992) other funds for a total savings of \$22,763 general funds, \$(20,848) other funds.

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 amendment to this bill allows for an appropriation of up to \$200,000 in general funds to pay for a facilitator/consultant to aid in the duties of the workgroup. The Department anticipates the ability to claim a 50% Medicaid Administration match on this proposed appropriation. These expenditure were not included in the Governor's budget, therefore, for the 03-05 biennium, the appropriation would need to be increased \$200,000 in total; \$100,000 general funds.

Name:	Brenda M. Welsz	Agency:	Department of Human Services
Phone Number:	328-2397	Date Prepared:	01/28/2003

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La Costa Rickford 10/15/03
Operator's Signature Date

FISCAL NOTE
 Requested by Legislative Council
 01/03/2003

Bill/Resolution No.: SB 2086

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						(\$20,848)
Expenditures					(\$22,763)	(\$20,848)
Appropriations						

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This bill creates a new chapter to Title 25 of the North Dakota Century code relating to the implementation of a fee for service rate setting system of payment to Developmentally Disabled providers.

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

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The reduction in other revenues for the 2005-2007 biennium relates to the federal funds which will no longer be claimed due to the decrease of expenditures.

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

1 FTE will be eliminated from Fiscal Administration - Provider Audit Unit of the Department of Human Services during the 2005 - 2007 biennium. This will result in the following savings:

	General	Other
Salary Line	(21,679)	(19,856)
Operating Line	(1,084)	(992)
Total	(22,763)	(20,848)

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

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10/15/03
 Date

budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

This bill has no effect on the 2003-2005 biennial appropriation.

Name:	Debra A. McDermott	Agency:	Human Services
Phone Number:	328-3695	Date Prepared:	01/13/2003

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Operator's Signature Date

38204.0101
Title.0200

Prepared by the Legislative Council staff for
Senator Fischer
January 17, 2003

93
1-23-03
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2086

Page 1, line 7, after "Items" Insert "; to provide an appropriation"

Page 1, after line 24, Insert:

"Workgroup - Membership - Facilitator. A workgroup composed of three voting members from the department who are selected by the department and three voting members from the North Dakota association of community facilities who are selected by the association is created. All meetings of the workgroup are open to the public. Subject to legislative appropriations, the workgroup shall hire a facilitator to lead the discussions relative to a new fee-for-service payment system for treatment or care centers and a consultant to perform the financial modeling and evaluation of the current and future payment system. If the workgroup does not receive funding from the legislative assembly for a facilitator, the workgroup shall select one member from the department and one member from the association to serve as cochairmen of the workgroup."

Page 2, line 8, replace "department" with "workgroup"

Page 3, line 1, replace "department" with "workgroup"

Page 3, line 17, replace "or in any fashion that may be permitted by law. Prior to July 1, 2005, the" with ". The workgroup shall establish new protocols and methodologies for transitioning to a new payment system"

Page 3, remove line 18

Page 3, line 19, remove "reasonably necessary"

Page 3, line 29, after the second comma Insert "the"

Page 3, line 30, after "procedures" Insert ", as determined by the workgroup,"

Page 4, line 5, replace "2003-2005" with "2003-04"

Page 4, after line 11, Insert:

"SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general 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 department of human services for the purpose of hiring a facilitator to lead the discussions relative to a new fee-for-service payment system for treatment or care centers and for hiring a consultant to perform the financial modeling and evaluation of the current and future payment system, for the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 4, line 12, replace "is" with "becomes" and after "effective" Insert "on"

Page 4, after line 12, insert:

2 of 2

"SECTION 6. EFFECTIVE DATE. By March 1, 2005, the department shall certify to the legislative council whether the department and the North Dakota association of community facilities reached an agreement by January 1, 2005, on a new fee-for-service system and whether section 50-06-18 is repealed. If the department and the association fail to reach agreement on a new fee-for-service system by January 1, 2005, the system in effect on June 30, 2003, remains in effect and section 50-06-18 is not repealed."

Renumber accordingly

Page No. 2

38204.0101

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10/15/03
Date

Date. 01-22-03
Roll Call Vote #: ~~2086~~ ①

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38204.0101

Action Taken Move to accept amendments

Motion Made By Sen. Fischer Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓	✓			
Senator Michael Polovitz	✓				

Total (Yes) 5 No 1

Absent _____

Floor Assignment _____

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

Date: 01-22-03
Roll Call Vote #: (2)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number As Amended

Action Taken Do Pass & rerefer to Appropriation

Motion Made By Sen. Brown Seconded By Sen. Fischer

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee - Chairman	✓				
Senator Richard Brown - V. Chair.	✓				
Senator Robert S. Erbele	✓				
Senator Tom Fischer	✓				
Senator April Fairfield	✓				
Senator Michael Polovitz	✓				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Sen. Fischer

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

REPORT OF STANDING COMMITTEE (410)
January 24, 2003 9:18 a.m.

Module No: SR-14-1023
Carrier: Fischer
Insert LC: 38204.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2086: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REFERRED** to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2086 was placed on the Sixth order on the calendar.

Page 1, line 7, after "Items" Insert "; to provide an appropriation"

Page 1, after line 24, Insert:

"Workgroup - Membership - Facilitator. A workgroup composed of three voting members from the department who are selected by the department and three voting members from the North Dakota association of community facilities who are selected by the association is created. All meetings of the workgroup are open to the public. Subject to legislative appropriations, the workgroup shall hire a facilitator to lead the discussions relative to a new fee-for-service payment system for treatment or care centers and a consultant to perform the financial modeling and evaluation of the current and future payment system. If the workgroup does not receive funding from the legislative assembly for a facilitator, the workgroup shall select one member from the department and one member from the association to serve as cochairmen of the workgroup."

Page 2, line 8, replace "department" with "workgroup"

Page 3, line 1, replace "department" with "workgroup"

Page 3, line 17, replace "or in any fashion that may be permitted by law. Prior to July 1, 2005, the" with ". The workgroup shall establish new protocols and methodologies for transitioning to a new payment system"

Page 3, remove line 18

Page 3, line 19, remove "reasonably necessary"

Page 3, line 29, after the second comma Insert "the"

Page 3, line 30, after "procedures" Insert ", as determined by the workgroup,"

Page 4, line 5, replace "2003-2005" with "2003-04"

Page 4, after line 11, Insert:

"SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general 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 department of human services for the purpose of hiring a facilitator to lead the discussions relative to a new fee-for-service payment system for treatment or care centers and for hiring a consultant to perform the financial modeling and evaluation of the current and future payment system, for the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 4, line 12, replace "is" with "becomes" and after "effective" Insert "on"

Page 4, after line 12, Insert:

"SECTION 6. EFFECTIVE DATE. By March 1, 2005, the department shall certify to the legislative council whether the department and the North Dakota association of community facilities reached an agreement by January 1, 2005, on a

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January 24, 2003 9:18 a.m.

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new fee-for-service system and whether section 50-06-18 is repealed. If the department and the association fail to reach agreement on a new fee-for-service system by January 1, 2005, the system in effect on June 30, 2003, remains in effect and section 50-06-18 is not repealed."

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

SR-14-1023

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Operator's signature

La Costa Rickford

Date

10/15/03

2003 SENATE APPROPRIATIONS

SB 2036

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 1-31-03

Tape Number	Side A	Side B	Meter #
1	X		2156 -4751
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes: Chairman Holmberg opened the hearing to SB 2086. Bill relating to the implementation of a fee for service ratesetting system for payment to treatment of care centers for individuals with developmental disabilities. Chairman Holmberg stated this bill will be further reviewed with the human services subcommittee. There is revised appropriation fiscal notes. (Meter 2158) Mark Kolling, Department of Human Service speaking for Gene Hysjulien (reading Gene's testimony): See written testimony Exhibit 1. (Meter 2942) Chairman Holmberg: Was that a concept that was part of the discussion in human services or was there primary focus on appropriating the money? (Meter 2970) Mark Kolling: The discussions in the human services committee dealt more with two areas: 1. The amendments. 2. The areas of century code that are recommended for repeal or movement. (Meter 3013) Senator Christmann: Who are the people who do not like this plan? (Meter 3035) Mark Kolling: My recollection is one provider that was opposed to the recommendation going to a fee-for-service - that was a provider from Minot. Another provider was not opposed but had some reservations. (Meter 3108) Senator Christmann: It does not have

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10/15/03
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2086

Hearing Date 1-31-03

some big adverse impact on those providers? (Meter 3135) Mark Kolling: It wasn't a big negative impact, it is just going to be a change. A change in the way providers conduct the financial end of their business. Right now providers are more comfortable or accepting than others. He elaborated on some of the providers feelings on the new system. (Meter 3326)

Senator Thane: Profit or nonprofit does that limit services? (Meter 3416) Mark Kolling: That particular section is already existing in Century Code. It has been in Century code since 1991 and has a 1993 sunset clause. (Meter 3625) Jon Larson, Enable, Inc.: See written testimony Exhibit 2. He summarized the fee-for-service payment system now available is 20 years old. (Meter 4026)

Senator Mathern: Do your providers believe you need two hundred thousand to get the details worked out here? How do you folks feel about that? (Meter 4084) Jon Larson: The two hundred thousand dollars isn't a magical number, no bids have been thought. In trying to figure out what would be an appropriate bid, we looked at history and we discovered that at 10 years ago the long term care association went through this and hired a consultant to help them. The two hundred thousand seems like a lot of money. We want to make sure that this bill passes even if it doesn't have an appropriation, there may be a smaller amount, that would be helpful. As I mentioned in my testimony, we are prepared to do it without any money. We just feel to have some money to allow us to hire somebody from the outside may add credibility to the whole process. (Meter 4238) Senator Andrist: That would make an interesting study for a concept for nursing home because they are all complaining they are being flooded under paperwork. Do we have any knowledge or information to why this concept broke down when it was studied for possible implantation for nursing homes? (Meter 4317) Dave Zentner: When we talk about paperwork, I think nursing home complaints with the paperwork deals with standards that are established that

Page 3
Senate Appropriations Committee
Bill/Resolution Number SB 2086
Hearing Date 1-31-03

they have to follow and documentation of good records. (Meter 4537) Senator Andrist: You don't feel that a fee-for-service system for nursing homes would necessarily streamline the operation? (Meter 4560) Dave Zentner: These are similar DD system, we use a base period to establish the limits we have and the differences are they submit cost reports, and we do use those reports to establish rates. Currently the DD system you go in after the fact and determine whether indeed, they have spent what they said they were going to do. There might be a cost settlement where they may have to pay money back. In the nursing home system, they don't do that. They have to live with the rate set.

(Meter 4751) Chairman Holmberg closed the hearing on SB 2086.

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086 vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-18-03

Tape Number	Side A	Side B	Meter #
1		XX	3021 - 3660
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Holmberg opened the hearing to vote on SB 2086. This bill is relating to implementation of a fee for service ratesetting system for payment to treatment or care centers for individuals with developmental disabilities; Relating to the purchase of services provided to individuals with developmental disabilities and allowing providers of services to individuals with developmental disabilities to transfer funds between budget categories and line items; and to provide an effective date. (Meter 3055) Chairman Holmberg asked the subcommittee if they came to any recommendations. Directed the committee to refreshed their memories of the bill. (Meter 3195) And asked Celeste about the fiscal note of the bill. (Meter 3209) Allen Knudson, LC: There was a directive from the last legislature that Human Services and the DD providers get together and come out with a recommendation on how to reimburse them and this is the results of that work. If you look on the very back page, it doesn't become effective until 2005. There is no impact for this blennium. (Meter 3272) Senator Bowman moves a DO PASS and Senator Kilzer seconded. (Meter 3281) Chairman Holmberg asked for any discussion. (Meter 3290)

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10/15/03
Date

Page 2

Senate Appropriations Committee
Bill/Resolution Number SB 2086 vote
Hearing Date 2-18-03

Senator Krauter: Why is there a fiscal note then? I have hear some concerns from the DD providers and so why is there a fiscal note if it doesn't become effective until the next biennium?

(Meter 3308) Allen Knudson: I believe what the fiscal note relates to some of the administrative costs that they need to get in place to have this take effect in July. I'm sorry, the bill provides for a facilitator to work with the DD providers in the department to finalize the new reimbursement system. That is what the funding is for. An individual to do that. (Meter 3390) Senator Mathern:

If there is a general funds of \$100,00, and its not in the governor's budget. If the Department wants it done and the providers want it done, we should probably ask if there is there any new information regarding the cost, just in case. I would suggest we ask Mr. Larson if he had found any consultants and what the price tag is and if it is less, we amend it on this bill (Meter 3496)

Jon Larson, Enable: We did look at this and the original request was for \$200,00 and believe it was \$100,000 implication for the general fund. It's hard to come up with a concrete number, we did do some research and tried to come up with a number that had a little bit more meaning for you. And the number we came up with was \$42,000, I know it is drastically less than what we asked but we know that times are tough and we wanted to accommodate. The \$42,00 basically we feel we are told by the Department that in the second year of implementation we would be able to cut 1 department auditor and the fiscal note to that was \$42,000. That is really kind of the least number we thought we would still be useful in achieve our cost. That money would be used not only to hire a facilitator but to hire a consultant to crunch the numbers. There is considerable work to be done. We think that as providers and representatives of the Department we can do much of the work but we thought an outside consultant would really add credibility to the numbers we come up with. So a revised a request from the providers, would be \$42,000 and am

La Costa Rickford
Operator's signature

10/15/03
Date

Page 3
Senate Appropriations Committee
Bill/Resolution Number SB 2086 vote
Hearing Date 2-18-03

not sure what the Department wants. (Meter 3666) Senator Bowman made a motion to amend the bill to \$42,000. (Meter 3675) Allen Knudson: Right now there is no appropriation in the bill, is it your intent to add an appropriation? (Meter 3686) Chairman Holmberg: I am reading the engrossed bill that appropriates \$200,000. (Meter 3705) Allen Knudson: That is right. (Meter 3711) Senator Bowman: Can we amend that to \$42,000? I move that amendment. (Meter 3722) Chairman Holmberg asked for a second. (Meter 3746) Allen Knudson asked for clarification if the \$42,000 is the general fund share or the total? (Meter 3761) Chairman Holmberg asked again to Jon Larson: Is that the total or just the general fund? Because right now we are appropriating in the bill is \$200,000 of general funds for it and there is some federal fund money and now you are saying you can do it for \$42,000. (Meter 3781) Jon Larson: It is my understanding was that the \$200,000 was the total and that the \$42,000 would be total. So if that is \$21,000 general funds, I'm not sure of that. (Meter 3814) Seconded by Senator Krauter. A voice vote passed. (Meter 3835) Senator Bowman moves a DO PASS AS AMENDED and Senator Krauter seconded. A roll call vote was taken resulting in 12 yeas, 0 nays and 1 absent (Senator Grindberg). (Meter 3890) Chairman Holmberg assigned Senator Lindaas to carry the bill on the Senate floor. Senator Lindaas just to carry the amendments, the Human Services committee will carry the bill, Senator Fischer. (Meter 3926) Chairman Holmberg closed the hearing to SB 2086.

LaCosta Rickford
Operator's Signature

10/15/03
Date

38204.0201
Title.0300

Prepared by the Legislative Council staff for
Senate Appropriations
February 18, 2003

JG3
2-19-03

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2086

Page 4, line 24, replace "\$200,000" with "\$21,000"

Page 4, line 25, after the comma insert "and \$21,000 of special funds derived from federal funds"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment changes the appropriation included in the bill from a \$200,000 general fund appropriation to a \$21,000 general fund appropriation and \$21,000 special funds appropriation to the Department of Human Services for hiring a facilitator and a consultant relating to a new fee-for-service payment system for treatment or care centers.

Amended
Bowman-Krauter
voice vote pass

Date: 2/18/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2086

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS

Motion Made By Bowman Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair					
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 12 No _____

Absent 2

Floor Assignment Amend Lindaas Fischer

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

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10/15/03
Date

REPORT OF STANDING COMMITTEE (410)
February 19, 2003 11:22 a.m.

Module No: SR-32-3271
Carrier: Lindaas
Insert LC: 38204.0201 Title: .0300

REPORT OF STANDING COMMITTEE
SB 2086, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2086 was placed on the Sixth order on the calendar.

Page 4, line 24, replace "\$200,000" with "\$21,000"

Page 4, line 25, after the comma insert "and \$21,000 of special funds derived from federal funds"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment changes the appropriation included in the bill from a \$200,000 general fund appropriation to a \$21,000 general fund appropriation and \$21,000 special funds appropriation to the Department of Human Services for hiring a facilitator and a consultant relating to a new fee-for-service payment system for treatment or care centers.

2003 HOUSE HUMAN SERVICES

SB 2086

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10/15/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

House Human Services Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
1	x		54.3 - 61.7
		x	0.0 - 10.5
Committee Clerk Signature <i>Sharon Penzance</i>			

Minutes:

Mark Kolling, Dept. of Human Services appeared in support with written testimony.

Rep. Price: Did the Dept. do any assessment of what the biennium cost? No

Rep. Devlin: How safe are the trust funds?

Answer: The trust fund would be established would start beginning July 1, 2005, so there is none at this point and time. In the terms of dollar value, the bill speaks to 2/10's of 1% of the general fund.

Rep. Devlin: had concerns with withdrawals and not deposits.

Rep. Price: Section 6, the effective date, why 2 months after the drop dead date? doesn't know.

Concerns with reaching agreement, the time frames is what I'm concerned about.

Answer: Agreement as of January 1st.

John Larson, Executive Director of Enable, Inc., appeared in support with written testimony.

Gave explanation of present system.

Page 2

House Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date March 11, 2003

Rep. Price: If unforeseen things happen you do have a chance to recover additional money?

Yes, through negotiation.

Jack MacDonald, ARC of North Dakota appeared in support stating they also support the request for a new provider system. Regarding the March 1st deadline, I believe the understanding was to give time for the Legislature to address the situation a little further.

No opposition, closed hearing.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2086

House Human Services Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
1	X		5447-end
1		X	0-1057
Committee Clerk Signature <i>Elizabeth R. Liller</i>			

Minutes: **Chair Price:** Opens hearing on SB 2086

Mark Kolling (Dept. of Human Services): Supports with written testimony.

Rep. Price: Did the Dept. do any assessment? Any cost estimate? Kolling did not know.

Rep. Devlin: How safe are the trust funds? Kolling said the trust would start July of 2005.

Dollar value would be 2/10s of 1% from the general fund. Federal funds cannot go into the fund.

Rep. Devlin said he is more concerned with withdrawals, not the deposits. How will it be protected? Kolling said those details have not been worked out. The work group on page 2 of the bill speaks to that area, with many of the details that need to be worked out.

Rep. Price: Concerning the effective date, why two months after the drop dead date? Kolling does not know. Language was put in by Senate Human Services. Price's concern is with time frames. Kolling said the bill is suggesting an agreement on January first with effective date of March 1.

Page 2

House Human Services Committee

Bill/Resolution Number 2086

Hearing Date March 11, 2003

Rep. Price: The rates of section 1 would be set by the Center based on historical cost. Kolling said he does not think so. This is a detail the work group needs to look at.

Jon Larson (Exec. Dir. of Enable, Inc.): Supports with written testimony.

Rep. Price: Would you like to explain your system. Larson said it is a complicated system. He has been working with it for 20 years and he is not sure he even understands it all. In the present system, they negotiate with the Dept. of Human Services a rate based on client needs, historical costs, and a number of other factors. In that system, a target number is agreed upon that includes all budgeted programs. A fee is set for an individual based on client needs. Not familiar with extended services. In the budgeted programs, a rate is developed that is an interim rate. Bill the Dept. based on the units of service provided. Because it is an interim rate, the actual rate is not determined until August. Sometimes they do not know the final rate until a year after. Once the final rate is determined, the payment is adjusted.

Rep. Price: What if occupancy is only 90%? Larson said they put in cost saving measures so they don't spend all of their dollars in case some has to go back to the Dept. There is room for negotiation. Price then asked if something does happen, if they get the opportunity for additional funds. Larson said that yes, they do, through negotiations.

Jack MacDonald (ARC of ND): Supports. In response to Price's earlier question about the March 1st deadline, MacDonald said he understands it that the time was built in to give time for the legislature to review if needed.

Rep. Price: What if they don't reach an impasse and they agree, how do we deal with the change if we don't know until March 1st? MacDonald said he does not know.

Chair Price: Closed hearing on SB 2086.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2086

House Human Services Committee

☐ Conference Committee

Hearing Date March 17, 2003

Tape Number	Side A	Side B	Meter #
2		X	120-1600
Committee Clerk Signature <i>Elizabeth R. Fein</i>			

Minutes: **Chair Price:** Opened discussion on SB 2086.

Rep. Price: As background, last session there was SB 2307, which basically changed the way in which they reimburse DD providers. The bill was turned into a study. During the interim, they debated where they wanted to go with reimbursement and how they would do it. Providers have opinions on what different systems would or would not do. They picked a couple providers from each side to see if they could come up with consensus. This did not happen. This bill is asking to hire a facilitator and \$21,000 of state funds to go through the process again. Currently under the system, the audits do not happen in a timely fashion. If you get to the end of the time period and it costs less than you were paid, the money goes back to the Dept.. If it costs more, you can get some additional funds from the Dept.. if you go to the system they proposed during the interim and it costs more than what was negotiated, the provider has to eat it. Discussion in the interim, there could be as many as 25% of the providers could be in financial trouble, depending on how they manage their funds. What they are asking is to make some changes. Price does not like the

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10/15/03
Date

Page 2

House Human Services Committee

Bill/Resolution Number 2086

Hearing Date March 17, 2003

March 1, 2005 date because the session is half over by then. By Jan. 1st the chairman has other things to do than to negotiate whether or not they have an agreement.

Rep. Kreidt: What was the main complaint under negotiating? Rep. Price said they do not understand the system. They are looking for something different.

Rep. Price: Has a bias with this bill because her facility works well under the current system. But they have a fantastic CFO. But not all are like that. Either way it goes, she has a problem with the effective date. She questions the timing.

Rep. Welsz: Who are the winners and who are the losers? Rep. Price said the winners will be those who negotiate a rate and are cost effective. All facilities will end up negotiating a separate rate. Losers are those that do not do a good job negotiating a rate. Things like a huge jump in wages or an increase in liability insurance could negatively impact them.

Rep. Niemeler: Now they have a retrospective system? Seems like it would be hard to turn that around. Aren't there changing client needs? Or do they just have to make a judgment? Rep. Price hopes it would not come down to them looking at what clients they admit. They do not want homes to keep beds open in order to get the right paying client.

Rep. Welsz moved a DNP. 2nd by **Rep. Pollert**

Rep. Amerman: Is there a down side to the individual? Or is it just to the centers that provide the service? Price does not think anyone is denied services right now, at least not that she is aware of. The bigger issue is staffing.

Rep. Niemeler: Which system is more advantageous for staffing concerns? Does it affect that at all? Price said she would hope not. Would hope they can't cut staff when they get halfway

Page 3

House Human Services Committee

Bill/Resolution Number 2086

Hearing Date March 17, 2003

through the year and they realize their projections are off., Not sure if they have staffing ratios they need to follow.

Rep. Niemeler: Would think this is a huge concern out in the state with the DD staff. Rep.

Price is concerned that there are some that could not make the new system work. We can't lose those providers.

Rep. Niemeler: The facilitator would then be in charge of determining the amount? Price said the facilitator is in charge of bringing the Dept. and facilities together on how they would build this system. The Dept. has spent hundreds of hours in the last biennium in meetings with these groups. The Dept. has put a lot of time into this already.

Vote: 10 Yes 2 No 1 Absent and not voting

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

House Human Services Committee

☐ Conference Committee

Hearing Date March 24, 2003

Tape Number	Side A	Side B	Meter #
1	x		6.1 - 46.0
Committee Clerk Signature <i>Sharon Longfellow</i>			

Minutes: Committee work.

Rep. Price had some amendments drafted and handed out. Two pieces came of me and one piece came from Rep. Devlin. The first piece on Section 6, spoke with the Dept. on the dates and if we put the date such as in the proposed amendment that would give the time to make the necessary adjustments to the budget. Otherwise the budget for DD providers have already been through the first house before this certification is either required. But by moving up the dates, they could still make the reports to the interim committee, the Dept. would have time to make the adjustments to the budget as needed and the bill from the Dept. would have time to be entered in so it would be in the pre filed bills and could be in front of the Legislature in a timely fashion, so that's the reason for the changes in the dates. Page 4 under rule making authority from the Dept., line 9, those proposed language changes came from Rep. Devlin.

Page 2

House Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date March 24, 2003

Rep. Devlin: I just thought the original language was so cumbersome, all we wanted them to add was the ability to adopt them as an emergency rule making it necessary to meet their time lines but still go through the process. It didn't take away any of the oversight.

Rep. Price: The one on page 2, the group is 3 and 3, so the proposal is to add one more member so that the group would not be deadlocked. Just to have someone appointed by the governor, knows specifics as to who it is or what any it could be, someone's position it could be whatever. But someone to break the tie.

Rep. Porter made a motion to reconsider previous action of DO NOT PASS, second by Rep.

Niemeier. VOTE: 13 - 0 - 0 Passed

Rep. Niemeier: Further explanation on page 5, the date situation, wants clarified.

Rep. Price: By these dates we are already into the next Legislative session by half way and if we move that date up to October 1st, that they are moving ahead or not going to do it. Then the Dept. has time to change the budget.

John Larson, Enable Inc. states that his understanding is if this bill should become effective, the rule making process can take place. We were concerned that if there wasn't an agreement reached that we didn't want to lose flexibility that's stated in 50-06-18. So it would need to be repealed it would be redundant if we go with the new payment system, but if we stay with the payment system that we currently have, because we failed to reach an agreement.

John Larson, the rule only comes into play if the facility that's going to be sold is less than 20 yrs old, the Dept. would recapture 10% of the depreciation. Most facilities in ND most needy group homes are reaching nearing that 20 yr. point.

Rep. Price: And you want immediate repeal also of the maximum annual return on investments?

Page 3
House Human Services Committee
Bill/Resolution Number SB 2086
Hearing Date March 24, 2003

Answer: Yes, that was the Depts. wish and one of our members would be affected by this.

Rep. Porter: Don't you think that by leaving the language in there, it kinda brings the Dept. to the table since this has been such a long and ongoing and drawn out process to get this finally straightened out, it kinda makes them come to the table to get it fixed and keep it fixed.

Rep. Niemeier: page 2, lines 18 and 19, is that line redundant with the compensation limits that are farther down on the page or what is the reasoning there?

Rep. Price: What I know about that is just instead of saying what the fee system is going to look like, to just leave it open, so that the work group can do whatever they agree on in the end.

Rep. Kreidt: Why do these places owe the state money? Answer; the Dept. would say they don't have enough manpower.

Rep. Porter: motioned to move the amendments .301, second by Rep. Potter. VOTE: 13-0-0

Rep. Weisz: moved amendment on page 5, section 6 will stop on line 3 after the word system there will be a period and the remainder is deleted., second by Rep. Porter.

Rep. Porter: If they don't reach agreement, by repealing current fee schedule, the DD's won't get paid and technically the Dept. could just stop paying the DD's.

VOTE; 13-0-0 Passed

Rep. Porter motioned a DO PASS as Amended and re-refer to Appropriations, second by Rep.

Kreidt. VOTE: 12-1-0 Rep. Weisz will carry the bill.

Date: March 17, 2003
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2086

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep Weisz Seconded By Rep Pollert

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price - Chair	✓		Rep. Sally Sandvig		✓
Rep. Bill Devlin, Vice-Chair	✓		Rep. Bill Amerman		✓
Rep. Robin Weisz	✓		Rep. Carol Niemeier	✓	
Rep. Vonnie Pietsch	✓		Rep. Louise Potter	✓	
Rep. Gerald Uglem	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter <i>A</i>					
Rep. Gary Kreidt	✓				
Rep. Alon Wieland	✓				

Total (Yes) 10 No 2

Absent 1

Floor Assignment Rep. Weisz

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

REPORT OF STANDING COMMITTEE (410)
March 18, 2003 11:15 a.m.

Module No: HR-48-5014
Carrier: Welaz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2086, as reengrossed: Human Services Committee (Rep. Price, Chairman)
recommends **DO NOT PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
Reengrossed SB 2086 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-48-5014

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LaCosta Rickford
Operator's Signature

10/15/03
Date

38204.0301
Title.

Prepared by the Legislative Council staff for
Representative Price
March 24, 2003

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2086

Page 2, line 3, after "of" insert "one voting member appointed by the governor,"

Page 2, line 4, after the second "department" insert a comma

Page 2, line 18, remove "Fees for services must be based on"

Page 2, remove line 19

Page 4, line 12, remove "as interim final rules without the"

Page 4, line 13, replace "approval of the governor and without a finding that" with "through the",
replace "is" with "process, if", and remove "Any"

Page 4, remove lines 14 and 15

Page 4, line 17, remove "quarterly"

Page 5, line 1, replace "March 1, 2005" with "October 1, 2004"

Page 5, line 2, replace "North Dakota association of community" with "service providers"

Page 5, line 3, remove "facilities" and remove "by January 1, 2005,"

Page 5, line 4, replace "association" with "service providers"

Page 5, line 5, remove "by January 1, 2005,"

Renumber accordingly

38204.0302
Title.0400

Adopted by Human Services Committee
March 24, 2003

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2086

Page 2, line 3, after "of" insert "one voting member appointed by the governor,"

Page 2, line 4, after the second "department" insert a comma

Page 2, line 18, remove "Fees for services must be based on"

Page 2, remove line 19

Page 4, line 12, replace "as interim final rules without" with "through"

Page 4, line 13, remove "approval of the governor and without a finding that", replace "is" with "process, if", and remove "Any"

Page 4, remove lines 14 and 15

Page 4, line 17, remove "quarterly"

Page 5, line 1, replace "March 1, 2005" with "October 1, 2004"

Page 5, line 2, replace "North Dakota association of community" with "service providers"

Page 5, line 3, remove "facilities", remove "by January 1, 2005,", and replace "and" with a period

Page 5, remove lines 4 through 6

Renumber accordingly

Page No. 1

38204.0302

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Operator's Signature

LaCosta Rickford

Date

10/15/03

Date: March 7, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB ~~2000~~ 2086

House HUMAN SERVICES Committee

☐ Check here for Conference Committee**Legislative Council Amendment Number**

Action Taken

Motion Made By

Seconded By Rep Kreidt

[illegible]

Total	(Yes)	12	No	1
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Absent 0

Floor Assignment Reo Weiss

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

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Date _____

REPORT OF STANDING COMMITTEE (410)
March 25, 2003 8:26 a.m.

Module No: HR-53-5621
Carrier: Welaz
Insert LC: 38204.0302 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2086, as reengrossed: Human Services Committee (Rep. Price, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS,
1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed SB 2086 was placed on the
Sixth order on the calendar.

Page 2, line 3, after "of" insert "one voting member appointed by the governor,"

Page 2, line 4, after the second "department" insert a comma

Page 2, line 18, remove "Fees for services must be based on"

Page 2, remove line 19

Page 4, line 12, replace "as interim final rules without" with "through"

Page 4, line 13, remove "approval of the governor and without a finding that", replace "is" with
"process, if", and remove "Any"

Page 4, remove lines 14 and 15

Page 4, line 17, remove "quarterly"

Page 5, line 1, replace "March 1, 2005" with "October 1, 2004"

Page 5, line 2, replace "North Dakota association of community" with "service providers"

Page 5, line 3, remove "facilities", remove "by January 1, 2005,", and replace "and" with a
period

Page 5, remove lines 4 through 6

Renumber accordingly

2003 HOUSE APPROPRIATIONS

SB 2086

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La Costa Rickford
Operator's Signature

10/15/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-25-03

Tape Number	Side A	Side B	Meter #
1	X		37.6 - 50.0
Committee Clerk Signature <i>Chris J. Nyhus</i>			

Minutes:

Chairman Svedjan Opened SB 2086 for discussion. A quorum was present.

Rep. Price Introduced the bill. We amended the bill but did not change the appropriation. It was put in by the department to look at putting in a new reimbursement system. This bill is to hire a facilitator to work with three people from the department and three people from the DD providers to come up with a solution. We also chose a tie breaker to prevent deadlocks.

Chairman Svedjan If you have added a tie breaker, why do you need money to hire a facilitator?

Rep. Carlisle Why do you need to pay some body?

Rep. Aarsvold Recently I was made aware that the agency that is Human Services and the providers are in almost unanimously in agreement with the compromised position developed over the last couple of years. Is that correct?

Rep. Price Sen. Fischer said no.

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2086

Hearing Date 03-25-03

Rep. Aarsvold Was the opposition agency or provider?

Rep. Price Agency.

Rep. Delzer Whatever process we agree on, will it go in front of the legislature?

Rep. Price Its too late when the legislature reconvenes.

Rep. Carlisle I move to take out the appropriation. 2nd by Rep. Skarphol.

Rep. Warnke With the retrospective system the way it is now and with how DD providers are reimbursed now, they are paid 105% of their costs. They are then audited, then they pay back to the state the overpayment. We are about 3 years behind in their audits. I think this will save money. You don't pay out those initial costs in the beginning and you are allowing your providers to budget. The problem is 3 years behind, the DD doesn't find out about mistaken practices and are assessed 3 years of penalties. Its a horrible system and we need to do something about it.

Motion Carries

Rep. Kempenich I move a Do Pass As Amended. 2nd by Rep. Warnke.

Motion Carries 19-0-4. Rep. Weisz will carry this bill.

REPORT OF STANDING COMMITTEE (410)
March 26, 2003 1:26 p.m.

Module No: HR-54-5813
Carrier: Weisz
Insert LC: 38204.0303 Title: .0500

REPORT OF STANDING COMMITTEE

SB 2086, as reengrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). Reengrossed SB 2086 was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the House as printed on page 1025 of the House Journal, Reengrossed Senate Bill No. 2086 is further amended as follows:

Page 1, line 7, remove "to provide an appropriation;"

Page 4, remove lines 23 through 29

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment removes the \$21,000 general fund appropriation and \$21,000 special funds appropriation provided to the Department of Human Services for hiring a facilitator and a consultant relating to a new fee-for-service payment system for developmental disabilities services providers.

2003 SENATE HUMAN SERVICES

CONFERENCE COMMITTEE

SB 2086

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Operator's Signature

Lu Costa Rickford

Date

10/15/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2086

Senate Human Services Committee

☒ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter #
1	X		1173 - 2134
Committee Clerk Signature <i>Donna Kramer, Clerk</i>			

Minutes:

SENATOR FISCHER opened the conference committee for SB 2086 regarding rate setting.

Roll call was read. Members present were: Senator Fischer, Senator Fairfield, Senator

Brown, Representative Price, Representative Potter and Representative Kreidt.

REPRESENTATIVE PRICE explained the changes that had been made by the House.

.... Odd number of people on the group ... take out any requirements - don't put on any restrictions cleaner way of handling rule making effective date change - moved date up.

SENATOR FISCHER: The member that the governor selects?

REPRESENTATIVE PRICE: No restrictions.

REPRESENTATIVE POTTER: On the appropriations being taken out, will there still be a facilitator?

SENATOR FISCHER: During the last interim, from SB 2307, the Department and the Association really facilitated their own meetings. Doesn't have a big effect.

Page 2

Senate Human Services Committee

Bill/Resolution Number SB 2086

Hearing Date April 8, 2003

REPRESENTATIVE PRICE: Stated language moved around.

Continued discussion with **SENATOR FISCHER** regarding reimbursement commitment.

SENATOR BROWN: Moved to accede to House amendments.

SENATOR FAIRFIELD seconded the motion.

Roll call was read. 6 yeas 0 nays. Motion carried.

Meeting adjourned. (Meter # 2125)

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LaCosta Rickford
Operator's Signature

10/15/03
Date

Date: 04-08-03
Roll Call Vote #: ①

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2086

Senate _____ Committee _____

☒ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Senate accedes to House Amendments

Motion Made By Sen. Brown Seconded By Sen. Fairfield

Senators	Yes	No	Representatives	Yes	No
Senator Fischer	✓		Representative Price	✓	
Senator Fairfield	✓		Representative Porter <u>Porter</u>	✓	
Senator Brown	✓		Representative Kreidt	✓	

Total (Yes) 6 No 0

Absent _____

Floor Assignment _____

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

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LaCosta Rickford
Operator's Signature

10/15/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 9, 2003 3:38 p.m.

Module No: SR-64-7217

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SB 2086, as reengrossed: Your conference committee (Sens. Fischer, Brown, Fairfield and Reps. Price, Kreidt, Potter) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1006 and place SB 2086 on the Seventh order.

Reengrossed SB 2086 was placed on the Seventh order of business on the calendar.

La Costa Rickford
Operator's Signature

10/15/03
Date

2003 TESTIMONY

SB 2086

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La Costa Rickford
Operator's Signature

10/15/03
Date

Testimony on SB 2086
Senate Human Services Committee
January 14, 2003

Chairman Lee and members of the Senate Human Services Committee, my name is Jon Larson. I am the executive Director of Enable, Inc., a private, non-profit agency serving people with developmental disabilities in Bismarck and Mandan. I am here in support of SB 2086.

SB 2086 is the result of at least two years of work by many people. While there are many details of a new payment system yet to be determined, basic philosophies and strategies have been agreed upon. We are now ready to put the many details of a fee-for-service provider payment system together to build a model and test the new system. SB 2086 allows us to do this.

The present provider payment system has been in place for nearly 20 years. It has been modified several times but it still is a retrospective system with complicated rules and audit requirements. Nearly 15 years ago, a separate process for contracting for services was created. The Individual Supported Living Arrangement (ISLA) program was created. The ISLA payment model has worked in providing a flexible, yet efficient process for addressing the unique needs of individuals living in their communities. I believe the new fee-for-service payment system can accomplish similar results in the rest of our programs.

I support the changes to this bill as explained by Tom Newberger. I believe these changes will help to clarify the intent of the bill and give clear direction to the group that will define the new payment process.

Thank-you for this opportunity to testify in support of this bill.

Jon Larson, Executive Director
Enable, Inc.

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LaCosta Rickford
Operator's Signature

10/15/03
Date

January 14, 2003

SENATE HUMAN SERVICES COMMITTEE
SB 2086

CHAIRMAN LEE AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of The Arc. The Arc is an open membership organization made up of people with mental retardation and other related developmental disabilities, their families, friends, interested citizens, and professionals in the disability field.

The Arc of North Dakota has over 1,200 committed members and friends...your neighbors and constituents. In chapters in **Grand Forks, Fargo, Valley City, Jamestown, Bismarck, Dickinson and Bowman.**

Public policy advocacy is an essential component of the Arc movement, and that's why we're here today. Arc members have worked together over the past 50 years to secure family support services, special education, health care, leisure opportunities, vocational training, community housing and other community support services.

The Arc has a number of legislative priorities for the 58th Legislative Assembly. **Our number one priority is to increase the average wage for community provider direct care workers by \$1.50 per hour.** Direct care workers are the key element in providing services to people with disabilities. These are the individuals who have direct involvement with people with disabilities for the better part of the day. Direct care workers are in a position that largely mandates the safety and well being of the people they support. A key component in any success of a state service delivery system will be the quality of the direct care workers.

We support the Department of Human Service's proposals as outlined in SB 2086 to revise the reimbursement system for disability services providers. This system provides a prospective fee for service payment system rather than the current retrospective system.

We also support the proposed amendments worked between the department and the North Dakota Association of Community Facilities

We understand this is a lot to ask. But a lot is needed for North Dakotans with disabilities. If you have any questions, I will be happy to try to answer them. **THANK YOU FOR YOUR TIME AND CONSIDERATION.**

Testimony on SB 2086
Senate Human Services Committee
January 14, 2003

Madam Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on SB 2086 -- a Developmental Disabilities Fee-For-Service payment system. My name is Tom Newberger and I'm President of the North Dakota Association of Community Facilities (NDACF). I am here to testify on their behalf.

NDACF is made up of 26 non-profit and for-profit agencies across the state. Approximately 2,600 FTE's or 4,000 staff work for NDACF member agencies. NDACF members also rely on over 500 volunteers in fulfilling our missions. NDACF provides services to some of the most vulnerable people in the State -- those with mental retardation. Services are delivered to thousands of people in 70 different communities across the state (see attachment #1).

During the 57th Legislative Assembly, SB 2307 was approved which required a new payment system for Developmental Disability service providers. During the interim, members of NDACF worked with the Department of Human Services and other interested groups to determine what a new payment system should look like. After considerable work, a Fee-For-Service payment system was agreed upon. Members of NDACF thank the Department, especially Gene Hysjulien, for securing a firm direction on a new payment system. The Bill in front of us today, SB 2086 continues the work of its' predecessor, SB 2307. Many of the details of a Fee-For-Service payment system need to be worked out. In essence, we have the big picture without the detail.

I am here to support SB 2086, however NDACF proposes the following changes to the Bill:

On line 1 of page 2, insert: "5. A work group will be made up of 3 voting members from the Department of Human Services and 3 voting members from NDACF. Each group will choose their representatives. All meetings will be open to the public. A paid

Senate Bill 2086
NDACF Testimony
January 14, 2002
Page Two

facilitator will be used. If a facilitator is not funded by the legislature, the work group will have co-chairs: one of the work group members from the Department and one of the work group members from NDACF." This change will set up a committee structure to determine the details of a new payment system. Renumber the page accordingly.

On line 8 of page 2, change the word "department" to "workgroup." Again, NDACF would like input into procedures related to interim fees for new providers.

On line 1 of page 3, change the word "department" to "work group." This change allows input from the work group on extraordinary client needs.

On line 17 of page 3, place a period after the word "exists" and strike all remaining language through the words "reasonably necessary" on line 19. Replace this language with "The work group will establish new protocols and methodologies for transitioning to a new payment system" and retain all remaining words on line 19. This changes allows input from the work group. Renumber the page accordingly.

On line 30 of page 3, insert the word "the" in front of "procedures" and after "procedures" insert a comma and then "as determined by the work group," and renumber accordingly. This change again ensures that the work of the work group is used. Renumber the page accordingly.

Insert on line 13 of page 4, "There will be an appropriation of \$200,000 to be used for the purchase of a facilitator who will led the discussions relative to a new payment system. The appropriation will also be used for a consultant to perform the financial modeling and evaluation of the current and future system. The work group will select the facilitator - consultant."

Senate Bill 2086
NDACF Testimony
January 14, 2002
Page Three

Following the above language, a new section would state: "If the Department of Human Services and NDACF are unable to reach an agreement on a new Fee-For-Service system by 1-1-05, the current system remains in effect and 50-06-18 is not repealed.

Madam Chairman, I will be happy to answer any questions.

Thanks you.



Tom Newberger, President

North Dakota Association of Community Facilities

LaCosta Rickford
Operator's Signature

10/15/03
Date

Attachment #1

Where NDACF Members Provide Services:

1-11-03

Abercrombie	Minot
Adams	Minto
Anamoose	Montpelier
Arthur	New Rockford
Belcourt	New Salem
Beulah	New Town
Bismarck	Park River
Bottineau	Pembina
Bowman	St. Thomas
Carrington	Stanley
Carson	Tappen
Casselton	Toga
Cathay	Underwood
Cavaller	Valley City
Center	Wahpeton
Delamere	Watford City
Devils Lake	West Fargo
Dickinson	Williston
Drake	Wilton
Drayton	
Dwight	
Elgin	
Falmont	
Fargo	
Fessenden	
Fordville	
Garrison	
Goodrich	
Grafton	
Grand Forks	
Harvey	
Harwood	
Hazen	
Hebron	
Hettinger	
Hillsboro	
Hunter	
Litchville	
Hurdsfield	
Jamestown	
Killdeer	
Lakota	
LaMoure	
Langdon	
Lidgerwood	
Maddock	
Mandan	
Manfred	
Martin	
Mayville	
McClusky	

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La Costa Rickford
Operator's Signature

10/15/03
Date

TESTIMONY
SB 2086 - DEPARTMENT OF HUMAN SERVICES
SENATE HUMAN SERVICES
JUDY LEE, CHAIRMAN
JANUARY 14, 2003

Chairman Lee, members of the Senate Human Services Committee, I am Gene Hysjullen of the Department of Human Services. I am here today to provide information regarding Senate Bill 2086.

- The fifty-seventh Legislative Assembly of North Dakota passed SB 2307 requiring the department of human services and developmental disabilities services providers to prepare a joint recommendation for consideration by the fifty-eighth legislative assembly regarding a new statewide developmental disability service provider reimbursement system.
- A workgroup was comprised of at least one provider representative from each of the eight human service regions, the regional director from the Southeast Human Service Center, the regional DD program administrator from the West Central Human Service Center, the director of the Protection and Advocacy Project, two legislators (one from the House and one from the Senate), and Department representation from the Executive Office, Medicaid, Developmental Disabilities Unit and Fiscal Administration. Notification of each workgroup meeting was also sent to all DD service providers in case they wished to attend.
- At the initial meeting held on July 9, 2001, four suggested concepts were presented and discussed by the work group. Two of the concepts suggested a major shift to a prospective type payment system, while two others suggested improving the present retrospective payment process. Subsequently, the suggested concepts were consolidated into two proposals. The two consolidated concepts consisted of a prospective or fee for service system that would dramatically depart from the current

method used to pay for DD services and a process that would retain the retrospective rate setting/cost settlement model.

- At the final meeting held October 21, 2002, a consensus of all DD providers was not reached but a strong majority expressed their desire that the department, in cooperation with the DD industry, recommend enabling legislation to develop and implement a fee for service payment system. The fee for service model would be based on allowable, historical costs.

Senate Bill 2086 directs:

- Implementation of a fee for service ratesetting system for payment to treatment or care centers for individuals with developmental disabilities and consolidates some other existing NDCC sections into this new chapter to title 25.
- moves current NDCC section 25-16-16 in regard to limitations on owner compensation to this new chapter.
- repeals NDCC section 25-16-10.1, maximum annual return on investment for profit motivated facilities. Repeal of this section creates equity between non-profit and for profit providers.
- addresses rate setting for services for individuals with extraordinary needs.
- at the recommendation of the provider industry, establishes a trust fund for unforeseeable costs experienced by treatment or care centers, one time improvements, or additional costs associated with providing services to individuals with extraordinary needs.
- provides for a date by which transition is to be accomplished.
- does not apply to state owned or state operated treatment or care centers.

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

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Operator's Signature

L. Costa Rickford

10/15/03

Date

method used to pay for DD services and a process that would retain the retrospective rate setting/cost settlement model.

- At the final meeting held October 21, 2002, a consensus of all DD providers was not reached but a strong majority expressed their desire that the department, in cooperation with the DD industry, recommend enabling legislation to develop and implement a fee for service payment system. The fee for service model would be based on allowable, historical costs.

Senate Bill 2086 directs:

- Implementation of a fee for service ratesetting system for payment to treatment or care centers for individuals with developmental disabilities and consolidates some other existing NDCC sections into this new chapter to title 25.
- moves current NDCC section 25-16-16 in regard to limitations on owner compensation to this new chapter.
- repeals NDCC section 25-16-10.1, maximum annual return on investment for profit motivated facilities. Repeal of this section creates equity between non-profit and for profit providers.
- addresses rate setting for services for individuals with extraordinary needs.
- at the recommendation of the provider industry, establishes a trust fund for unforeseeable costs experienced by treatment or care centers, one time improvements, or additional costs associated with providing services to individuals with extraordinary needs.
- provides for a date by which transition is to be accomplished.
- does not apply to state owned or state operated treatment or care centers.

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

Exhibit 1

TESTIMONY
SB 2086 – DEPARTMENT OF HUMAN SERVICES
SENATE APPROPRIATIONS
RAY HOLMBERG, CHAIRMAN
JANUARY 31, 2003

read by Mark

Chairman Holmberg, members of the committee, I am Gene Hysjullen of the Department of Human Services. I am here today to provide information regarding Senate Bill 2086.

- The fifty-seventh Legislative Assembly of North Dakota passed SB 2307 requiring the department of human services and developmental disabilities service providers to prepare a joint recommendation for consideration by the fifty-eighth legislative assembly regarding a new statewide developmental disability service provider reimbursement system.
- A workgroup was comprised of at least one provider representative from each of the eight human service regions, the regional director from the Southeast Human Service Center, the regional DD program administrator from the West Central Human Service Center, the director of the Protection and Advocacy Project, two legislators (one from the House and one from the Senate), and Department representation from the Executive Office, Medicaid, Developmental Disabilities Unit, and Fiscal Administration. Notification of each workgroup meeting was also sent to all DD service providers in case they wished to attend.
- At the initial meeting held on July 9, 2001, four suggested concepts were presented and discussed by the work group. Two of the concepts suggested a major shift to a prospective type payment system while two others suggested improving the present retrospective payment process.

LaCosta Rickford
Operator's signature

10/15/03
Date

Subsequently, the suggested concepts were consolidated into two proposals. The two consolidated concepts consisted of a prospective or fee for service system that would dramatically depart from the current method used to pay for DD services and a process that would retain the retrospective rate setting/cost settlement model.

- At the final meeting held October 21, 2002, a consensus of all DD providers was not reached but a strong majority expressed their desire that the department, in cooperation with the DD industry, recommend enabling legislation to develop and implement a fee for service payment system. The fee for service model would be based on allowable, historical costs.
- Senate bill 2086:
 - directs implementation of a fee for service rate setting system for payment to treatment or care centers for individuals with developmental disabilities and consolidates some other existing Century Code sections into this new chapter to title 25.
 - moves current Century Code section 25-16-16 in regard to limitations on owner compensation to this new chapter.
 - repeals Century Code section 25-16-10.1, maximum annual return on investment for profit motivated facilities. Repeal of this section creates equity between non-profit and for profit providers.
 - addresses rate setting for services for individuals with extraordinary needs.
 - at the recommendation of the provider industry, establishes a trust fund for unforeseeable costs experienced by treatment or care centers, one time improvements, or additional costs associated with providing services to individuals with extraordinary needs.
 - provides for a date by which transition is to be accomplished.

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10/15/03
Date

- does not apply to state owned or state operated treatment or care centers.

The North Dakota Association of Community Facilities requested amendments to:

- create a workgroup and define its composition,
- provide an appropriation to hire a facilitator to lead the discussions and a consultant to perform the financial modeling and evaluation of the current and future payment system, and
- reverse the requirements of this legislation should the department and the association fail to reach agreement on a new fee for service system by January 2005.

The department supports those amendments with the exception of the appropriation because it is not included in the Governor's budget. However, a revised payment system may be able to be developed utilizing existing department and association resources.

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

La Costa Rickford
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10/15/03
Date

Exhibit 2

**Testimony on SB 2086
Senate Appropriations Committee
January 31, 2003**

Chairman Holmberg and Members of the Senate Appropriations Committee, my name is Jon Larson. I am the executive director of Enable, Inc., a private, non-profit agency serving people with developmental disabilities in Bismarck and Mandan. I am also representing the North Dakota Association of Community Facilities. I am here in support of SB 2086, as amended.

During the 57th Legislative Assembly, SB 2307 was approved which required a new payment system for Developmental Disability service providers. During the interim, members of NDACF worked with the Department of Human Services and other interested groups to determine what a new payment system should look like. After considerable work, a Fee-For-Service payment system was agreed upon. Members of NDACF thank the Department, especially Gene Hysjullen, for securing a firm direction on a new payment system. The Bill in front of us today, SB 2086 continues the work of its' predecessor, SB 2307. Many of the details of a Fee-For-Service payment system need to be worked out. In essence, we have the big picture without the detail.

The present provider system has been in place for nearly 20 years. It has been modified several times but it still is a retrospective system with complicated rules and audit requirements. Nearly 15 years ago, a separate process for contracting services was created. The Individualized Supported Living Arrangement (ISLA) was created. The ISLA payment model has worked in providing a flexible, yet efficient process for addressing the unique needs of individuals living in their communities. I believe the new fee-for-service payment system can accomplish similar results in the rest of our programs.

This bill contains a fiscal note of \$200,000 for the purpose of hiring a facilitator to lead the discussions of the workgroup and to perform the financial modeling and

evaluation of the future payment system. We feel this appropriation is necessary because of the large amount of work that must be done to adequately address all the details that will be contained in a new payment system. This cost can be partially offset by a future reduction of staff in the department's audit unit.

We feel an appropriation would better ensure the success of the workgroup but NDACF is prepared to co-facilitate the workgroup, along with a representative of the department, and to work together to develop the model of the new payment system.

Thank-you for the opportunity to testify in support of this bill.

Jon Larson, Executive Director Enable, Inc.
NDACF

LaCosta Rickford
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10/15/03
Date

TESTIMONY
SB 2086 – DEPARTMENT OF HUMAN SERVICES
HOUSE HUMAN SERVICES
CLARA SUE PRICE, CHAIRMAN
MARCH 11, 2003

Chairman Price, members of the House Human Services Committee, I am Mark Kolling of the Department of Human Services. I am here today to provide information regarding Senate Bill 2086.

- The fifty-seventh Legislative Assembly of North Dakota passed SB 2307 requiring the Department of Human Services and developmental disabilities services providers to prepare a joint recommendation for consideration by the fifty-eighth legislative assembly regarding a new statewide developmental disability service provider reimbursement system.
- A workgroup was comprised of at least one provider representative from each of the eight human service regions, the regional director from the Southeast Human Service Center, the regional DD program administrator from the West Central Human Service Center, the director of the Protection and Advocacy Project, two legislators (one from the House and one from the Senate), and Department representation from the Executive Office, Medicaid, Developmental Disabilities Unit and Fiscal Administration. Notification of each workgroup meeting was also sent to all DD service providers in case they wished to attend.
- At the initial meeting held on July 9, 2001, four suggested concepts were presented and discussed by the work group. Two of the concepts suggested a major shift to a prospective type payment system, while two others suggested improving the present retrospective payment process. Subsequently, the suggested concepts were consolidated into two proposals. The two consolidated concepts consisted of a prospective or fee for service system that would dramatically depart from the current

method used to pay for DD services and a process that would retain the retrospective rate setting/cost settlement model.

- At the final meeting held October 21, 2002, a consensus of all DD providers was not reached but a strong majority expressed their desire that the Department, in cooperation with the DD industry, recommend enabling legislation to develop and implement a fee for service payment system. The fee for service model would be based on allowable, historical costs.

Senate Bill 2086:

- directs implementation of a fee for service ratesetting system for payment to treatment or care centers for individuals with developmental disabilities and consolidates some other existing NDCC sections into this new chapter to title 25.
- moves current NDCC section 25-16-16 in regard to limitations on owner compensation to this new chapter.
- repeals NDCC section 25-16-10.1, maximum annual return on investment for profit motivated facilities. Repeal of this section creates equity between non-profit and for profit providers.
- addresses rate setting for services for individuals with extraordinary needs.
- at the recommendation of the provider industry, establishes a trust fund for unforeseeable costs experienced by treatment or care centers, one time improvements, or additional costs associated with providing services to individuals with extraordinary needs.
- provides for a date by which transition is to be accomplished.
- does not apply to state owned or state operated treatment or care centers.

Senate amendments:

- create a workgroup and define its composition,

- provide an appropriation to hire a facilitator to lead the discussions and a consultant to perform the financial modeling and evaluation of the current and future payment system, and
- reverse the requirements of this legislation should the Department and the association fail to reach agreement on a new fee for service system by January 2005.

The Department supports those amendments with the exception of the appropriation because it is not included in the Governor's budget. However, a revised payment system may be able to be developed utilizing existing Department and association resources.

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

**Testimony on SB 2086
House Human Services Committee
March 11, 2003**

Chairman Price and Members of the House Human Services Committee, my name is Jon Larson. I am the executive director of Enable, Inc., a private, non-profit agency serving people with developmental disabilities in Bismarck and Mandan. I am also here to testify on behalf of NDACF in support of SB 2086.

SB 2086 is the result of at least two years of work by many people. While there are many details of a new payment system yet to be determined, basic philosophies and strategies have been agreed upon. We are now ready to put the many details of a fee-for-service provider payment system together to build a model and test the system. SB 2086 allows us to do this.

The present provider system has been in place for nearly 20 years. It has been modified several times but it still is a retrospective system with complicated rules and audit requirements. Nearly 15 years ago, a separate process for contracting services was created. The Individualized Supported Living Arrangement (ISLA) was created. The ISLA payment model has worked in providing a flexible, yet efficient process for addressing the unique needs of individuals living in their communities. I believe the new fee-for-service payment system can accomplish similar results in the rest of our programs.

I support the amendments to this bill as adopted by the Senate. I believe these changes will help to clarify the intent of the bill and give clear direction to the work group that will define the new payment process.

Thank-you for the opportunity to testify in support of this bill.

Jon Larson, Executive Director
Enable, Inc.

2086

Chairman Price,

The attached information was prepared for the Senate Appropriations Committee last session (1999) in response to a question regarding how interim rates are set and the flexibility providers have managing their budgets.

Currently, the process is very much the same except we are not negotiating direct contact enhancements on individual client basis due to budget constraints the second half of this biennium. This would be the initial series of bullets in the description of process to determine target numbers for providers.

Your question regarding how the retrospective system works goes beyond the interim rate setting process. To be brief:

- The provider submits a cost report at the end of their fiscal year reporting actual costs.
- A compliance audit is done by the department's provider audit unit for allowable costs, proper allocation of costs, 95% occupancy requirement, etc.
- A preliminary audit report is issued to the provider for their review – the provider is given the opportunity to disagree with any audit adjustment recommended by provider audit.
- A final audit report is issued taking into account responses from the provider regarding audit adjustments.
- Final rates for services are computed.
- A computation of settlement is calculated comparing payments based on the final rates to payments generated by the interim rates.
- If the provider was overpaid a refund is made to the department. If the provider was underpaid the department makes a payout to the provider.

Submitted by
Mark Kolling
Department of Human Services
March 11, 2003

La Costa Rickford
Operator's Signature

10/15/03
Date

**North Dakota Department of Human Services
Developmental Disabilities Unit
Description of Process to Determine Target Numbers for Providers**

- ❖ Providers and Regional Program Administrators meet to determine the direct contact staffing needs of each of the provider's services
- ❖ The Regional Program Administrator sends a letter detailing the staffing levels agreed to with the provider (Attachment A)
- ❖ Provider sends in budget request
- ❖ Central Office Program Administrators review the staffing requests and the letter from the Regional Program Administrator and determine if the staffing level is supported
- ❖ If changes are made to the recommended staffing levels by the Central Office staff, the Regional Program Administrator and provider are contacted to discuss the changes. A letter is then sent to the provider and copied to the Regional Administrator (Attachment B)
- ❖ Once staffing levels are determined the final allowed costs from the base year are determined for administrative and general client salaries, other, board, property, and work activity production costs (Attachment C)
- ❖ The Target Number Worksheet is completed by first entering the final allowed Administration and General Client salaries (calculated on attachment D and entered on Attachment E)
- ❖ The next line on the Target Number worksheet is a formula to determine the fringe benefits for Administration and General Client Staff (Salaries x 30%)
- ❖ The next line is the final allowed Other, Board, and Property costs (calculated on Attachment D and entered on Attachment E)
- ❖ If there was a budget limitation in the base year, the amount of that limitation is entered next – in our example there was no budget limitation
- ❖ These four figures are then totaled and carried down to the area labeled "Inflation Adjustment". The total is multiplied by the inflationary factors allowed by the Legislature for each year after the base year.
- ❖ The next step is to determine the Accreditation Adjustment. The accreditation costs included in the base year are entered and multiplied by the inflators (see Attachment E) to determine the amount of accreditation costs included in the Inflation Adjustment. The projected accreditation costs for the current

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10/15/03
Date

year are then entered and the difference is the adjustment to be made to the Target Number.

- ❖ Next, the direct contact salaries are determined. The total FTEs approved by the Central Office staff after discussions with the Regional Program Administrator and provider are entered next to each service area. Attachment F details the calculations used to determine the salary and fringe benefit amount to be budgeted for each service.
- ❖ Other adjustments are calculated as necessary.
- ❖ The Inflation Adjustment total, Accreditation Adjustment total, Direct Contact FTE total, and Other Adjustment total are all carried to the box labeled "Target Numbers" to determine the providers greensheet target number.
- ❖ The Target Number is compared to the provider's requested budget to determine if any adjustments are necessary. In this example, the Target Number was \$49,097 greater than the provider's request so when the interim rates were set the provider's budget was increased by this amount.
- ❖ The provider has the flexibility to transfer funds between budget categories and line items as required in NDCC 50-08-18. They can pay their staff whatever wages and fringe benefits they want or spend their money on other items as long as at the end of the year they haven't spent more than their Target Number and the costs they report are allowable costs.

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10/15/03
Date

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Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2086

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new chapter to title 25 of the North Dakota Century
2 Code, relating to implementation of a fee for service ratesetting system for payment to
3 treatment or care centers for individuals with developmental disabilities; to repeal sections
4 25-16-10, 25-16-10.1, 25-16-15, 25-16-16, and 50-06-18 of the North Dakota Century Code,
5 relating to the purchase of services provided to individuals with developmental disabilities and
6 allowing providers of services to individuals with developmental disabilities to transfer funds
7 between budget categories and line items; and to provide an effective date.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1.** A new chapter to title 25 of the North Dakota Century Code is created and
10 enacted as follows:

11 **Definitions.** In this chapter, unless the context or subject matter otherwise requires:

- 12 1. "Department" means the department of human services.
13 2. "Fee for service" means a prospective rate based on allowable historical costs
14 established by the department for payment of services provided to individuals with
15 developmental disabilities by a treatment or care center.
16 3. "Historical operating costs" means the allowable costs of operating a treatment or
17 care center during the reporting year in compliance with licensing standards
18 prescribed by the department but does not include an annual return on investment
19 in fixed assets related to client care.
20 4. "Treatment or care center" means an entity providing services to individuals with
21 developmental disabilities and licensed by the department as an intermediate care
22 facility for the mentally retarded as defined in the section 1905(d) of the Social
23 Security Act [42 U.S.C. § 1396d(d)]; group home; or a provider of day supports,
24 supported living arrangement, extended services, or infant development services.

5. A work group will be made up of 3 voting members from the DHS and 3 voting members from the ~~DHS~~ ^{NDACF}. * All meetings will be open to the public. A paid facilitator will be used. If a facilitator is not funded by the legislature, the Fifty-eighth work group will have co-chairs: one of the work group members from the Legislative Assembly the Department and one of the work group members from NDACF. ~~to each group will choose their representatives.~~

1 **Purchase of services.** The department may purchase, from funds appropriated to it for
2 that purpose, residential care, custody, treatment, training, and education for individuals with
3 developmental disabilities from any treatment or care center licensed in this state.

4 **Fee-for-service system - Fee determination.** By July 1, 2005, the department shall
5 implement a fee-for-service system of payment for services provided to individuals with
6 developmental disabilities by treatment or care centers. Fees for services must be based on
7 allowable historical operating costs of licensed treatment or care centers operating in this state.
8 The ^{work group} ~~department~~ shall establish procedures for determining interim fees for new providers or
9 new services. In order to receive payment from the department, a treatment or care center
10 shall file with the department a claim for service rendered to an individual with a developmental
11 disability. The fee-for-service system implemented by the department must require that a
12 treatment or care center be responsible for its own operating costs and that the fee paid for
13 service represents payment in full to the treatment or care center for services rendered.

14 **Limitation on owner compensation for services provided.** In establishing the fee to
15 be paid for a service, the amount of total annual compensation allowed for an owner acting in
16 an executive or administrative capacity must be limited as follows:

17	Number of clients served:	Compensation limit:
18	1 - 15	\$25,000
19	16 - 30	\$35,000
20	31 - 45	\$45,000
21	46+	\$50,000

22 The limits in this section are intended to be the total compensation allowed by this state
23 in any one year regardless of the number of owners performing work for the treatment or care
24 center. A proration of the total compensation for owners who perform services in this state and
25 who perform services in other states must be made on the basis of individual time distribution
26 records. For family members working in direct care, housekeeping, maintenance, dietary, or
27 clerical positions, wages are limited to the wage paid to any nonrelated employee, with the
28 same qualifications and experience, working in a similar job function for that organization. The
29 allowable compensation limit is inclusive of all salaries and related fringe benefits and may not
30 be construed to be an addition or enhancement to the fee payable to a treatment or care center.

Fifty-eighth
Legislative Assembly

1 **Extraordinary client needs - Effect on fee.** The ^{work group} department shall develop criteria
2 identifying extraordinary needs of individuals with developmental disabilities so severe as to
3 make it difficult for the affected individuals to secure necessary services from a treatment or
4 care center at the ordinary fee. Notwithstanding any other provision of this chapter, the
5 department may determine specific fees for services provided by a treatment or care center to
6 an individual with extraordinary needs.

7 **Trust fund.** Effective July 1, 2005, there is in the state treasury a special fund known
8 as the developmental disabilities fee enhancement fund. The fund shall be established with not
9 more than two-tenths of one percent of the total general fund moneys appropriated to the
10 department for the biennium beginning July 1, 2005, for payment of the fees established under
11 this chapter. Trust funds may be expended for reasonably unforeseeable costs experienced by
12 treatment or care centers, one-time improvements made by a treatment or care center in order
13 to comply with life safety code requirements, or the additional costs associated with providing
14 services to individuals with extraordinary needs.

15 **Transition to establishment of fees.** For payment of services furnished by treatment
16 or care centers prior to July 1, 2005, the department shall operate the ratesetting process as it
17 presently ~~exists~~ ^{exists} or in any fashion that may be permitted by law. Prior to July 1, 2005, the
18 ~~department may direct that treatment or care centers engage in any activity that will be~~
19 ~~reasonably necessary~~ to permit an orderly transition to the establishment of fees under this
20 chapter. ^{The work group will establish new protocols and methodologies for}
^{transitioning to a new payment system}

21 **Federal requirements - Supremacy.** If any provision of this chapter is determined by
22 the United States government to be in conflict with existing or future requirements of the United
23 States government so as to limit or preclude federal financial participation in medical
24 assistance, the department shall comply with the federal requirements to the extent necessary
25 to obtain federal financial participation and shall not comply with the provisions of this chapter if
26 necessary to avoid a loss of federal financial participation.

27 **Exclusion of state-owned or state-operated treatment or care centers.** This
28 chapter does not apply to state-owned or state-operated treatment or care centers.

29 **Rulemaking authority of the department.** The department shall establish, by rule,
30 ^{as determined by the work group,} procedures for determining the fees to be paid for services provided by a treatment or care
31 center and for implementing the other provisions of this chapter. Rules adopted under this

Fifty-eighth
Legislative Assembly

- 1 chapter may be adopted as interim final rules without the approval of the governor and without
2 a finding that emergency rulemaking is necessary. Any interim final rules so adopted may take
3 effect on a date no earlier than the date of first filing with the legislative council of the notice of
4 proposed adoption of a rule.

- 5 **Reporting to legislative council.** During the 2003-2005 interim, the department shall
6 report quarterly to the legislative council regarding its progress in developing a fee-for-service
7 payment system for treatment or care centers.

- 8 **SECTION 2. REPEAL.** Sections 25-16-10 and 25-16-15 of the North Dakota Century
9 Code are repealed.

- 10 **SECTION 3. REPEAL.** Sections 25-16-10.1, 25-16-16, and 50-06-18 of the North
11 Dakota Century Code are repealed.

- 12 **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act is effective July 1, 2005.

- 13 There will be an appropriation of \$200,000 to be used for the
purchase of a Facilitator who will led the discussions relative to a
new payment system. The appropriation will be used for a consultant
to perform the financial modeling and evaluation of the current
and future payment system. The work group will select the
Facilitator-consultant.

IF the department and NDACC are unable to reach an agreement
on a new fee-for-service system by 1-1-05, then the current
system remains in effect and NDCC 50-06-18 is not repealed.