19.8158.01000

FISCAL NOTE
Requested by Legislative Council
01/21/2019

Bill/Resolution No.: SB 2349

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

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				$83,584,938		$28,369,223
Expenditures			$(14,422,883)	$83,584,938	$28,369,199	$28,369,223
Appropriations			$(14,422,883)	$83,584,938	$28,369,199	$28,369,223

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

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

SB 2349 requires an assessment on each nursing facility. The fiscal impact was calculated based on the assessment being effective January 1, 2020 pending CMS approval.

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

See attached “Fiscal Schedule” for a more detailed overview of expenditures.
Section 1 of SB 2349 requires an assessment to be imposed on each nursing facility located in the state of North Dakota. Any waiver otherwise available under this code is not applicable to this assessment. The fiscal impact was calculated based on the nursing home assessment effective date of January 1, 2020 pending CMS approval. The assessment, in aggregate, cannot exceed six percent of aggregate net inpatient revenues for the rate year of all nursing facilities. The inflation used in the fiscal impact reflects 3% inflation effective July 2019, January 2020, and January 2021. This assessment amounts to an increase of $18.81 per day in a nursing facility. The fiscal impact includes the cost of the expenditures listed in SB 2349 for the 19-21 biennium.

The Department projects an increase of $69,162,055 in total expenditures, of which ($14,422,883) decrease in general funds. The decrease is due to the utilization from the Long-term care provider assessment trust fund to offset costs for operating margin, incentive, rebasing, and inflation included in the Governor’s budget recommendation.

Section 2 of SB 2349 provides an expiration date of July 1, 2021 and therefore would require any remaining balance in the long-term care provider assessment trust fund be distributed proportionally to each nursing facility. The Department estimates a balance of $14,305,877 that would be distributed from the fund upon expiration. Due to the expiration of the assessment the state share of expenditures in the 21-23 biennium are all general funds.

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.*

   See attached "Fiscal Schedule" for a more detailed overview of revenues.
   The services provided to Medicaid eligible individuals in nursing homes are eligible to receive Medicaid federal funds based off the Federal Medical Assistance Percentage

   The assessment under this chapter must be used only to support expenditures within Nursing Facilities expenditures listed priority order on pages 7 and 8 of SB 2349 (as introduced). The provider assessment will be effective January 1, 2020 pending CMS approval. The revenue will be deposited in the long-term care provider assessment trust fund.

   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.*

   See attached "Fiscal Schedule" for a more detailed overview of expenditures.
   Section 1 of SB 2349 requires an assessment to be imposed on each nursing facility located in the state of North Dakota. Any waiver otherwise available under this code is not applicable to this assessment. The fiscal impact was calculated based on the nursing home assessment effective date of January 1, 2020 pending CMS approval. The assessment, in aggregate, cannot exceed six percent of aggregate net inpatient revenues for the rate year of all nursing facilities. The inflation used in the fiscal impact reflects 3% inflation effective July 2019, January 2020, and January 2021. This assessment amounts to an increase of $18.81 per day in a nursing facility. The fiscal impact includes the cost of the expenditures listed in SB 2349 for the 19-21 biennium.

   The Department projects an increase of $69,162,055 in total expenditures, of which ($14,422,883) decrease in general funds. The decrease is due to the utilization from the Long-term care provider assessment trust fund to offset costs for operating margin, incentive, rebasing, and inflation included in the Governor's budget recommendation.

   Section 2 of SB 2349 provides an expiration date of July 1, 2021 and therefore would require any remaining balance in the long-term care provider assessment trust fund be distributed proportionally to each nursing facility. The Department estimates a balance of $14,305,877 that would be distributed from the fund upon expiration. Due to the expiration of the assessment the state share of expenditures in the 21-23 biennium are all general funds.

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

   For the 19-21 biennium the Department of Human Services would need appropriation increases to the Executive Budget Request in medical assistance grants of $54,856,178 of which ($14,422,883) would be general fund due to utilization of Long-term care provider assessment trust fund.

   Section 2 of SB 2349 would sunset this assessment on July 1, 2021.
   For the 21-23 biennium the Department of Human Services would need appropriation authority of $56,738,422 in total, of which $28,369,199 is general fund in medical assistance grants.

Name: Eric Haas

Agency: Human Services

Telephone: 701-328-1281

Date Prepared: 01/29/2019

North Dakota Department of Human Services
Schedule of Fiscal Impact for Senate Bill 2349
2019 - 2021 Biennium

2019 -2021 Biennium

Expense/Appropriation	Total	Federal/other	State
Nursing Facility provider inflation	$ 24,625,383	$ 24,625,383	
Medicaid Grants portion of tax (18 months)	30,230,795	30,230,795	0
Medicaid Grants portion funded with assessment	-	14,422,883	(14,422,883)
Tax Dept refund of excess assessment	14,305,877	14,305,877	
Total	$ 69,162,055	$ 83,584,938	$ (14,422,883)

Revenue			
Nursing Facility provider inflation	12,312,692	12,312,692	
Medicaid Grants portion of tax (18 months)	15,115,398	15,115,398	
Tax Department Collection of Assessment	56,156,849	56,156,849	
Total	$ 83,584,938	$ 83,584,938	$ -

2021 - 2023 Biennium

Expense/Appropriation			
Nursing Facility provider inflation	$ 56,738,422	$ 28,369,223	$ 28,369,199
Total	$ 56,738,422	$ 28,369,223	$ 28,369,199

Revenue			
Nursing Facility provider inflation	28,369,223	28,369,223	
Total	$ 28,369,223	$ 28,369,223	$ -

2019 SENATE FINANCE AND TAXATION COMMITTEE

SB 2349

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2349
1/29/2019
Job #31631

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new chapter to title 57 of the North Dakota Century Code, relating to a provider assessment for nursing facilities; and to provide an expiration date.

Minutes:

Attachments: 6

Chairman Cook: Called the hearing to order on SB 2349.

Senator Rich Wardner, District 37, Dickinson: Introduced the bill. See attachment #1. I just want to make comments on the long term care and situations they are in. The governor's budget put a 1 and 1 % inflator in his budget. That is not enough because we cut the Medicaid last session and when you do that, you also cut the reimbursement from the private pay. They both come down because we are an equal rates state. The reimbursements to these long term care places were down. They didn't get an inflator and they went the other direction. It is important they get something close to a 3 and 3. The small homes in the state are using up their reserves. They don't have any place to go. There is competition in the work force to get people to work there. They need to maintain a salary schedule in order to keep them. We are looking at a 2 and 3 reimbursement. We want to make sure we get something close to the 3 and 3. I will now stand for questions.

Shelly Peterson, President of the North Dakota Long Term Care Association: Testified in favor of the bill. See attachment #2.

Chairman Cook: Would there be a sunset on this?

Shelly Peterson: Yes. This would go for one biennium at which point you can reevaluate to continue the provider assessment or will the state general funds generate enough so we can go back to the payment source we have now.

Joe Lubarsky, Consultant for NDLTCA : Testified in favor of the bill over the telephone. See attachment #3.

Chairman Cook: Joe to clarify; that $36 million is per biennium?

Joe Lubarsky: That is per year. We are not saying that is what it is, that is just the maximum. I have done some estimates myself but I haven't compared them to anything that Maggie has done. We would not be close to $36 million a year in terms of assessments in terms of what we need based on what this bill provides for. Continued to read his testimony. (24:45) ended reading.

Chairman Cook: Let's start with the dollars coming from the residents of the nursing home. What is the rate increase going to be?

Joe Lubarsky: I used 5% per year. It could be 3%. I just used 5 to be on the conservative end. That 5% would roughly be about $13 per day.

Chairman Cook: That would have to be paid by self-pay, Medicaid and Medicare?

Joe Lubarsky: Medicaid and self-pay. Medicare is not governed by equalization. That inflationary adjustment would happen regardless if you did an assessment or not. If the state would fund inflation, that is how much the rates would go up.

Chairman Cook: And this $13 is going to pay the nursing home assessment?

Joe Lubarsky: That $13 will pay the inflation. In addition, the first item is to reimburse the Medicaid share of the assessment. If it is $5 per patient day, then the rate is going to go up by the $13 and the $5 for the assessment. If they increase the rates and those rates go up for that, that is $18 because you have great equalization.

Chairman Cook: What is the total dollar amount that you except this $13 on increase on Medicaid and self-pay patients going to raise in ND on an annual basis.

Joe Lubarsky: The first calculation I made was for half a year. It would raise a total of $18.8 million.

Chairman Cook: And we will get that $18 million from the federal government?

Joe Lubarsky: No, the assessment will be $9.4 million. You would double that to get $18.8 because you are a 50% federal match. Of that amount, $5 million goes to pay for the Medicaid patients. The remaining $13.8 million covers inflations. You do that again the following year. The second year, you will have inflation.

Gregory Salwei, Administrator of the Wishek Living Center: Testified in favor of the bill. See attachment #4.

Daniel Kelly, CEO McKenzie County Healthcare Systems, Inc., Watford City: Testified in favor of the bill. See attachment #5. Within the first five months or our fiscal year, we are incurring in our nursing home, an operational loss $140,000.

Chairman Cook: I am a little confused. You have two statements here; one states that "There is not one nursing home administrator that I have talked to, that is thrilled by the prospect of implementing the provider assessment." You then go on to say "If you have a

legislative body that used the provider assessment to further direct patient care, it can be a great tool." Why would they be reluctant to embrace it if it is a great tool.

Daniel Kelly: We have historically been funded by this body without the use of a provider assessment. If we were in a position where that was an alternative, that would be a better alternative but we do not perceive that is the case.

Craig Christianson, Chairman of the ND Long Term Care Association and President/CEO of Sheyenne Care Center, Valley City: Testified in favor of the bill. See attachment #6.

Chairman Cook: Further testimony in support? Testimony opposed? Committee, any questions? For those of you in the room I just want to say that the legislature is aware of your problems and we are going to do what we can to address them in whatever way we can.

Senator Dotzenrod: Are we at capacity as far as the beds that we have in the state? Are there places where there is a significant amount of open beds? Are we using the system that is out there? Is there more need that is coming towards us in the future?

Shelly Peterson: Right now we have about 5,900 licensed beds and just about 93% are occupied. We have 400-500 open beds. We have 20 facilities, 80 licensed nursing homes, and 20 of those facilities are under 90% percent occupancy. When they are under 90% occupancy they incur a penalty in the rate system and they are losing an additional $3.1 million. Out of the 80, 20 of them have an occupancy limitation. Most of those are all in rural ND. We have seen a shift in growth and a redistribution of beds from rural to urban. We have had a growth of 275 beds in Bismarck in the last 10 years, 300 in Fargo, and 550 in Grand Forks. All throughout the rest of ND, they have seen decreases in beds. Some are at 50% capacity downward changes in rural ND. We do see some demographic challenges. Those that were born in the depression and the war had less children. We are caring for an older population that is in high demand right now. In 2025-2029 we will have 52,000 more individuals over the age of 65 in ND so we are going to see a spike. Through technology and more options, more people will be able to stay at home. However, we see a greater demand of long term care at that point in time. We used to be 98% occupied, it has been these last few years that we have struggled. We have an issue in data book that has all the information that I just stated that we will be distributing tonight.

Chairman Cook: Any further testimony on SB 2349? Hearing none, we will close the hearing on SB 2349.

2019 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

SB 2349
2/4/2019
Job #32106

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact a new chapter to title 57 of the North Dakota Century Code, relating to a provider assessment for nursing facilities; and to provide an expiration date.

Minutes:

Attachments: 0

Chairman Cook: Called the committee to order on SB 2349.

Senator Dotzenrod: I think we had a bill like this two years ago. I think it got hurt a lot by the editorials and the nursing homes and the fact of taxing grandma in her nursing home bed when she doesn't have any income. It was thought as we are putting a direct tax on the residents. This changes the way we get federal reimbursement. It allows the nursing homes to charge and have a better federal reimbursement.

Chairman Cook: My understanding is that every dollar we tax grandma on, is another dollar we get from the nursing home.

Senator Patten: So the two and three fix that is proposed in a different bill would not access that extra dollar of federal funding?

Chairman Cook: No.

Senator Patten: It only takes place for the self-pay? That is the only way you can access those extra dollars is by leveraging the self-pay people.

Chairman Cook: Yes. I think it is at two and two. If it gets to be an argument at the end of session, you might see this resurface.

Senator Unruh: Moved a Do Not Pass on SB 2349.

Senator Meyer: Seconded.

Chairman Cook: Any Discussion?

Senator Dotzenrod: Is there a bill like this on the House side?

Chairman Cook: No I am not sure if there is one in the House or not. I think the thought is that if we don't end up at two and three, they still might need help and this might get tied to it.

Senator Dotzenrod: The nursing homes in my district really want me to support this. I don't like it in a way but I feel like they are up against a wall.

Chairman Cook: The nursing homes in my district emailed me and they have 800 beds. They would like this too. They are like everyone else, they would like as much income as they can get.

Senator Unruh: I have met with the nursing homes this session and they were really promoting this tax. If we can properly fund the nursing homes without it, I would much rather do that. I don't think we need this and I hope we don't by the end of session. I like the two and three option better. If killing this bill means that that's what we leave with appropriations to deal with, I am happy with that.

Senator Patten: By recommending a do not pass, we put a little extra pressure on appropriations to come out with the two and three.

Chairman Cook: I do not think there is a need to put any more pressure on Senate Appropriations. I think they are on board.

Senator Dotzenrod: I would like to make sure we do something that is significant with those nursing homes. If we kill this, and if the Senate votes do not pass, this bill is gone. What is out ability to resurrect it? That could spring to life in a conference committee.

Chairman Cook: Yes, I think it could. It maybe could before one as well. You have been here as many sessions as I have. There should be no surprise to either one of us regarding what might get amended on to a final appropriations bill.

Senator Dotzenrod: Even if this bill should die in the next week or so, the provisions could come back to life at the end.

Chairman Cook: The commitment to address the funding needs of nursing homes is being met.

A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Unruh will carry the bill.

Date: 2-4-19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2349

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Unruh Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Unruh

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

REPORT OF STANDING COMMITTEE

SB 2349: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2349 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2349

1/29 SB 2349 #1 pg. 1

We Need YOU!

HELP Residents and Staff
Restore the 3% Inflator

- Two-thirds of nursing facilities operated at a loss in 2018.
- 2019 is the third consecutive year without inflationary adjustments, and costs continue to rise.
- Up to 80% of all facility costs go toward staff salaries and benefits.
- The average caregiver entry wage is $14.84/hour – a 1% increase is less than $25/month.
- We provide care 24/7 – 15,000 individuals need a raise.
- Equalization of Rates means private pay will not have to pay more than the Medicaid rate for their care – you can continue with this long standing tradition.
- This year we will discharge 3,000 individuals home – over 50% of our admissions.

Long term care staff need FAIR and EQUITABLE salary increases.

We have a Solution!

A provider assessment – dollars matched by the federal government – can fund the inflationary adjustment for nursing facilities.

43 states and the District of Columbia have successfully implemented a provider assessment to support care to nursing facility residents.

North Dakota legislators adopted a similar provider assessment in 2003 for intermediate care facilities for individuals with a disability, accounting for $68 million in extra federal funds to care for residents.

A provider assessment for long term care could bring in an estimated $20 million in federal funding for North Dakota nursing facility resident care.

Thank you for helping us deliver the very best care to each and every resident.
Your consideration of the 3% inflator is deeply appreciated.

North Dakota Long Term Care Association
www.NDLTCA.org | (701) 222-0660
1900 North 11th Street, Bismarck, ND 58501

Testimony on SB 2349
Senate Finance and Taxation Committee
January 29, 2019

Good afternoon Chairman Cook and members of Senate Finance and Taxation Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 214 basic care, assisted living and nursing facilities. I am here today to ask for your support of SB 2349, a provider assessment on nursing facilities.

My testimony will be brief and then we will hear electronically from Joe Lubarsky, a national expert on nursing facility payment systems and provider assessments. Joe also worked under contract with the North Dakota Department of Human Services several years ago when the Centers for Medicare and Medicaid, (CMS), told North Dakota we were out of compliance on an Upper Payment Limit issue. North Dakota was at risk of losing millions in federal funds and Joe was key in developing a new methodically that was acceptable to CMS. We as an Association reached out to Joe to help us create a technically accurate bill that accomplishes the purpose of creating a nursing facility provider assessment for North Dakota.

On May 1, 2018, we started the journey of contacting legislators and asking you to support a nursing facility provider assessment. On May 1st it was unanimously supported by our members. Why did we go down such a path? Why do we think it is necessary? Because facilities are suffering, resident are being impacted and staff need a raise. It is a reliable, viable funding source that we believe is the right solution. This is the tax and the solution we are supporting. The tax is equally shared on the private

pay and Medicaid rates. Yes, this will cause rates to increase, but this increase will help us to assure we have staff to care for them.

First, I would like Joe to walk you through the bill and then I have three nursing facilities who will talk about the need, if we don't do this how it might impact the private pay and the experience of one who has worked in another state with a provider assessment.

I will be here through the end, so if you have questions, it may be best to wait until you hear the real expert on provider assessment testify.

Just one final comment on the implementation date, it is not clearly stated in the bill. To give DHS sufficient time to get CMS approval, it probably shouldn't be implemented until January 1, 2020.

Additional testimony from:
Joe Lubarsky, National Expert
Greg Salwei, Administrator, Wishek Living Center, Wishek
Craig Christianson, President/CEO, Sheyenne Care Center, Valley City
Dan Kelly, CEO, McKenzie County Healthcare Systems, Watford City

Shelly Peterson, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660

Testimony on SB 2349
Senate Finance and Taxation Committee
January 29, 2019

My name is Joe Lubarsky I am a consultant to the NDLTCA and to comparable associations in over 40 states. I am a subject matter expert on nursing facility Medicaid payment system design and Medicaid funding including provider assessment programs.

43 states and the District of Columbia have nursing facility assessment programs. Over half of those states developed their assessment programs in the last 15 years and I was involved in the design and implementation process of all of them.

Provider assessments are a legitimate bona-fide and legal source of state share funding for Medicaid services and eligible for federal matching funds when used to fund Medicaid expenditures. The federal laws and regulations governing provider assessments were developed in 1993 and modified in 2008. 18 classes of providers can be assessed and nursing facility services are one of those classes.

The regulations require the assessments to be uniform and broad-based, meaning if an assessment program is implemented, all providers within that class must be assessed and at the same assessment rate. The assessment is usually per patient day or per patient day excluding Medicare days (Medicare days can be excluded from the assessment if a state desires).

The maximum assessment that can be collected per federal law is 6% of aggregate revenues of all providers, which in North Dakota, would be approximately $18 million.

SB 2349 – Nursing Facility Provider Assessment

On page 2-line 2, the bill indicates that all nursing homes will be assessed. Lines 5-12 indicate the basis of assessment which will be an amount per bed day excluding Medicare days. The bed days will be based upon cost report data ending in the previous fiscal year so that every provider knows prior to the start of the calendar year what their assessment will be for the upcoming year. That assessment will then be paid in four quarterly installments over the calendar year.

The legislation specifies an effective date retroactive to 01/01/19. That however will likely change in that it is doubtful whether the state plan can be submitted within CMS timetable requirements for retroactive approval to January 1.

The maximum assessment and the use of the assessment are spelled out beginning on page 2, line 13. As stated previously, the maximum assessment cannot exceed 6% of aggregate revenues of nursing home providers which would put the maximum tax collections around $18 million based upon estimated annual revenues of $300 million.

The Report filing and time frame for paying assessments begin on page 2, line 17. Any extension granted requires payment of interest on the assessment at a 5% annual rate.

Page 3 line 4 emphasizes that each payment is due on the last day of a quarter but the first payment is not required until the Medicaid state plan is approved by CMS.

If a facility doesn't pay, remedies for the state are spelled out beginning on page 3, line 9. If a facility does not pay the assessment or make arrangements to do so, the state can offset; meaning subtract the assessment from Medicaid payments due the nursing home. An additional state remedy on Line 24 allows license revocation if a facility fails to remit payment within 6 months of the due date.

Page 3, line 28 through page 7 line 10 are procedures for record retention, administration of the program and collection actions if necessary. I do not intend to go through these in that I have already highlighted the actions the state can take to insure collection.

Page 7, line 11 simply reflects the procedure if there is an error in the assessment or interest calculation.

Page 7, line 19-31 and page 8 lines 1-12 describe the creation and use of the provider assessment trust fund. The assessment dollars will be deposited into this newly created fund. Funds are then withdrawn from the fund and provided to the state to be solely used as state share dollars for nursing home rate increases under the state plan methodology. These dollars will be matched by federal funds to cover the cost of the rate increases.

Those rate increases are to:

1. Reimburse the assessment relative to Medicaid patient days;
2. Fund the rate methodology in effect on 01/01/19 as detailed in the state plan;
3. Fund inflationary increases and rebasing based upon the state plan through fiscal year 2021

Any funds remaining in the trust fund at the end of the fiscal year carryover to the following fiscal year.

Any funds remaining when the Act sunsets go back to providers on a pro-rata basis.

As indicated on page 8, starting on line 13, the Act sunsets on 07/01/21 unless the state imposes a rate reduction which takes the rates below those in effect prior to the legislation. The intent here is to avoid a situation whereby a state uses provider assessments to increase rates in one year, then reduces them the next year, yet maintains the assessment.

Joe Lubarsky
Consultant for North Dakota Long Term Care Association
502-245-8895

1/29 SB 2349 #4 pg.1

Wishek Living Center

Gregory J. Salwei - Administrator

400 S. 4th St. Ph. 701-452-2333

PO Box 187 Fax. 701-452-2335

Wishek, ND 58495 www.wisheknursinghome.com

Chairman Cook and members of the Finance and Taxation Committee: my name is Gregory Salwei, and I am the administrator of Wishek Living Center. I am here on behalf of my residents, staff and community to ask for your support of the Provider Assessment as a means of restoring the 3% inflator for nursing homes. The loss of the inflator going back to July of 2016 has resulted in most of our rural and urban facilities incurring huge financial losses which they cannot absorb for much longer. The impact to my facility this past fiscal year was a loss of $352,000, and despite our best efforts to reduce expenses other than staffing, we will most likely see a similar deficit this current year. We are quickly depleting any reserves that we may have had, and many of us who have more than one type of facility such as assisted living or low income housing, are tapping into those accounts to keep the nursing home afloat. As you may already know, two thirds of our budget is spent on salaries and benefits. Anyone who needs the services of long term care expects and deserves the very best care. We can only provide that care if we can hire and retain individuals who have the skills and compassion necessary to be a good caregiver. In order to do that, we have to be able to pay them a competitive wage along with benefits. Not everyone is qualified or capable of doing this type of work. It takes special people and currently there is a critical shortage of nurses and CNA's which forces us to use agency staff to fill shifts. This past fiscal year we spent $379,000 for agency nurse aides and an additional $182,000 for agency nurses. With better salaries and an aggressive recruitment campaign we have begun to turn that trend around, but I doubt if we will ever see a time where we do not need agency staff to fill open shifts. Three years ago I entered into a contract with a company that recruits Philippine nurses. The first RN arrived last spring, the second in August and the third one arrived two weeks ago. The average cost to recruit these nurses is about $19,000 each. Even though salaries make up the largest part of our budget, expenses in other categories that we have little control over have also increased. This past year our utility costs increased 8%, and health insurance increased 9%. Our vehicle expenses are up 23%, due in part to an increased number of trips to Bismarck for resident appointments as well as increased maintenance costs on our aging fleet, since replacement at this time of shortfalls is not

possible. In the last legislative session I spoke of the continual increase in federal regulations, and more and more continue to handed down. Requirements for Emergency Preparedness, Infection Control Specialists, Payroll Based Journal (PBJ), Quality Assurance Performance and Improvement (QAPI), and Patient Drive Payment Model (PDPM) are just a few of the regulations we need to implement on top of an already over regulated industry. Because of this, more and more training for my staff is required to keep us in compliance, which resulted in an 18% increase in education costs.

As in most rural communities, the nursing home in Wishek is the largest employer, and should the nursing home have to close it would have a huge economic impact, not only in Wishek, but the surrounding area as well. Most of my employees would not be able to find work locally at a reasonable wage so most likely would need to move away. This would result in a drop in enrollment in or school, decreased patient visits for our local hospital and clinic, decreased revenue for our local businesses, and would flood the market with homes, driving the value of a home down considerably. It would also result in people needing long term care having to leave their home where they have lived most of their life, and move to a larger city to receive the same care.

That is why the 3% inflator is so critical to long term care. Since the last legislative session, legislators have asked us to find a funding source to provide adequate funding for long term care. The provider assessment used by around 43 other states is a real solution. If the funding cannot be found in general funds the only other way to provide it besides the provider assessment is to eliminate equalization of rates and charge the private pay residents more to make up the shortfall. In my facility that means that I would have to charge my private pay residents 20% more or about $50 per day, $18,000 a year, to make up the difference. I believe that the provider assessment is a much better alternative. Thank you.

Sincerely,

Gregory J. Spiwei

Administrator: Wishek Living Center

Testimony on SB 2349

Nursing Facility Provider Assessment

Senate Finance and Taxation Committee

January 29, 2017

Chairman Cook, members of Senate Finance and Taxation Committee, my name is Daniel Kelly. I am the CEO of the McKenzie County Healthcare Systems, Inc., in Watford City, North Dakota. I am here to advance our mission of providing quality care to the senior residents of North Dakota and then by default, to support SB 2349.

I recognize and sincerely respect the onerous position that this legislative assembly is placed in as you must consider the needs of the vulnerable population, particularly our seniors, in light of lessening revenues. Funding our long-term care facilities has occurred in both times of prosperity and austerity in North Dakota. It is not our nursing home facility funding that has placed the State of North Dakota in the present budget dilemma it faces.

Without reasonable increases in reimbursement our facility will be severely impacted. Given the largest expense category is staffing; this will result in fewer staff which equates to less quality care.

Not providing our nursing homes with the ability to offer salary increases and continued benefits may be penny wise and pound foolish. Given I must provide staffing for my facility, if I cannot retain the staff I have, I will be forced to hire traveler staff for which I pay as much as three times (3X) the cost of my employed nurses and certified nurse aids. This additional cost will be borne in future legislative sessions as future reimbursement rates are established based on our cost of operation which will include this increased staffing expenses.

There is not one nursing home administrator that I have spoken to that is thrilled by the prospect of implementing a provider assessment. We embrace it as being a better alternative than decreasing the level of care provided to the senior residents of North Dakota or eliminating rate equalization. In other states where they do not have rate equalization the difference for a private pay resident can be upwards of $75.00 per day.

I can state that while I was the CEO of Doctors Regional Medical Center in Poplar Bluff, Missouri a provider assessment was implemented that made a significant difference financially for that facility. I remained at that facility eleven years and during that time and up to this day, it has been a positive. If you have a legislative body that uses the provider assessment to further direct patient care it can be a great tool.

In concert with those you have heard before if implementing a provider assessment is the means by which funding can be restored to our nursing facilities then I support SB 2349.

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

Daniel Kelly, CEO
McKenzie County Healthcare Systems, Inc.
709 4th Avenue NE
Watford City, North Dakota 58854
Email: dkelly@mchsnd.org

Testimony on SB 2349
Provider Assessment for Nursing Facilities
Senate Finance and Taxation
January 29th, 2019

Good morning Chairman Cook, and members of the Senate Finance and Taxation Committee. My name is Craig Christianson, Chairman of the North Dakota Long Term Care Association and President/CEO of Sheyenne Care Center, Valley City. Sheyenne Care Center is a 170 bed skilled nursing facility providing skilled care, dementia care, and Geri-psychiatric care 7 days a week with an average occupancy of 96.5% over the past 3 years. We employ 250 dedicated individuals helping North Dakota residents who are in need of health services during their later years.

I am here today to testify in support of SB 2349 and to ask for your support the provider assessment as a funding for the 3% inflationary adjustment.

In 2016, Governor Dalrymple made across the board allotment cuts to most state budgets. For nursing facilities we had 4 of our funding components (operating margin, efficiency incentive, rebasing and 3% inflationary adjustment) completely eliminated. This was truly devastating for facilities, staff and residents care. Thank goodness when the 2017 Legislative session convened, you restored 3 of 4 funding components. The one item not restored, was an annual inflationary adjustment. 2019 marks the 3rd year we are not receiving an adjustment. SB-2012 is proposing a reinstatement of a 1% inflator. We are asking for and need a 3% inflationary adjustment. I would like to give you and overview of what my last 3 years were like.

The revenue Sheyenne Care Center receives comes from Medicaid which represents 64% or our population, Private Pay 29%, Medicare 3%

and 4% others. So you can see how Sheyenne Care Center revenue shortfall affected us when the inflator was not provided during 65th legislative session.

I have identified on the chart below the shortfall Sheyenne Care Center experienced with the elimination of the 3% inflator. This only shows a 12 month period from October 2018 through September of 2019, this does not include the period from January 2017 to September 2018 when the revenue reduction was implemented.

Shortfall on Revenues (Due to not receiving 3% inflator)	
Annual Standardized Days (Oct 2018 - Sept. 2019)*	
	SCC
Decrease in rate (SNF)	$6.71
Decrease in rate (Geri-Psych.)	$7.65
BUDGETED STANDARDIZED DAYS:	
SNF Resident Days (Excluding Medicare Part A	45,851
G.P. Resident Days	11,292
Annual Shortfall in Revenue (SNF)	$307,660
Annual Shortfall in Revenue (Geri-Psych)	$86,384
TOTAL REVENUE SHORTFALL	**$394,044**
** Based on the facility's budgeted Case-Mix*	

Sheyenne Care Center has shown a loss in our operating margin in 2017, 2018 and the beginning of 2019.

	2017	2018	2019
Operating Loss	-$201,182	-$445,145	-$125,176

The impact of this loss has caused a negative operating margin over the past two years and our 2019 operating margin is not looking good. This has definitely made it difficult for us to maintain a competitive compensation package within the workforce market and surrounding

communities. Out of the 250 employees at the Sheyenne Care Center we have 166 single mothers and 66 of those mothers are single with children working 2 if not 3 other jobs to make ends meet. I ask many of our core employees why they do this and their response is that they love the residents and they want to make sure they are taken care of.

A compensation comparison for similar programs in our community such as Assisted Living and DD, Sheyenne Care Center lags behind by 5% to 10% with the understanding that these employees are not required to be certified caregivers. This makes us the recruitment grounds for these providers in our community over the past couple of years. Government employment, manufacturing and other industry's compensation packet in our community runs 8% and higher if benefits are added into their compensation formula.

This shortfall has made retention and recruitment even more difficult for Long Term Care and Basic Care facilities across the state to be competitive within our market for employees over the past two years. Sheyenne Care Center has experienced an increase in employee turnover, with 40 full time and part time open positions currently available to fill with minimal applications. The stress this puts on our core staff is overwhelming and will at some point make their decision to leave easier, especially if the compensation packages elsewhere are better than what we can offer. These individuals are the backbone of Long Term Care and Basic Care and are dedicated and committed to providing our residents with the daily help they need to make it through each day with dignity and respect.

Employee Turnover Rate	2018	2017	2016
Employee Turnover rate (YTD through 4th Quarter)	47.67%	50.80%	51.11%
State Average	43.20%	41.67%	41.67%

The alternative to filling our shifts is to look towards Temp Staffing, which not only cost twice as much, but the temp staffing individuals who come in are not familiar with the facilities and need much direction from our core staff. This becomes more work for our core staff to help them become familiar with the facility and the residents, which truly does affect the quality we want to provide.
It becomes very difficult to pay temp staffing double the amount to cover only part of the needs, than to pay our own dedicated employees. The chart below outlines the difference in what temp staffing is paid versus Sheyenne Care Center compensation.

	RN's	LPN's	CNA's	Cook
Sheyenne Care Center Compensation	$24.15	$19.35	$14.41	12.90
Temp Staffing	$57.50	$45.50	$34.50	32.50

Retaining staff is essential to providing the quality that our residents deserve. 75% to 80% of a nursing homes total operating cost is made up in salaries and benefits which leave little room for us to cut cost without looking at staff reductions. In an environment already stressed, this would certainly create issues when caring for resident's needs. Our current ratio of resident to caregiver is at 8 to 10 residents which is often times difficult and having to look at staff reduction and asking caregivers to work with 12 to 14 residents would become overwhelming and would open health department issues and possible Civil Money Penalties. When this starts to happen LTC and Basic Care facilities will start to close.

The proposed 1% inflator is appreciated, but falls short of what is needed to provide the resources for Nursing Facilities and Basic Care to continue to meet the needs of our residents. Remember that the inflator for nursing facilities covers more than just employee compensation and benefits. The inflator covers initially all of the market rate adjustments such as medical supply cost increases,

employee benefit rate increases, food cost increase, fuel and electrical cost increases and more which occurs every year from our vendors/suppliers. The remaining inflator dollars left over is what is used for salary increases. Obviously, this falls short of what the initial inflator is. We are not the US Post Office who can just raise the cost of a stamp and it is different from a 4% increase for state workers where 4% goes directly toward salary increases.

A provider assessment would access both federal and state resources for Nursing and Basic care facilities to fund the 3% inflationary adjustment needed to meet the needs of individuals we serve. This funding has already benefited other healthcare provider in the State since 2003, accounting for $68 million in extra federal funds to care for residents in these facilities. Without the appropriate 3% inflator in SB2012 nursing and basic care facilities would need to look at repealing equalization of rates rather than risking health department issues and even closure. Repealing equalization of rates would truly put the burden of nursing and basic care facilities cost on the shoulders of the private pay. As mentioned above 29% of our residents are private pay and would realize an additional increase in their rate of over $100.00 per day. By implementing a provider assessment for Nursing and Basic Care we would prevent the excess cost being put on the shoulders of our private pay individuals in the State.

For the 29 years I have been President/CEO of Sheyenne Care Center, this has been the most difficult time to meet the needs of our residents. Through increased Federal regulation requirements, civil money penalties and lack of resources to pay our workers a livable wage, Nursing Facilities and Basic Care across the state of North Dakota are in need of your support. Supporting the increase funding of 3% inflator for 2019 and 2020 will help Basic Care and Nursing facilities continue to meet the needs of North Dakota seniors who struggle through each day.

Thank you for giving me the opportunity to visit with you on supporting the provider assessment funding source in SB2349.

Craig Christianson, President/CEO
Sheyenne Care Center
Valley City, ND 58072
701-845-8222