

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1268

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Lu Costa Bickford
Operator's Signature

10/3/03
Date

2003 HOUSE HUMAN SERVICES

HB 1268

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La Costa Rickford
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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268

House Human Services Committee

☐ Conference Committee

Hearing Date January 20, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-------------|
| 1 | | x | 23.6 - 61.5 |
| 2 | x | | 0.4 - 25.5 |
| Committee Clerk Signature <i>Sharon Penfau</i> | | | |

Minutes:

Rep. Devlin appeared as prime sponsor in support of the bill with written testimony.

Rep. Eckre appeared for Sen. Thane who is a sponsor and supports the bill stating its the right thing to do

Rep. Nicholas appeared as a sponsor in support stating that under federal law, this allows us to recover some more of our costs

Rep. Wald appeared as a sponsor in support also.

Rep. Severson appeared in support with written testimony.

Al Wolf, Attorney at Law, representing the nursing homes in McVile, Cando, Wahpeton,

LaMoure, Ellendale, Garrison & Dickinson appeared in support with written testimony.

Tim Tracy, CEO Towner County Medical Center in Cando, appeared in support with written testimony.

Sal Costa Rickford
Operator's Signature

10/2/03
Date

Page 2

House Human Services Committee

Bill/Resolution Number HB 1268

Hearing Date January 20, 2003

Questions of Mr. Tracy of whether Towner County Medical Center was a for profit or non profit organization. Not for profit. Also on the rate setting - response being this was patterned after federal rule where you buy it, depreciating it and reselling it for a depreciating value and being able to recover all the depreciation.

Bob Spencer, General Manager & CEO of Northern Plains Cooperative, appeared in support stating they have brought 2 medical clinics together under 1 umbrella.

Jim Opdahl, Administrator of Nelson County Health System, McVile, ND appeared in support with written testimony.

Kevin Greff, CEO of the Benedictine Living Communities, Bismarck, ND appeared in support with written testimony and attachment of ND Unreimbursed Property Analysis.

David Zentner, Director of Medical Services appeared neutral and to provide information on the bill stating they have different information than what was given to the committee earlier.

Shelly Peterson of the ND Long Term Care Assoc. appeared to answer questions for the committee regarding nursing homes.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268

House Human Services Committee

☐ Conference Committee

Hearing Date January 21, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-------------|
| 2 | | x | 46.5 - 50.5 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Sharon Raynor</i> | | | |

Continued Discussion:

Rep. Weisz stated that if the bill clears, it goes straight to appropriations and that is where they need the information as those communities (7 or 8 towns) are not listed in the bill. Preference is vote for it and send to appropriations or least favorite is to kill it.

Rep. Kreidt moved a DP and refer to Appropriations, second by Rep. Pollert. 9 - 3 - 1

Rep. Devlin will carry the bill.

FISCAL NOTE
Requested by Legislative Council
02/19/2003

Amendment to: HB 1268

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 | | | | | \$0 | \$342,524 |
| Expenditures | | | | | \$165,144 | \$342,524 |
| Appropriations | | | | | \$0 | \$0 |

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 amends and reenacts section 50-24.4-15 of the Century Code relating to nursing home rates for property-related costs for reimbursements; and provides an effective date of July 1, 2005. Because this bill would not be effective until July 1, 2005, there would be no fiscal impact for the 2003-05 biennium.

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.

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.

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.

| | | | |
|---------------|--------------------|----------------|----------------|
| Name: | Debra A. McDermott | Agency: | Human Services |
| Phone Number: | 328-3695 | Date Prepared: | 02/19/2003 |

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La Costa Rickford
Operator's Signature

10/3/03
Date

17

FISCAL NOTE
Requested by Legislative Council
02/13/2003

REVISION

Bill/Resolution No.: HB 1268

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 | \$0 | \$0 | \$0 | \$427,270 | \$0 | \$394,749 |
| Expenditures | \$0 | \$0 | \$201,438 | \$427,270 | \$190,325 | \$394,749 |
| Appropriations | \$0 | \$0 | \$201,438 | \$427,270 | \$0 | \$0 |

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 amends and reenacts section 50-24.4-15 of the Century Code relating to nursing home rates for property-related costs for reimbursements.

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 other revenues consist of federal funds at the federal medical assistance percentage.

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.*

This bill increases the grants line item by \$628,708 for reimbursement to nursing homes for property related costs

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.*

These expenditures are not included in the Executive Budget; therefore this bill would require an increase in appropriations for 2003-05 totaling \$628,708 of which \$201,438 would be general funds.

| | | | |
|---------------|-----------------|----------------|----------------|
| Name: | Debra McDermott | Agency: | Human Services |
| Phone Number: | 328-3695 | Date Prepared: | 02/13/2003 |

FISCAL NOTE
Requested by Legislative Council
01/14/2003

Bill/Resolution No.: HB 1268

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 | \$0 | \$0 | \$0 | \$659,946 | \$0 | \$625,249 |
| Expenditures | \$0 | \$0 | \$311,134 | \$659,946 | \$301,457 | \$625,249 |
| Appropriations | \$0 | \$0 | \$311,134 | \$659,946 | \$301,457 | \$625,249 |

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 amends and reenacts section 50-24.4-15 of the Century Code relating to nursing home rates for property-related costs for reimbursements.

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 other revenues consist of federal funds at the federal medical assistance percentage.

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.

This bill increases the grants line item by \$971,080 for reimbursement to nursing homes for property related costs

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.

These expenditures are not included in the Executive Budget; therefore this bill would require an increase in appropriations for 2003-05 totaling \$971,080 of which \$311,134 would be general funds.

| | | | |
|---------------|-----------------|----------------|----------------|
| Name: | Debra McDermott | Agency: | Human Services |
| Phone Number: | 328-3695 | Date Prepared: | 01/17/2003 |

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La Costa Rickford
Operator's Signature

10/2/03
Date

1.21.03
Date: January 20, 2003
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1268

House HUMAN SERVICES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DP a ^{ref} to approp's

Motion Made By

Rep Kreidt

Seconded By

Rep. Pollert

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|---------------------|-----|----|
| Rep. Clara Sue Price - Chair | A | | 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 | ✓ | ✓ | | | |
| Rep. Gary Kreidt | ✓ | | | | |
| Rep. Alon Wieland | ✓ | | | | |
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Total (Yes) 9 No 3

Absent 1

Floor Assignment

Rep Devlin

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

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Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 4:51 p.m.

Module No: HR-11-0875
Carrier: Devlin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1268: Human Services Committee (Rep. Price, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (9 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1268 was rereferred to the Appropriations Committee.

La Costa Rickford
Operator's Signature

10/3/03
Date

2003 HOUSE APPROPRIATIONS

HB 1268

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In Costa Rickford
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-13-03

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| | | | |
| | | | |
| | | | |
| Committee Clerk Signature <i>Chris S. Nylund</i> | | | |

Minutes:

Chairman Svedjan Opened HB 1268 for discussion. A quorum was present.

Rep. Devlin Introduced the bill.

Tim Tracey, CEO of Hospital and Nursing Home in Cando. See written testimony.

Rep. Delzer Has the department changed property rates since they purchased them?

Tracey No, not except for capital improvements.

Rep. Delzer Therefore, you knew what you were facing from the beginning?

Tracey Yes.

Rep. Delzer The money for this isn't currently in the budget. It would require added money.

Tracey Correct, the formula would be changed.

Rep. Delzer Would you rather have the 85 rule or this?

Tracey We have been misinformed, its a matter of equity. The seven facilities are not on par with other properties. If the formula is changed, these properties would be more affected.

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Operator's signature

10/2/03
Date

Page 2

House Appropriations Committee

Bill/Resolution Number HB 1268

Hearing Date 02-13-03

Rep. Delzer I recall this issues from two years ago in subsection.

Tracey Last time, this bill didn't move to the floor because of information from Dr. Nicholas.

Rep. Warner Please explain the fiscal note.

Dave Zentner \$201,000 in general funds is current. There is a new fiscal note being generated.

Rep. Kempenich What is the discrepancy with Eide Bailey?

Zentner There were a difference in calculations.

Chairman Svedjan If we pass this as current, it leaves the rules in question. We may have to address this again.

Zentner In 1994 a study in property pushed a change, prior to that there was nothing. We need some money and guidance to make a change.

Rep. Delzer I understand that good is being done in these facilities, but we have budget restraints.

Rep. Delzer I move a Do Not Pass. 2nd by Rep. Carlisle.

Rep. Delzer We will look at this in the Human Services budget.

Rep. Gulleson We need to look at everything, there needs to be a shared reduction. We need to be consistent with our other cuts.

Rep. Delzer This bill and budget deals with next biennium, HB 1200 is for the current biennium.

Chairman Svedjan The Human Resource will recognize that need.

Rep. Warner I would resist that do not pass motion. I would like this to go to the Senate for there consideration.

Motion Carries 14-7-2. Rep. Delzer will carry this bill to the floor.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-14-13

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | | X | 0.0-8.0 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Chris J. Nye</i> | | | |

Minutes:

Rep. Delzer I move to Reconsider the Do No Pass we put on HB 1268. 2nd by Rep.

Carlson. Motion Carries.

Rep. Delzer I move amendment 30535.0102. 2nd by Rep. Carlisle.

Rep. Warner I commend Rep. Delzer on this.

Rep. Wald Shouldn't there be an appropriate number in the amendment?

Rep. Delzer No, its not needed.

Motion Carries

Rep. Delzer I move a Do Pass As Amended. 2nd by Rep. Wald. Motion Carries 22-0-1.

Rep. Delzer will carry this on the floor.

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 10:13 p.m.

Module No: HR-28-2694
Carrier: Delzer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1268: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO NOT
PASS (14 YEAS, 7 NAYS, 2 ABSENT AND NOT VOTING). HB 1268 was placed on
the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-28-2694

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In Costa Rickford
Operator's Signature

10/3/03
Date

30535.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Deizer
February 14, 2003

VR
2/14/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1268 Approp. 2-14-03

Page 1, line 2, after "reimbursements" insert "; and to provide an effective date"

HOUSE AMENDMENTS TO HB 1268 Approp. 2-14-03
Page 2, line 18, replace "2002" with "2000"

Page 2, after line 20, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2005."

Renumber accordingly

Page No. 1

30535.0102

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Y. Costa Rickford
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 14, 2003 5:07 p.m.

Module No: HR-29-2853
Carrier: Delzer
Insert LC: 30535.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1268: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1268 was placed on the Sixth order on the calendar.

Page 1, line 2, after "reimbursements" insert "; and to provide an effective date"

Page 2, line 18, replace "2002" with "2000"

Page 2, after line 20, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2005."

Renumber accordingly

2003 SENATE HUMAN SERVICES

HB 1268

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La Costa Rickard
Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 11, 2003

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-------------|
| 2 | X | | 4688 - end |
| | | X | 0-54 |
| 3 | X | | 0 - 3140 |
| | | X | 2100 - 3038 |
| Committee Clerk Signature <i>Donna Kramer, Clerk</i> | | | |

Minutes:

SENATOR JUDY LEE opened the public hearing for HB 1268 relating to nursing home rates for property-related costs for reimbursements; and to provide an effective date.

REPRESENTATIVE DEVLIN introduced the bill. (Written testimony) (Meter # 5042 - 5635)

REPRESENTATIVE NICHOLAS testified in favor of the bill. (Meter # 5655 - 5900)

SENATOR WARDNER, as one of the sponsors testified in favor of the bill. (Meter # 5956 - 6086)

SENATOR THANE, testified in favor. (Tape 2, Side A, Meter # 6105 - end and Side B, Meter 0 - 54)

ROBERT SPENCER, Chairman of the Board of Towner County Medical Center of Cando, testified in support of HB 1268. (Written testimony) (Tape 3, Side A, Meter 0 - 66)

TIMOTHY J. TRACY, CEO to Towner County Medical Center in Cando, written testimony.

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La Costa Rickford
Operator's Signature

10/3/03
Date

Page 2

Senate Human Services Committee

Bill/Resolution Number HB 1268

Hearing Date March 11, 2003

JON FRANTSVOG, Administrator of St. Benedict's Health Center in Bismarck, testified in support of the bill. (Written testimony) Introduced persons who had accompanied him in support of the bill. (Meter # 120 - 720)

LEO REINBOLD, Public Service Commissioner, testified in support. Told story about mother who was at St. Benedict's Health Center. ... (Written testimony) (Tape 3, Side A, Meter # 738 - 1050)

JIM OPDAHL, Administrator of Nelson County Health System, testified in support of HB 1268. (Written testimony) (Meter # 1072 - 1900)

AL WOLF, from Wheeler Wolf Law Firm, Bismarck and representing nursing homes in McVille, Cando, Wahpeton, LaMoure, Ellendale, Garrison and Dickinson, testified. (Written testimony) (Meter # 1989 - 2935)

SENATOR LEE closed the public hearing. (Meter # 3140)

SENATOR LEE reopened the committee discussion in the afternoon on HB 1268 to hear the testimony of David Zentner from the Department of Human Services.

DAVID ZENTNER, Director of Medical Services of the Department of Human Services, testified before the committee to provide information on HB 1268 relating to nursing homes. (Tape 3, Side B, Meter # 2100 - 2270)

Discussion with the committee members regarding nursing home private pay rates ... property costs ... (Meter # 2280 - 2908)

SENATOR LEE asked for comments.

SENATOR BROWN moved for a DO PASS.

Page 3

Senate Human Services Committee

Bill/Resolution Number HB 1268

Hearing Date March 11, 2003

SENATOR FAIRFIELD seconded the motion.

Roll call was read. 6 yeas and 0 nays.

SENATOR FAIRFIELD will be the carrier. (Meter # 3038)

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La Costa Rickford
Operator's Signature

10/3/03
Date

Date: 03-11-03
Roll Call Vote # 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1268

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass & Refer

Motion Made By

Sen. Fairfield

Seconded By

Sen. Brown

| 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 | ✓ | | | | |
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Total (Yes) 6 No 0

Absent _____

Floor Assignment

Sen. Fairfield

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

La Costa Rickford
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 17, 2003 10:15 a.m.

Module No: SR-47-4882
Carrier: Fairfield
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1268, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1268 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

SR-47-4882

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10/3/03
Date

2003 SENATE APPROPRIATIONS

HB 1260

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La Costa Rickford
Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1268 & Vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 3-19-03

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|----------|
| 1 | X | | 5205-end |
| 1 | | X | 0-500 |
| Committee Clerk Signature <i>Sandra Dawson</i> | | | |

Minutes: CHAIRMAN HOLMBERG opened the hearing to HB 1268. A bill relating to nursing home rates for property-related costs for reimbursements; to provide an effective date.

CHAIRMAN HOLMBERG explained to the committee that this bill does not have an impact on this biennium, but it is important for the committee to know this is effective next biennium.

(Meter 5260) REPRESENTATIVE BILL DEVLIN, District 23 testified as sponsor of this bill.

See written testimony Exhibit 1.

(Meter 5765) Al Wolf, representing nursing homes testified in support of HB 1268. See written testimony Exhibit 2.

Tape 1 Side B

There was a motion of a DO PASS by SENATOR KRAUTER and a second by SENATOR THANE. A voice roll vote passed by 13 yeas, 0 nays and 1 absent. This bill will be carried by Human Services committee, SENATOR FAIRFIELD.

CHAIRMAN HOLMBERG closed the hearing to HB 1268.

Date: 3-19-03
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1268

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Krauter Seconded By Thane

| 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) 13 No _____

Absent 1

Floor Assignment HS Fairfield

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

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La Costa Rickford
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 19, 2003 3:39 p.m.

Module No: SR-49-5260
Carrier: Fairfield
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1268, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1268 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-49-5260

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10/3/03

2003 TESTIMONY

HB 1268

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10/3/03

January 20, 2003

HB 1268

HOUSE HUMAN SERVICES COMMITTEE

Rep. Price and members of the Committee. My name is Bill Devlin from District 23. I'm the prime sponsor of HB 1268 which amends the law on nursing home rate setting to adequately cover the property-related costs for North Dakota nursing homes that changed hands between 1985 and 2002. This bill will affect facilities in McVille, Cando, Vahpeton, LaMoure, Ellendale, Garrison and Dickinson. In each of these instances the facilities were purchased from for profit nursing home chains who were leaving North Dakota. The new owners are non-profit community minded providers who are interested in meeting community needs and sustaining healthcare in our rural areas. These providers have apparently improved operations in these homes but are not receiving their full interest and depreciation expenses as other homes do because the rate setting law does not recognize the full price paid on their purchase.

The existing state law was fashioned after and limited by federal legislation which has since been repealed. Apparently the purpose of that federal legislation was to prevent the "churning" of nursing homes for profit. That purpose does not apply in these situations and the homes are subject to a disadvantage that does not advance the best interests of the State or the local citizens served by these facilities. The bill is drafted to affect only these homes to give the state control over future transactions since we do not know what they may be.

These facilities are vital to the communities they serve. They provide a total of 1,033 jobs in our communities and have a monthly payroll of nearly \$1,500,000.00. We need to do what we can to help businesses such as these survive and thrive.

This is a tough session for money. The fiscal note on this bill was not available as I prepared these comments however it appears that the investment of state funds to allow this to happen is moderate and will yield an annual return of nearly 5 to 1 because of the federal match on medicaid funds and the private pay component within the facilities.

It seems that this change makes good sense. A number of presentors are here this morning to provide us with information. Please listen to them carefully and together let's work for the best interests of our citizens.

Testimony on HB 1268

Madam chairman and members of the committee. For the Record I am Rep. Dale Severson, District 23 from Cooperstown.

I appear in support of HB 1268 which will allow several nursing homes in the state, including one in my district at McVillie, an opportunity to be on equal footing with other nursing home providers - to have real costs covered. Presently, 7 facilities have actual property costs (interest and depreciation) without full reimbursement. Without having these costs fully covered, there will become a time when the replacement of major assets and plant replacement will exceed the facilities' capacity/means.

It is time to update our State Law on this since Federal law changes allow this to be fixed.

Change of ownership has been positive in each community. Each facility as the community ties to assure that local direction and input is a key part of the care and physical environment plans for each facility.

The new owner/operators have done the right thing for the communities. The facility's focus is now each community's needs. There is now a high level of partnership and accountability with the Community which did not exist before.

There have been significant improvements in quality of care and quality of life since the ownership changes.

If we look at this from an economic development aspect it should be pointed out that there is a cost to the state of an estimated \$87,513 each year to the state but will bring \$435,680 to the communities because of the medical funds and private pay components within the facilities.

Madam Chairrnan and members of the committee I respectfully ask the committee to give this bill a unanimous do pass recommendation and send it on to appropriations.

January 20, 2003

Testimony

Page 1 of 2

January 20, 2003

HB 1268

HOUSE HUMAN SERVICES COMMITTEE

Testimony by

Albert A. Wolf

In Support of HB

1268

Rep. Price and members of the Committee. My name is Albert A. Wolf from Wheeler Wolf Law Firm, Bismarck and I am representing the nursing homes in McVille, Cando, Wahpeton, LaMoure, Ellendale, Garrison and Dickinson who have sought the amendment in the law to provide equal rate setting procedures to adequately cover the property related costs.

In the early 1980s, Congress passed a law to discourage "churning" amongst healthcare facilities, that is, exchange of ownership for the purpose of creating new property cost basis upon which rates were set, for the sake of setting higher rates for reimbursement for Medicaid residents or patients at nursing homes or hospitals. That law required states to enact some type of legislation to prevent the "churning" under state law in order to remain fully eligible for federal participation and medical assistance programs. This legislature passed a law in ND to limit the purchaser of medical facilities to the prior owner's depreciated values as a basis of reimbursement, rather than the market value or the appraised value or the purchase price at the time the facilities changed ownership after the effective date of the act.

Some of you may recall under the 1991 session there was a bill passed that changed that law somewhat, the Sunset Provision, by the end of the biennium but which limited the depreciation and interest cost process to lower the purchase price of the appraised value or one half of the percentage increase in the consumer price index. That legislation was partly in response to an interim

January 20, 2003

Tesimony

Page 2 of 2

study ongoing from the 1989-1991 sessions, which recommended that legislation.

Similar legislation was passed again in the 1993 session to sunset June 30, 1995.

In the 1995 legislative session this issue was again addressed based on the ongoing interim study committee reports, and at that time, the law was established as you see it, in the statute contained in HB 1268, which is being proposed for amendment this session. That law also included a further limitation of one half percentage increase of the Dodge Construction Index from the date of acquisition by the seller to the date of acquisition by the buyer, less the cumulative depreciation, which was included along with the Consumer Price Index language in a federal law which remained in the federal law and in the federal regulations until its repeal in the 1997 Congressional Session.

Consideration was given in the 1999 session and in the 2001 session to have the state law amended to comply with federal law. It was felt by the Department of Human Services that since the provisions were still retained in The Federal Register of Federal Regulations the 1997 repeal of the law by Congress would not be effective and therefore Legislation was not introduced until this year. It is now clear that Federal Law does not require these provisions to be retained in State Law and they are no longer contained in Federal Law since 1997. This is the time and the place for these amendments to bring ND State Law in compliance with Federal Law.

La Costa Rickford
Operator's Signature

10/3/03
Date

Testimony on HB 1268
House Human Services Committee
January 20, 2003

Chairperson Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1268 – relating to amending nursing home rates for property related costs. My name is Timothy J. Tracy, I am the CEO Towner County Medical Center in Cando. Towner County Medical Center is a diverse healthcare organization consisting of a 20 bed hospital, three rural health clinics staffed by three physicians and one chiropractor, a 60 bed skilled nursing facility, a 10 bed basic care facility, a 12 bed addition treatment program, congregate housing for the elderly, and a child daycare center. TCMC's primary mission is to insure the ongoing access and provision of quality healthcare for all age groups on Towner County and the surrounding area.

The rate setting manual for nursing facilities has devastating application for communities with a need or desire to facilitate the change of ownership of a skilled nursing facility. The application of Section 18 as it relates to the depreciation of an acquired asset and Section 19 as it relates to the interest expense of an acquired asset of the rate setting manual for nursing facilities are of particular interest.

Prior to the 2001 legislative session, the property cost (depreciation and interest expense) issue was presented to the Department of Human Services through the efforts of Rep. Eugene Nicholas. The Department communicated to Rep. Nicholas that current Federal rule did not allow for modification of the ND property reimbursement formulas. This was not correct information. A change in the Federal rule had been communicated to the Department and the Department should have been aware of the change. This caused a number of affected facilities along with the ND Long Term Care Association to gather the information needed to ratify Federal rule did in fact allow the Department to expand the definition of allowable property costs. This incorrect information

created a situation in which seeking a remedy to the property issue was delayed until this the 2003 legislative session.

Towner County Medical Center acquired Resthaven Healthcare Center from HMU Management Company, a for profit company from Eden Prairie, Minnesota in August of 1997. Resthaven was part of what had been determined a poor performing chain in North Dakota by the Department of Health. The facility was in a state of disrepair and the quality of care met only minimum standards. The value of the facility was determined by a certified real estate appraiser who had a background and experience in appraising health care facilities. The secure financing through an Industrial Development Bond issuance, a fair and equitable price needed to be established. The appraised value of the facility was \$1,800,000. The purchase price of the facility was \$1,727,652.

When Section 18 of the rate setting manual was applied to the purchase of Resthaven Healthcare Center, the net effect was to disallow \$807,468 of the purchase price. This reduced the allowable depreciation for this facility, for the cost report period ended June 30, 2002, by \$46,711.

When Section 19 of the rate setting manual is applied to the purchase of Resthaven Healthcare Center, the allowable debt to finance the purchase is 90% of the allowable purchase price of \$920,184. Therefore only 47.94% of the bond interest expense and amortization of bond issuance costs were allowed. This reduced the allowable financing expense for this facility, for the cost report ended June 30, 2002, by \$55,807.

What would this mean fiscally for the Department if Cando were allowed to recover disallowed depreciation and interest expense. The fiscal note for the Department of Human Services for this facility would be approximately \$18,459 annually. The total recovery for the facility would be \$102,518. The Department would pay for the Medicaid portion or approximately 56.8% (\$58,230). Of the \$58,230 the federal

portion would make up \$39,771 leaving the actual fiscal note for the department \$18,459.

There have been a number of facilities change hands in the last 10 years. All for good and justifiable reasons. Some may argue that we simply overpaid for the facility. If the purchase price could be determined solely on the basis of the Department's rate setting manual, that would be true. The facilities which have changed hands to my knowledge have been appropriately valued, especially those involved with buying out HMU in Cando and McVile. Both communities have reengineered their healthcare organizations to better serve the public while preserving access to care. Reengineering takes vision and determination and carries with it some risk.

The Department may argue that such rate setting standards discourage property turnover just for the purpose of enhancing reimbursement. While understandable, there are circumstances such as those which have occurred in Cando and McVile which I believe the limitation in the rate setting manual was not necessarily intended when drafted. Section 18 and Section 19 of the manual have their history in companies which were attempting to game the system which is clearly not the case with the purchase of Cando and McVile. HB 1268 will allow those facilities which changed hands between 1985 and 2003 and have provided significant benefit to their communities to recover their costs of operation.

Towner County Medical Center and its community leaders have done the right thing. The property formula employed by the Department has penalized our community because of corporate behavior that has not existed for almost two decades. I urge you to reward the initiative, vision, and commitment of those asking for your assistance by supporting HB 1268.

La Costa Rickford
Operator's Signature

10/3/03
Date

Thank you for your interest and attentiveness during the testimony on HB 1268. If there are any questions, we would be happy to provide information helpful in your deliberations.

Timothy J. Tracy, CEO
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10/3/03
Date

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**TESTIMONY HB 1268
HOUSE HUMAN SERVICES COMMITTEE
JANUARY 20, 2003**

Chairman Price and members of the House Human Services Committee, my name is Jim Opdahl, administrator of Nelson County Health System (NCHS), McVille, North Dakota. I want to thank you for this opportunity to testify in support of HB 1268 and to extend a special appreciation to Representative Devlin for sponsoring this bill and his support these past several years.

NCHS is a health services organization providing a continuum of health care and related services to the greater Nelson County community. We manage the NCHS Care Center for the City of McVille, one of the two government-owned nursing facilities that made it possible for the State of North Dakota to access millions of Federal dollars to fund the North Dakota Health Care Trust Fund and long-term care.

The Care Center is also one of seven nursing facilities that have changed ownership from a for-profit to a non-profit organization since 1989, and as a result of the purchase are under reimbursed for their property expenses. For the current rate year ending 6/30/04 the total lost reimbursement for these facilities is \$435,680.00. The impact on the Care Center is \$64,957.00 during the current rate year with approximately \$288,000.00 of lost property reimbursement since the purchase of the Care Center in January 1998. NCHS and the other facilities have been paying a "penalty" for doing the "right thing" for their residents, family members, staff, and communities. All of these facilities have benefited from the change in ownership. In the case of the Care Center, its purchase and merger with the hospital helped save the day. Without question, the Nelson County community would have lost a nursing home, hospital, or both if this wasn't done. Many improvements have been made at the Care Center since its purchase, many coming about with dollars provided to the Care Center through the intergovernmental transfer program and the North Dakota Health Care Trust Fund. These dollars helped save the day once again a few years later when we began to experience additional financial problems, much of which could be attributed to this lost property reimbursement.

The issue is the valuation placed on the purchased assets at the time of the sale. The value placed on the assets is then used to determine reimbursable property related expenses associated with the purchase including depreciation, interest, and related costs. The current system places a valuation on the purchased assets at the lesser of the purchase price, fair market value (appraised value), or Seller's cost basis adjusted by $\frac{1}{2}$ the consumer price index or dodge construction index, whichever is less for transactions occurring after July 1, 1985. Section 2314 of the Deficit Reduction Act of 1984 and the Consolidated Omnibus Budget Reconciliation Act of 1985 establishes the federal law in support of our current state law. The Department has taken the position that it could not make any changes due to federal law. However, Section 4711 of the Balanced Budget Act of 1997 repealed the federal

law and set forth a public process to allow states the "maximum flexibility" in developing rates. The State of North Dakota has the option to keep the law as is or to amend the law, provided it initiates a public process to do so and will be eligible for federal matching dollars.

It's important to understand the basis of the law in the first place. It was designed to discourage the sale and resale of nursing facilities induced solely by cash flow, inflation, or tax considerations of the buyers and sellers. It is referred to as "churning" of nursing facilities. The issue in North Dakota with these seven facilities is not "churning". These facilities changed ownership and have benefited from this change in ownership for the sole purpose of benefiting the residents, their families and communities. HB 1268 will provide relief for these seven facilities. The valuation will be reestablished at the lesser of the purchase price or fair market value (appraised value). It is my belief that all the facilities affected by this bill purchased their facilities at or below fair market value.

The Care Center and the other six facilities, along with the people and communities they serve, are being harmed due to the loss of property reimbursement. HB 1268 will correct this problem and help these facilities better fulfill their mission and responsibilities to their communities/

The image and roles of nursing homes have changed since their arrival on the scene more than 100 years ago to address a critical need in providing care and services to the frail elderly and disabled. This role continues but nursing homes have taken on many other roles as well. There is little question of their social and economic importance to communities throughout North Dakota, and especially those considered rural or frontier communities. Nursing homes have evolved to better meet the demands, challenges and uncertainties past, present, and future. They have developed special programs to serve special populations such as Alzheimer's residents. They provide, have developed, or are developing other care and housing options including basic care, adult day care, respite care, independent congregate living, and assisted living. Some provide home health care services, provide space for physicians and medical clinics, offer inpatient and outpatient rehabilitation services, psychiatric services, and nutritional services. They provide telemedicine and videoconferencing providing opportunities for continuing education, advanced degrees, and business. While others have played "key" roles in merging with their local hospitals to ensure the viability of a full continuum of essential health care services in our rural communities. Nursing homes have been and will continue to be an important "vehicle" through which many good things can be brought about for the citizens of North Dakota.

I close by asking for you to support the passage of HB 1268.

Thank you
Jim Opdahl

JANUARY 20, 2003
HB 1268 - HOUSE HUMAN SERVICES COMMITTEE

Chairperson Price and members of the House Human Services Committee: Thank you for the opportunity to testify on HB 1268 - relating to amending nursing home rates for property related costs. My name is Kevin Greff, I am the C.E.O of the Benedictine Living Communities. I work out of the Benedictine Living Communities office right here in Bismarck. I served as the Administrator of St. Benedict's Health Center in Dickinson for seven years prior to accepting this position in 1998. Benedictine Living Communities, Inc. is a non-profit corporation made up of five skilled nursing facilities in North Dakota. In the interest of respecting your time, I have been asked by my co-workers to be the spokesperson for our group for the purpose of this testimony today.

Our administrators are here and I would like to introduce them. We have Jon Frantsvog from St. Benedict's Health Center in Dickinson, Scott Foss from the Benedictine Living Center of Garrison, Tony Hanson from St. Rose Care Center in LaMoure/ Prince of Peace Care Center in Ellendale and Steve Williams from St. Catherine's Living Center in Wahpeton along with Ron Frie, our Director of Financial Services in Bismarck. They are available to answer any questions you may have. We are here to testify on behalf of our residents, family members and staff as well as the communities we serve.

We thank Representative Devlin for introducing this bill and giving you the opportunity to help us with our work. We also thank each of you for taking the time out of your lives to serve us as members of the House of Representatives.

We are privileged. Our work is meaningful to us because it is actually a ministry. We are sponsored by the Benedictine Sisters of Duluth to carry on the healing ministry of Jesus. Our Mission calls us to..." witness to God's love for all people with special concern for the poor and powerless... We provide compassionate, competent services in an environment that enhances human worth." Through our work with residents and family members in our 1500-year Benedictine Tradition we live and teach our Core Values of **Hospitality, Stewardship, Respect and Justice**. We are sponsored through the Sister's Benedictine Health System and receive shared services from the System Office. Benedictine Living Communities, Inc. is an independent member organization serving the state of North Dakota. Our governing Board consists of three sponsoring Sisters and a volunteer leader representing each of the communities we serve.

The Sisters were called to North Dakota in 1989 when the facilities were acquired from Beverly Enterprises, a national for-profit nursing home chain, that was leaving the state during the implementation of equalization of rates. At that time, Benedictine Living Communities, Inc. was formed. On acquisition, the appraised value of the facilities was \$10,026,700. Through the nursing home rate setting rules, the State is able to recognize only \$7,274,896 of the purchase price as the basis for figuring depreciation and allowable interest expense for the facilities. The estimated total unreimbursed property costs in comparing the 1/1/2003 rates to our actual expenses are as follows:

| <u>Location</u> | <u>Annual Unreimbursed Interest Expense</u> | <u>Annual Unreimbursed Depreciation</u> | <u>Total Unreimbursed Property Costs</u> |
|-----------------------------|---|---|--|
| St. Benedicts - Dickinson | \$ 88,489 | \$ 69,127 | \$ 157,616 |
| BLC of Garrison | 41,377 | 17,591 | 58,968 |
| St. Rose - LaMoure | 41,120 | 12,894 | 54,014 |
| Prince of Peace - Ellendale | 59,064 | 20,885 | 79,949 |
| St. Catherine's - Wahpeton | 22,811 | 20,574 | 43,385 |
| TOTAL | \$ 252,861 | \$ 141,071 | \$ 393,932 |

It should be noted that not all of these costs would be covered under the provisions of HB 1268 due to other aspects of the rate setting process. The total costs are shown to give you understanding of the burden under which our facilities are operating. Despite this drastic shortfall in property reimbursement, each of the Benedictine Living Communities has done the right thing for the community served over the years. Remarkable enhancements have been made in the physical plants, in quality of care and quality of life for the residents. This has been accomplished through partnering, additional debt, the ND bed buyout incentive that you provided to us last session and strong community support in active fundraising efforts.

The relationship we have developed with our communities is phenomenal! At the time of acquisition there was much to be done in building a Mission and Values culture and in improving the facilities. Our approach has been to invite people to help us recognize community needs and improve what we are able to offer. People have responded with their gifts of time, talent and treasure. We continuously get satisfied praise from the people we serve affirming the improvements they have seen over the years. Last year we benefited from approximately 44,000 volunteer hours and our foundation just recently celebrated a significant landmark with \$2,000,000.00 raised. We utilize the volunteer time of key community leaders to explore community needs and help us plan

through our local Advisory Councils. The chair of each local Advisory Council serves on our statewide Board of Directors. This model gets things done. Highlights of our accomplishments include:

Benedictine Living Center of Garrison

A Chapel/ Community Room addition, the Open Arms Alzheimer's Special Care Center, the Caring Arms Family Suite and Upgrading/ Downsizing for Quality of Life in additional Private Rooms.

St. Benedict's Health Center - Dickinson

A beautiful Dining Room addition, the addition of the "Emmaus" Alzheimer's Care Center, the Gardenvue Suite with an award winning model for End of Life Care, St. Benedict's Chapel and Community Room, additional Private Rooms and Private Suites as well as Assisted Living Apartments currently under construction. St. Benedict's has earned the American Healthcare Association's "Step One" Quality Award and has accomplished two deficiency free Health department surveys.

Prince of Peace Care Center - Ellendale

The addition of "Subiaco"- a special care center for Alzheimer's, a Meditation Room, a Family Hospitality Suite, and upgrading/ downsizing for quality of life in Private Rooms. Community services added include Home Health Care, teaching Health Careers in the area high schools and a joint venture with Dickey County Memorial Hospital to convert the hospital for Assisted Living and Basic Care.

St. Rose Care Center - LaMoure

We added Home Health Care for the community, we developed a partnership with LaMoure County to provide Public Health and Health Maintenance Services, we completed a beautiful secure courtyard and upgrading/ downsizing for quality of life in Private Rooms. Construction is currently underway to add Rosewood Court, which features 12 Assisted Living Apartments to open March 2003 through a partnership with the LaMoure Community Development Corporation.

St. Catherine's Living Center - Wahpeton

Construction of two dining room additions, a comfortable new lobby, construction of new resident bathrooms, development of a Home Health Agency, a Special Care Center for Alzheimer's, a Hospice Suite for End of Life Care which earned a ND Best Practices Award, a facility wide upgrade, downsizing for quality of life in Private Rooms and acquisition of adjacent property for future development of assisted living.

These are just the highlights. Good things are happening every day as we evolve and benefit from the synergy in our communities. While we celebrate these accomplishments we have great concern for the perpetuation of our ministry. The current

model does not provide us with a means to fund depreciation for future building and equipment needs. We perform with a chronic, consistent operating loss. We operate very efficiently but even with the injection of the foundation donor gifts I mentioned earlier, our consolidated balance sheet shows a final fund balance of (-\$1,359,437.11). This is the net accumulation of our operations over our 13 year history.

Many of the good changes that have been accomplished would not have occurred under the former ownership. Our negative fund balance displays the toll of doing what is right while incurring necessary costs which are not reimbursed. We are determined to improve this fund balance to ensure our ongoing good work. We need your help to eliminate what is, in effect, a penalty for helping our communities. We are asking for something that the vast majority of the nursing homes in ND enjoy and take for granted - reimbursement of actual interest and depreciation expense. We ask your support of HB 1268.

Thank you for the opportunity to present testimony on HB 1268. We would be happy to answer any questions you may have.

Kevin Greff, CEO
Benedictine Living Communities, Inc.
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(701) 250-1006

Accompanied By:

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Tony Hanson, Administrator/ CEO
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St. Rose Care Center
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(701) 349-3312

Steve Williams, Administrator/CEO
St. Catherine's Living Center
1307 North 7th Street
Wahpeton, ND 58075
(701) 642-2691

HB No. 1268
ND UNREIMBURSED PROPERTY ANALYSIS

DRAFT

| Location | State General Funds | Federal Medicaid Matching Funds | Private Pay & Other Payers | Total Unreimbursed Property Costs* |
|------------------|------------------------|------------------------------------|-------------------------------|--|
| SBHC - Dickinson | \$ 34,675 | \$ 74,710 | \$ 48,230 | \$ 157,615 |
| BLCG - Garrison | 10,935 | 23,561 | 24,472 | 58,968 |
| SRCC - LaMoure | 9,948 | 21,434 | 22,632 | 54,014 |
| PPCC - Ellendale | 17,107 | 36,858 | 25,983 | 79,948 |
| SCLC - Wahpeton | 7,069 | 15,231 | 21,085 | 43,385 |
| NCHS - McVillie | 13,238 | 28,523 | 23,196 | 64,957 |
| TCMH - Cando | 18,459 | 39,771 | 44,288 | 102,518 |
| TOTAL | \$ 111,431 | \$ 240,088 | \$ 209,886 | \$ 561,405 |

* May include interest expense limited by the 90% rule in Section 19(f) of the ratesetting manual.

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10/3/03
Date

Neutral

**TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1268
JANUARY 20, 2003**

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services and I appear to provide information on this bill.

This bill will allow nursing facilities that were purchased between July 1, 1985 and July 1, 2002 that currently have limits on their property costs to have those costs recognized in their payment rates beginning January 1, 2004.

All facilities should be aware of the limits the Department has established when facilities are purchased. Providers impacted by this bill made a business decision to purchase nursing facilities knowing that the property cost rate would be limited. This bill will hold them harmless from that business decision. It will require additional Medicaid funding and will increase the rates to private pay residents.

A total of 18 facilities have been sold since 1985. Of those, eight were not affected by the limit related to the seller's cost basis. Information is currently unavailable for two facilities that were sold within the last year. The Department estimates, for the eight facilities affected by this bill, the additional cost to the Medicaid Program for the 03-05 biennium will total about \$971,000, of which about \$311,000 are state funds. In addition, private pay residents will pay an estimated additional \$535,000 in the next biennium.

As you are aware, the state is experiencing a difficult revenue picture. The proposed Medicaid budget does not include dental services for adults who are elderly and disabled, eliminates hospice coverage for dying recipients who do not have Medicare coverage, eliminates 2,400 low income working adults from the

program who will no longer have any Medicaid coverage and incidentally reduces payments to nursing facilities.

In light of the above, the legislature will need to determine what priorities deserve funding with the limited resources available to North Dakota during the next biennium.

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

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1268
MARCH 11, 2003**

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services and I appear to provide information on this bill.

This bill will allow nursing facilities that were purchased between July 1, 1985 and July 1, 2000 that currently have limits on their property costs to have those costs recognized in their payment rates beginning January 1, 2006.

All facilities should have been aware of the limits the Department has established when facilities are purchased. Providers impacted by this bill made a business decision to purchase nursing facilities knowing that the property cost rate would be limited. This bill will hold them harmless from that business decision beginning in the 2005 - 2007 biennium. It will require additional Medicaid funding and will increase the rates to private pay residents.

This bill will affect seven facilities that were purchased between July 1, 1985 and July 1, 2000. The Department estimates that the additional cost to the Medicaid Program for the 05-07 biennium will total about \$508,000, of which about \$165,000 are state funds. In addition, private pay residents will pay an estimated additional \$256,000 in the next biennium.

The fiscal note amount is based on a review of cost reports that were submitted by the nursing facilities affected by this bill by the Provider Audit Unit of the Department.

As you are aware, the state is likely to experience a difficult revenue picture into the foreseeable future. If this bill passes, the Department will be required to

commit additional funding for these property costs when it is unknown what the fiscal picture will be in 2005.

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

March 11, 2003
SENATE HUMAN SERVICES COMMITTEE

Testimony by
Albert A. Wolf
In Support of HB 1268

Senator Lee and members of the Senate Human Services Committee. My name is Albert A. Wolf from Wheeler Wolf Law Firm, Bismarck and I am representing the nursing homes in McVille, Cando, Wahpeton, LaMoure, Ellendale, Garrison and Dickinson who have sought the amendment in the law to provide equal rate setting procedures to adequately cover the property related costs. Ownership of these homes changed between 1985 and 2000. Other testimony will outline the need for this amendment in the law to be passed at this session.

The present law not only limits the inclusion of the property depreciation factor in the rate making process for cost reimbursement for Medicaid residents, but under ND equalized rate setting laws, it also controls the rate setting process for private pay residents at that lower level. Consequently, this creates a great impact upon the reimbursement levels of 6 of these 7 nursing homes as compared to all the other nursing homes in the state of North Dakota.

I believe the legislature recognizes that the actual cost of operating nursing homes cannot be fully reimbursed in the state of North Dakota because of the financial crunch that exists this year. However, for these seven nursing homes to take a jolt along with the other nursing homes, these historical deficiencies must be dealt with now, or at least to let it be known that it will occur during the next biennium. Even though receiving only the reduced rates of reimbursement for Medicaid residents, and in turn private pay residents, they are still required to maintain the same healthcare standards and an appropriate environment for the residents.

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What is additionally unfortunate is that the present law rewards the long term care insurance providers with a lower rate in ND already because of the equal rate system that is in place here and in Minnesota, to my knowledge, the only 2 states that have that rule. But, this additional reduction of rates for these 6 nursing homes gives those additional benefits to the long term care insurance providers.

By the rule making powers of the Department based on a property study committee, only 90% of the debt related to cost of assets acquired are being implemented in any event. That practice has been accepted by the nursing homes, generally, and this bill does not attempt to change those limitations or in any way alter that administrative rule governing that portion of the rate setting process.

HISTORY OF LEGISLATION

In the early 1980s, Congress passed a law to discourage "churning" amongst healthcare facilities, that is, exchange of ownership for the purpose of creating new property cost basis upon which rates were set, for the sake of setting higher rates for reimbursement for Medicaid residents or patients at nursing homes or hospitals. That law required states to enact some type of legislation to prevent the "churning" under state law in order to remain fully eligible for federal participation and medical assistance programs. This legislature passed the law in ND to limit the purchaser of medical facilities to the prior owner's depreciated values as a basis of reimbursement, rather than the market value or the appraised value or the purchase price at the time the facilities changed ownership after the effective date of the act.

Some of you may recall, under the 1991 session, there was a bill passed that

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changed that law somewhat, with a sunset provision, at the end of the biennium, but which limited the depreciation and interest cost process to lower the purchase price of the appraised value to one half of the percentage increase in the consumer price index. That legislation was partly in response to an interim study ongoing from the 1989-1991 sessions, which recommended that legislation. Similar legislation was passed again in the 1993 session to sunset June 30, 1995.

In the 1995 legislative session this issue was again addressed based on the ongoing interim study committee reports, and at that time, the law was established as you see it, in the statute contained in HB 1268, which is being proposed for amendment this session. That law also included a further limitation of one half percentage increase of the Dodge Construction Index from the date of acquisition by the seller to the date of acquisition by the buyer, less the cumulative depreciation, which was included along with the Consumer Price Index. That language remained in the federal law until its repeal in the 1997 Congressional Session.

Consideration was given in the 1999 session and in the 2001 session to have the state law amend to comply with federal law. It was felt by the Department of Human Services that since the provisions were still retained in The Code of Federal Regulations (CFR) the 1997 repeal of the law by Congress would not be effective, and, therefore Legislation was not introduced in ND until this year. It is now clear that Federal Law does not require these provisions to be retained in State Law as they are no longer contained in federal law since 1997. This is the time and the place for these amendments to bring ND State Law in compliance with federal law.

Lu Costa Rickford
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The amendment adopted in the house removed the Kenmare nursing home acquisition in 2001, and reduced the fiscal note from what was presented in the House Human Services Committee hearing. Kenmare Community Nursing Home and operated by Trinity Hospital in Minot, do not want to be included in this bill for their own reasons, as a very small 15 bed home operated by the Hospital.

The second amendment recommended by the House Appropriations makes the effective date of the act July 1, 2005.

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Date

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**TESTIMONY HB 1268
SENATE HUMAN SERVICES COMMITTEE
MARCH 11, 2003**

Chairman Lee and members of the Senate Human Services Committee, my name is Jim Opdahl, administrator of Nelson County Health System (NCHS), McVile, North Dakota. I want to thank you for this opportunity to testify in support of HB 1268.

NCHS is a rural health services organization providing a continuum of health care services to the greater Nelson County community. We manage the NCHS Care Center for the City of McVile, one of the two government-owned nursing facilities that made it possible for the State of North Dakota to access millions of Federal dollars to fund the North Dakota Health Care Trust Fund and long-term care.

The Care Center is also one of eight nursing facilities that changed ownership from a for-profit to a non-profit organization since 1989, and as a result of these purchases are not being adequately reimbursed for their property expenses. For the current rate year ending 6/30/04 the total lost reimbursement for these facilities is \$435,680.00. The impact on the Care Center is \$64,957.00 during the current rate year with approximately \$288,000.00 of lost property reimbursement since the purchase of the Care Center in January 1998. NCHS and the other facilities have been paying a "penalty" for doing the "right thing" for their residents, family members, staff, and communities. Each of these facilities has benefited from the change in ownership.

The purchase of the Care Center was made possible through the sale of nursing facility revenue bonds by the City of McVile. Our community was looking at the very real possibility of losing the nursing home, the hospital, which includes a medical clinic and home health care program, or both. The move to purchase the Care Center was critical if not essential in ensuring the future viability of the health care continuum as well as the overall social and economic well being of people and communities served.

Many improvements have been made at the Care Center since its purchase and through the assistance of our Health Services Foundation, fees received for our role in transferring millions of Federal dollars to the North Dakota Health Care Trust Fund, and funds received through the North Dakota Health Care Trust Fund. These improvements include an extensive remodeling of the facility, replacement of resident room furnishings, replacement and upgrading of equipment, improvements in staffing, improvements in programs, and a significant increase in wages and benefits for staff. These and other improvements throughout our health system were made possible as a direct result of the initiative taken by the City of McVille, NCHS, and the community to do the "right thing".

The benefits realized through the purchase and merger of the Care Center have been significant, but may be short lived if we are not successful in achieving an increase in reimbursement for our property costs. I mentioned that we have not been reimbursed for approximately \$288,000.00 in property costs related to the purchase of the facility since its purchase. The transfer fee payments that the Care Center has received as a result of its role in the intergovernmental transfer program has essentially provided for this lost reimbursement. We will lose this source of funding within the next two years. The loss of this property reimbursement is a future threat to our organization and community.

The issue is the valuation placed on the purchased assets at the time of the sale. The value placed on the assets is then used to determine reimbursable property related expenses associated with the purchase including depreciation, interest, and related costs. The current system places a valuation on the purchased assets at the lesser of the purchase price, fair market value (appraised value), or Seller's cost basis adjusted by 1/2 the consumer price index or dodge construction index, whichever is less for transactions occurring after July 1, 1985. Section 2314 of the Deficit Reduction Act of 1984 and the Consolidated Omnibus Budget Reconciliation Act of 1985 establishes the federal law in support of our current state law. The Department has taken the position that it could not make any changes due to federal law. However, Section 4711 of the Balanced Budget Act of 1997 repealed the federal law and set forth a public process to allow states the "maximum flexibility" in developing rates. The State of North Dakota has the option to keep the law as is or to amend the law, provided it initiates a public process to do so and will be eligible for federal matching dollars.

It's important to understand the basis of the law in the first place. It was designed to discourage the sale and resale of nursing facilities induced solely by cash flow, inflation, or tax considerations of the buyers and sellers. It is referred to as "churning" of nursing facilities. The issue in North Dakota with these eight facilities is not "churning". These facilities changed ownership and have benefited from this change in ownership for the sole purpose of benefiting the residents, their families and communities. HB 1268 will provide needed relief for these facilities for doing the "right thing". The valuation will be reestablished at the lesser of the purchase price or fair market value (appraised value). It is my belief that all the facilities affected by this bill purchased their facilities at or below fair market value.

The Care Center and the other seven facilities, along with the people and communities they serve, are being harmed due to the loss of property reimbursement. HB 1268 will correct this problem and help these facilities better fulfill their mission and responsibilities to their respective communities.

I feel that I need to comment on the price paid to purchase the Care Center. In the information you have been provided, it shows that the Care Center was purchased for the price of \$1,550,000.00. It would appear that we paid too much for the facility, based on its appraised or fair market value. The facts are that the purchase price for the building, equipment, and property was \$1,217,000.00 as compared to an appraised value of \$1,230,000.00. As mentioned previously, the City of McVile sold nursing facility revenue bonds to finance the purchase of the Care Center. The City of McVile played a major role in financing this purchase due to the fact that the NCHS organization had no sources or the possibility of accessing financial resources on its own. The project was 100% financed and included: \$126,000.00 to fund the bond reserve fund; issuance, administrative and other costs relating to the purchase of the facility; and working capital.

To close, I feel that it is important to note that the image and roles of nursing homes have changed since their arrival on the scene more than 100 years ago to address a critical need in providing care and services to the frail elderly and disabled. This role continues but nursing homes have taken on many other roles as well. There is little question of their social and economic importance to communities throughout North Dakota, and especially those considered rural or frontier communities. Nursing homes have evolved to better

meet the demands, challenges and uncertainties past, present, and future. They have developed special programs to serve special populations such as Alzheimer's residents. They provide, have developed, or are developing other care and housing options including basic care, adult day care, respite care, independent congregate living, and assisted living. Some provide home health care services, provide space for physicians and medical clinics, offer inpatient and outpatient rehabilitation services, psychiatric services, and nutritional services. They provide telemedicine and videoconferencing providing opportunities for continuing education, advanced degrees, and business. While others have played "key" roles in merging with their local hospitals to ensure the viability of a full continuum of essential health care services in our rural communities. Nursing homes have been and will continue to be an important "vehicle" through which many good things can be brought about for the citizens of North Dakota.

I close by asking for you to support the passage of HB 1268.

Thank you
Jim Opdahl

**Testimony in Support of HB 1268
Presented by Leo M. Reinbold**

Madam Chairperson and members of the committee:

I am not here to present testimony on the technicalities of financing involved in HB 1268.

My sole purpose for testifying is to tell you the story of my mother, as a resident at the St. Benedict's Health Center in Dickinson for nearly ten years. She suffered long and greatly with Alzheimer's.

Our families spent a great deal of time and hundreds of visits to take advantage of the fantastic facilities for those who are less fortunate, such as my mom.

Let me say a few words about St. Benedict's and the other facilities that are part of the organization for which support and equity are being sought.

Without the support of the affected counties and cities, St. Benedict's could never maintain the level of support that they provide.

Conversely, I have also seen what happens in communities without such a facility.

St. Benedict's is an example of maintaining service, growing to meet the need, and providing the service for and on behalf of the residents—such as my own mother.

The facilities at St. Benedict's are top notch, and are in the state of growth to meet the continuing needs of Alzheimer's and other community members.

The management of St. Benedict's is aggressive and responsive to the needs of the community and individual residents.

My mother, was and is an example of what needs to be done and can be done and must be done, for and on behalf of her generation.

Elizabeth Reinbold enjoyed the quality of life and also added to it, by the way, she lived and participated as a resident of St. Benedict's.

The absolute wholehearted support and compliment from all of Elizabeth Reinbold's children is an

example in what we have done in support of the St. Benedict's Health Center.

The personnel at St. Benedict's, from the top level of management all the way through a great number of volunteers, make my heart feel just great.

St. Benedict's and the other organizations affected by HB 1268 are clean, well maintained, and always with the continuing care of the patients and residents first in mind.

Madam Chairperson and members of the committee, please lend your support and do what we all know is right as portrayed in HB 1268. Our friends, family and other residents deserve no less. I'm confident that your judgment will prevail.

God bless you and God bless all the people who work in these facilities as we know them. And, another special thank you on behalf of Elizabeth Reinbold, my mom.

Thank you.

Testimony on HB 1268
Senate Human Services Committee
March 11, 2003

Chairperson Lee and members of the Senate Human Services Committee: Thank you for the opportunity to testify on HB 1268 – relating to amending nursing home rates for property related costs. My name is Jon Frantsvog, I am the Administrator of St. Benedict's Health Center, and I'm here to speak on behalf of the Benedictine Living Communities, who are based right here in Bismarck. Benedictine Living Communities, Inc. is a non-profit corporation made up of five skilled nursing facilities in North Dakota. In the interest of respecting your time, I have been asked by my co-workers to be the spokesperson for our group for the purpose of this testimony today. Our other Administrators are here and I would like to introduce them. We have Scott Foss from the Benedictine Living Center of Garrison, Tony Hanson from St. Rose Care Center in LaMoure/ Prince of Peace Care Center in Ellendale and Steve Williams from St. Catherine's Living Center in Wahpeton along with Ron Frei, our Director of Financial Services in Bismarck. They are available to answer any questions you may have. We are here to testify on behalf of our residents, family members and staff as well as the communities we serve.

We thank our Bill Sponsors for introducing this Bill and giving you the opportunity to help us with our work. We also thank each of you for taking the time out of your lives to serve us as members of the Senate.

We are privileged. Our work is meaningful to us because it is actually a ministry. We are sponsored by the Benedictine Sisters of Duluth to carry on the healing ministry of Jesus. Our Mission calls us to..." witness to God's love for all people with special concern for the poor and the powerless... We provide compassionate, competent services in an environment that enhances human worth." Through our work with residents and family members in our 1500-year Benedictine Tradition we live and teach our Core Values of **Hospitality, Stewardship, Respect and Justice**. We are sponsored through the Sister's Benedictine Health System and receive shared services from the System Office. Benedictine Living Communities, Inc. is an independent member organization serving the state of North Dakota. Our governing Board consists of three sponsoring Sisters and a volunteer leader representing each of the communities we serve.

The Sisters were called to North Dakota in 1989 when the facilities were acquired from Beverly Enterprises, a national for-profit nursing home chain that was leaving the state during the implementation of equalization of rates. At that time, Benedictine Living Communities, Inc. was formed. On acquisition, the appraised value of the facilities was \$10,026,700. Through the nursing home rate setting rules, the State is able to recognize only \$7,274,896 of the purchase price as the basis for figuring depreciation and allowable interest expense for the facilities. The estimated total unreimbursed property costs in comparing the 1/1/2003 rates to our actual expenses are as follows:

| <u>Location</u> | <u>Annual Unreimbursed Interest Expense</u> | <u>Annual Unreimbursed Depreciation</u> | <u>Total Unreimbursed Property Costs</u> |
|-----------------------------|---|---|--|
| St. Benedicts – Dickinson | \$ 88,489 | \$ 69,127 | \$ 157,616 |
| BLC of Garrison | 41,377 | 17,591 | 58,968 |
| St. Rose – LaMoure | 41,120 | 12,894 | 54,014 |
| Prince of Peace – Ellendale | 59,064 | 20,885 | 79,949 |
| St. Catherine's– Wahpeton | 22,811 | 20,574 | 43,385 |
| TOTAL | \$ 252,861 | \$ 141,071 | \$ 393,932 |

It should be noted that not all of these costs would be covered under the provisions of HB 1268 due to other aspects of the rate setting process. The total of these costs is shown to give you understanding of the burden under which our facilities are operating. Despite this drastic shortfall in property reimbursement, each of the Benedictine Living Communities has done the right thing for the community served over the years. Remarkable enhancements have been made in the physical plants, in quality of care and quality of life for the residents. This has been accomplished through partnering, additional debt, the ND bed buyout incentive that you provided to us last session and strong community support in active fundraising efforts.

The relationship we have developed with our communities is phenomenal! At the time of acquisition there was much to be done in building a Mission and Values culture and in improving the facilities. Our approach has been to invite people to help us recognize community needs and improve what we are able to offer. People have responded with their gifts of time, talent and treasure. We continuously get satisfied praise from the people we serve affirming the improvements they have seen over the years. Last year we benefited from approximately 44,000 volunteer hours and our foundation just recently celebrated a significant landmark with \$2,000,000.00 raised. We utilize the volunteer time of key community leaders to explore community needs and help us plan through our local Advisory Councils. The chair of each local Advisory Council serves on our statewide Board of Directors. This model gets things done. Highlights of the good work we have accomplished include:

Benedictine Living Center of Garrison

A Chapel/ Community Room addition, the Open Arms Alzheimer's Special Care Center, the Caring Arms Family Suite and Upgrading/ Downsizing for Quality of Life in additional Private Rooms.

St. Benedict's Health Center - Dickinson

A beautiful Dining Room addition, the addition of the "Emmaus" Alzheimer's Care Center, the Gardenvue Suite with an award winning model for End of Life Care, St. Benedict's Chapel and Community Room, additional Private Rooms and Private Suites as well as Assisted Living Apartments currently under construction. St. Benedict's has earned the American Healthcare Association's "Step One" Quality Award and has accomplished two deficiency free Health department surveys.

Prince of Peace Care Center - Ellendale

The addition of "Subiaco"- a special care center for Alzheimer's, a Meditation Room, a Family Hospitality Suite, and upgrading/ downsizing for quality of life in Private Rooms. Community services added include Home Health Care, teaching Health Careers in the area high schools and a joint venture with Dickey County Memorial Hospital to convert the hospital for Assisted Living and Basic Care.

St. Rose Care Center - LaMoure

We added Home Health Care for the community, we developed a partnership with LaMoure County to provide Public Health and Health Maintenance Services, we completed a beautiful secure courtyard and upgrading/ downsizing for quality of life in Private Rooms. Construction is currently underway to add Rosewood Court, which features 12 Assisted Living Apartments to open March 2003 through a partnership with the LaMoure Community Development Corporation.

St. Catherine's Living Center - Wahpeton

Construction of two dining room additions, a comfortable new lobby, construction of new resident bathrooms, development of a Home Health Agency, a Special Care Center for Alzheimer's, a Hospice Suite for End of Life Care which earned a ND Best Practices Award, a facility wide upgrade, downsizing for quality of life in Private Rooms and acquisition of adjacent property for future development of assisted living.

These are just the highlights. Good things are happening every day as we evolve and benefit from the synergy in our communities. While we celebrate these accomplishments we have great concern for the perpetuation of our ministry. The current model does not provide us with a means to fund depreciation for future building and equipment needs. We perform with a chronic, consistent operating loss. We operate very efficiently but even with the injection of the foundation donor gifts I mentioned earlier, our consolidated balance sheet shows a final fund balance of (-\$1,359,437.11). This is the net accumulation of our operations over our 13 year history.

Many of the good changes that have been accomplished would not have occurred under the former ownership. Our negative fund balance displays the toll of doing what is right while incurring necessary costs which are not reimbursed. We are determined to improve this fund balance to ensure our ongoing good work. We need your help to eliminate what is, in effect, a penalty for helping our communities. We are asking for something that the vast majority of the nursing homes in ND enjoy and take for granted - The reimbursement of actual interest and depreciation expense. We ask for your support of HB 1268.

Thank you for the opportunity to present testimony on HB 1268. We would be happy to answer any questions you may have.

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Accompanied By:

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Jo Costa Rickford
Operator's Signature

10/3/03
Date

Testimony of Timothy J. Tracy
In Support of HB 1268
Senate Human Services Committee
March 11, 2003

Chairperson Lee and members of the Senate Human Service Committee. Thank you for the opportunity to testify on HB 1268 – a bill relating to amending nursing home rates for property related costs. My name is Timothy J. Tracy and I am the CEO to Towner County Medical Center in Cando. Towner County Medical Center is a diverse healthcare organization consisting of a 20-bed hospital; three rural health clinics staffed by three physicians, two physician assistants, and a chiropractor; a 60-bed skilled nursing facility; a 10-bed basic care facility; a 12-bed residential-based addiction treatment program; a 10-unit congregate housing facility; and a child daycare center. Our primary mission is to insure ongoing access to quality healthcare for all age groups in the region.

The rate setting manual for nursing facilities has devastating application for communities with a need to acquire a skilled nursing facility. The application of Sections 18 and 19 of the rate setting manual for nursing facilities, as they relate to the depreciation of an acquired asset and the interest expense of an acquired asset, are of particular significance.

Prior to the 2001 legislative session, the property cost (depreciation and interest expense) issue was presented to the Department of Human Services through the efforts of Representative Eugene Nicholas. The Department communicated to Rep. Nicholas that current Federal rule did not allow for modification of the North Dakota property reimbursement formulas. The Department did not provide Rep. Nicholas and the other interested parties with the correct information. A change in the federal rule had been communicated to the Department, but the Department did not acknowledge the existence of those very important changes. The Department's oversight caused a number of affected facilities, along with the ND Long Term Care Association, to gather the information needed to confirm that Federal rules do indeed allow the Department to expand the definition of allowable property costs. The Department's incorrect information delayed a remedy to the property issue from the 2001 legislative session to this one.

Towner County Medical Center acquired Resthaven Healthcare Center from HMU Management Company, a for profit company from Eden Prairie, Minnesota, in August 1997. Resthaven was part of what had been determined a poor performing chain by the Department of Health. The facility was in a state of disrepair and the quality of care met only minimum standards. The value of the facility was determined by a certified real estate appraiser who had a background and experience in appraising health care facilities. To secure financing through the issue of an industrial development bond, a fair and equitable price must be established. The appraised value of our facility was \$1,800,000. The purchase price of the facility was \$1,727,652.

When Section 18 of the rate setting manual was applied to the purchase of Resthaven Healthcare Center, the net effect was to disallow \$807,468 of the purchase price. This reduced our allowable depreciation for the cost report period ended June 30, 2002 by \$46,711.

When Section 19 of the rate setting manual is applied to the purchase of Resthaven Healthcare Center, the allowable debt is 90 percent of the allowable purchase price of \$920,184. Therefore, only 47.94 percent of the bond interest expense and amortization of bond issuance costs are

allowed. This reduced our allowable financing expense for the cost report ended June 30, 2002 by \$55,807.

What would this mean fiscally for the Department if Cando were allowed to recover disallowed depreciation and interest expense? The fiscal note related to our facility would be approximately \$18,459 annually. The total recovery for the facility would be \$102,518. The department would pay for the Medicaid portion, or approximately 56.8 percent (\$58,230). Of \$58,230, the federal portion would make up \$39,771, leaving \$18,459 the actual fiscal note for the department.

There have been a number of facilities change hands in the last 10 years - all for good and justifiable reasons. Some may argue that we simply overpaid for our facility. If the purchase price was determined solely on the basis of the Department's rate setting manual, that would be true. The facilities which have changed ownership have been appropriately valued - that is especially true for the old HMU facilities in Cando and McVile. As a result of the acquisitions, both communities have reengineered their healthcare organizations to better serve the public, while preserving access to care.

The Department may argue that their rate setting standards discourage property turnover, or churn. We all share that concern. But the negative consequences we see today were not intended when the original regulations were drafted. Section 18 and Section 19 of the manual have their history in companies which were attempting to game the system, which is clearly not the case now. HB 1268 will allow those facilities which changed hands between 1985 and 2003, facilities which have provided significant benefit to their communities, to recover their full cost of operation.

Towner County Medical Center and its community leaders have done the right thing. The property formula employed by the Department has penalized our community because of corporate behavior that has not existed for almost two decades. I urge you to reward the initiative, vision, and commitment of those asking for your assistance by supporting HB 1268.

Thanks you for your interest and attentiveness during the testimony on this bill. If there are any questions, I will be happy to provide information helpful in your deliberations.

Timothy J. Tracy, CEO
Towner County Medical Center
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10/3/03
Date

Testimony of Robert Spencer
In support of HB 1268
Senate Human Services Committee
March 11, 2003

Madam Chairman and committee members. My name is Robert Spencer and I appear before you in my capacity as Chairman of the Board of the Towner County Medical Center of Cando. My association with the Medical Center is as an unpaid volunteer. I support my family through my day job as the CEO of Northern Plains Electric Cooperative. I stand before you to encourage your support of HB 1268.

A dozen years ago, the healthcare delivery system in Towner County had been condemned to extension. Our hospital was scheduled to close, and with it all access to emergency services. With the exception of one retired physician, our doctors were gone. Our senior citizens were leaving in mass for communities that could provide the access to medical care that we could not. Even our nursing home, which was already meeting only the most minimum standards, was looking at even higher costs and a declining census. The light we could see was not the light at the end of the tunnel, but the bright light one expects to see as they move from life here on earth to the hereafter.

However, like the plot of a weekday afternoon soap opera, a lot of work from many people brought new life into the system. Today, the Towner County Medical Center employs 180 people – all who pay taxes – and is the largest employer in the region. Through its near-death experience, it was transformed into a diverse healthcare organization consisting of a 20-bed hospital; three rural health clinics staffed by three physicians (soon to be four) and two physician assistants; a chiropractor; a 60-bed skilled nursing facility; a 10-bed basic care facility; a 10-unit congregate housing facility; a child daycare center; and a 12-bed residential-based addiction treatment facility.

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Our guiding mission is, of course, to provide ongoing access to quality healthcare for everyone in the region. That mission is not unusual or unique, and although we have done an outstanding job is not what has made us successful. Instead, we have found success not in "what" we do so much as in "how" we have gone about doing it. Let me briefly explain.

We have recognized that to provide medical services in rural North Dakota, or anywhere in rural America, we have to do two things. The first is growing our size to gain as many economies from scale as possible. The second is to become as efficient as possible – to get lean and mean, reduce duplication, apply technology – all with the intent of reducing costs while delivering high quality service.

The number of businesses and medical services under the umbrella of our Medical Center speaks to our success with the first initiative. The delivery of virtually every medical service – from child birth and child care, to care for our senior citizens; from ambulance service to dental service – is facilitated by our organization to ensure quality service and reduce costs. It is a model that is working.

Our second initiative, which is maximizing efficiencies to reduce costs, is also working. We have one management team that leads the entire Medical Center. Common patient records are shared throughout the facility. The hospital, the nursing home, congregate housing, assisted living, and our addition treatment center share food, laundry and maintenance services. One common computer network and telephone system connects everyone. These initiatives and many more have saved hundreds of thousands of dollars over the past several years and have made the difference between maintaining medical services in Towner County and not having them.

With that information as a background, I want to speak to you as one of thousands of unpaid community leaders in North Dakota. Typically, we accept leadership positions because we are determined to make a difference. As leaders, we provide a link between those we

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represent and the organizations we are entrusted to lead. We give of our time, which reduces the costs of delivering services and builds a bond between the community and the organizations that serve them. As community leaders, we help build and maintain partnerships.

One of those critical partnerships is the partnership between the State and those not-for-profit organizations actually delivering nursing home services. The State sets standards, provides guidelines, and establishes schemes for cost reimbursements. Individual nursing homes are responsible for delivering services, meeting standards, and staying fiscally responsible. One inequity in the partnership between the State and our community became apparent when we purchased the Cando nursing home. The source of that inequity was our inability to recover our costs of ownership, even though the purchase was in everyone's long-term best interest. In our attempt to gain efficiencies and economies of scale and improve our opportunity for long-term success, we ran full force against an outdated policy that was surely not intended to be applied in situations such as ours. HB 1268 is all about curing that inequity.

In summary, for a small price, this bill will greatly help our efforts and commitment to maintain the delivery of basic medical services to the citizens of rural North Dakota. It will help maintain the partnership between the State and the local delivery system. It will help us – the State and local delivery systems - fulfill our obligation to the citizens of North Dakota.

Madam Chairman and members of the Committee, I encourage you to support the passage of HB 1268. Thank you.

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Good Morning Chairman Lee and members of the Senate Human Services Committee. For the record, I am Rep. Bill Devlin of Finley and Represent District 23 in the Legislature.

I am the prime sponsor of HB 1268 which attempts to fix a problem within the Department of Human Services rate setting structure for nursing home rates. If passed it will all nursing homes that were purchased from 1985 to 2000 to more adequately cover the property related costs for nursing homes that have been adversely affected by state law. Specifically this bill will affect facilities in the communities of McVille, Cando, Underwood, LaMoure, Ellendale, Garrison and Dickinson.

In each of these instances the facilities were purchased from for profit nursing home chains who were leaving North Dakota. The new owners are nonprofit community minded providers who are interested in meeting community needs and sustaining health care in our rural areas. These providers have improved operations in these facilities but are not receiving their full interest and depreciation expenses as other homes do because the rate setting law does not recognize the full price paid on the purchase.

The existing law as fashioned after and limited by federal legislation which has since been repealed. Apparently the purpose of that federal legislation was to prevent the "churning" or artificially setting a price higher than the value should be, to benefit from depreciation and other over stated expenses to make a profit. That purposed does not apply in these situations and the homes are subject to a disadvantage that does not advance the best interests of the state or the local citizens served by these facilities. This bill is drafted to affect only these homes to give the state control over future transactions since we do not know what they may be.

These facilities are vital to the communities they serve. They provide an estimated 1,000 jobs in our communities with a yearly payroll of about \$18 million. We need to do what we can to help businesses like these survive and thrive. As I said in my House testimony, if we had a business that wanted to move into North Dakota with a payroll of \$1.5 million per month and employing about a 1,000 people we would have people lined up from here to Steele with tax and incentive packages. In this case we already have the jobs and payroll and all they are asking is to be treated the same as everyone else.

This is a tough session for money. The estimated cost of \$175,000 was too much for House Appropriations in the current biennium so they approved the legislation but made it effective with the next biennium. That would not be our first choice but we understand the money situation. Whenever this takes place it will yield an annual return of nearly 5-1 because of the federal match on Medicaid funds and the private pay components.

This change in state law makes sense for everyone. A number of other presenters are here this morning to provide more information. They will be able to answer any questions that you might have and I can provide more information later as needed.

Chairman Lee and members of the committee I urge a Do Pass on HB 1268 which will bring fairness and equity to the rate making structure for these facilities. Thank you for allowing me to testify on behalf of these communities and facilities.

Exhibit 1

Good afternoon Chairman Holmberg and members of the Senate Appropriation Committee. For the record, I am Rep. Bill Devlin of Finley and Represent District 23 in the Legislature.

I am the prime sponsor of HB 1268 which attempts to fix a problem within the Department of Human Services rate setting structure for nursing home rates. If passed it will all nursing homes that were purchased from 1985 to 2000 to more adequately cover the property related costs for nursing homes that have been adversely affected by state law. Specifically this bill will affect facilities in the communities of McVille, Cando, Underwood, LaMoure, Ellendale, Garrison and Dickinson.

In each of these instances the facilities were purchased from for profit nursing home chains who were leaving North Dakota. The new owners are nonprofit community minded providers who are interested in meeting community needs and sustaining health care in our rural areas. These providers have improved operations in these facilities but are not receiving their full interest and depreciation expenses as other homes do because the rate setting law does not recognize the full price paid on the purchase. In each of these cases the new owners paid less than the appraised price for the facilities.

The existing law as fashioned after and limited by federal legislation which has since been repealed. Apparently the purpose of that federal legislation was to prevent the "churning" or artificially setting a price higher than the value should be, to benefit from depreciation and other over stated expenses to make a profit. That purposed does not apply in these situations and the homes are subject to a disadvantage that does not advance the best interests of the state or the local citizens served by these facilities.

These facilities are vital to the communities they serve. They provide an estimated 1,000 jobs in our communities with a yearly payroll of about \$18 million. We need to do what we can to help businesses like these survive and thrive. As I said in my House testimony, if we had a business that wanted to move into North Dakota with a payroll of \$1.5 million per month and employing about a 1,000 people we would have people lined up from here to Steele with tax and incentive packages. In this case we already have the jobs and payroll and all they are asking is to be treated the same as everyone else.

This is a tough session for money. The estimated cost of \$175,000 was too much for House Appropriations in the current biennium so they approved the legislation but made it effective with the next biennium. That would not be our first choice but we understand the money situation. Whenever this takes place it will yield an annual return of nearly 5-1 because of the federal match on Medicaid funds and the private pay components.

When we first had this bill in House Human Services the fiscal note was over \$300,000 but after discussions between the auditors for the facilities and the department a fiscal note of about half of that was reached. If this committee thinks that we might find the \$175,000 needed before we get out of here, then perhaps you would consider amending the bill back into this biennium. If it passes the Senate it could go to conference committee and see if the dollars could be found in this budget cycle. If not the bill could be passed as we see it now and start with the next budget.

Chairman Holmberg and members of the committee I urge a Do Pass on HB 1268 which will bring fairness and equity to the rate making structure for these facilities. Thank you for allowing me to testify on behalf of these communities and facilities.

Exhibit 2

March 19, 2003
SENATE APPROPRIATIONS COMMITTEE

Testimony by
Albert A. Wolf
In Support of HB 1268

Chairman Holmberg and members of the Senate Appropriations Committee.
My name is Albert A. Wolf from Wheeler Wolf Law Firm, Bismarck and I am representing the nursing homes in McVille, Cando, Wahpeton, LaMoure, Ellendale, Garrison and Dickinson who have sought the amendment in the law to provide equal rate setting procedures to adequately cover the property related costs. Ownership of the homes changed between 1985 and 2000.

The present law not only limits the inclusion of the property depreciation factor in the rate making process for cost reimbursement for Medicaid residents, but under ND equalized rate setting laws, it also controls the rate setting process for private pay residents at that lower level. Consequently, this creates a great impact upon the reimbursement levels of these 6 nursing homes.

The following is the computations prepared by Mark Dale of Ekde Bailley, accounting firm, that represents a large number of the nursing homes in their accounting dealings with the Human Services Department for rate-setting purposes.

Estimated Impact of 2003 Legislation HB 1268
\$ IMPACT OF ND UNREIMBURSED PROPERTY ANALYSIS

| Location | State General Funds Required | Federal Medicaid Matching Funds | Private Pay & Other Payers | Legislative Impact of Unreimbursed Property Costs |
|------------------|---------------------------------|------------------------------------|-------------------------------|---|
| SBHC - Dickinson | \$ 27,469 | \$ 59,185 | \$ 38,208 | \$ 124,862 |
| BLCG - Garrison | 6,804 | 14,659 | 15,226 | 36,689 |
| SRCC - LaMoure | 7,906 | 17,033 | 17,985 | 42,924 |
| PPCC - Ellendale | 13,642 | 29,392 | 20,720 | 63,753 |
| NCHS - McVille | 8,473 | 20,681 | 13,358 | 42,512 |
| TCMH - Cando | 12,838 | 29,435 | 30,602 | 72,875 |
| PV - Underwood | 1,015 | 2,652 | 1,577 | 5,244 |
| TOTAL | \$ 78,146 | \$ 173,037 | \$ 137,676 | \$ 388,859 |

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