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ROLL NUMBER

DESCRIPTION

2025

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10/15/03
Date

2003 SENATE APPROPRIATIONS

SB 2025

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10/15/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2025

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 1-7-03

Tape Number	Side A	Side B	Meter #
1	X	X	0-
2	X		0-1074
Committee Clerk Signature <i>Sandra Duvioni</i>			

Minutes: Chairman Holmberg called the meeting to order on SB 2025. All members were in attendance, quorum is present. The deficiency appropriations of the Department of Human Services. (Meter #85) Sheila Peterson, Director of Fiscal Management Division of the OMB: SB 2025 represents the deficiency appropriations recommended in the Governor's budget. This is only one agency that is in the deficiency this legislative go around. For those of you who served on the budget section during the interim, you are well aware of the fact that the department was facing the need for a supplemental appropriations from the 2003 legislature. Dave Zentner, Director of the Medical Services for the Department of Human Services will explain in detail, how we got to the 16.3 million dollar deficiency needed to close out the current biennium. These are funds that are needed between now and June 30, 2003, current biennium. I would like to stress the urgency of moving this bill along, The 16.3 million in state dollars, dollars that we suggested come from the Health Care Trust Fund, if not provided, will mean that another 35.2 million dollars in federal funds will not be accessed. So really we are talking a total problem of

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Bill/Resolution Number SB 2025
Hearing Date 1-7-03

51.5 million dollars that would need to be cut out of the Human Services department budget in these last six months of the biennium, if this appropriation is not passed. That of course, would be devastating and I know Dave will explain in detail what that would mean. (Meter #277)

Chairman Holmberg announced the subcommittees prior to the hearings, for Human Services to be: Senator Bowman, Senator Thane, Senator Kilzer, Senator Krauter & Senator Lindaas. (Meter #338) Dave Zentner, Director of Medical Services for the Department of Human Services. See written testimony Exhibit #1. Questions from the members included: (Meter #977) Senator Robinson: In that particular program, looking to the budget highlights from the OMB budget yesterday, I couldn't help but wonder if the impact of that program is certainly going to be minimized. Would we not experience the situation where folks that are approaching that deadline are in that classification of 100 hours a month, would they not just tend to lose and work less hours in order to be qualified? 100 hours a month, most of those people aren't going to be earning much per hour, so their income is going to be minimal. So I would think folks would back off to 90 hours so they would continue to qualify for the program. (Meter #1050) Dave Zentner: That certainly is a possibility, although I think most people want to work and would work. You will find many of these folks are working more than 100 hours per month. (Meter #1426) Senator Tallackson: On page 4, you state that the savings would be 2.5 million, what is the leverage in federal funds? Dave Zentner: 2.5 million represents about 32% of the actual total costs, so you are looking at somewhere around 8 million dollars total in cuts. (Meter #1482) Senator Bowman: During the summer we were talking about the short falls and we are all aware of what is happening, most of us were on the budgeting committee and we were told through all the budgeting process we would need about a total of about 25 million dollars maybe to cover all

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the shortfalls. Is this shortfall within the Department of Human Services over and above the 25 million we talked about taking out of the Bank of ND? Dave Zentner: I'm not sure. (Meter #1550) Senator Bowman: Because I believe we it wasn't so long ago that we just gave the state the option to borrow up to 25 million to cover all our shortfalls is what I understood. Then now is this over and above that? (Meter #1571) Sheila Peterson, OMB: That is correct. At the time we did the pulmonary forecast, for this budget in June of this past summer, we had approximately a 50 million dollar deficit. We covered that two ways, we went to the budget section and asked that if you would authorize up to the 25 million and we cut 1.05% out of the appropriations that you made on the 2001 legislature, which was approximately 18 million dollars. So between the 25 from the bank and the 18 million cut from the agency's existing budget, we got to 0. And so yes, this 16.3 million is in addition to both of those actions that were taken to balance the budget in June. (Meter #1636) Senator Bowman: And then of the 25 million dollars was that from the Department of Human Services also? Because all of the budgets you said were going to be all right except for this one. So is this over and above in the Department of Human Services budget that we were told in the budget that we would need. (Meter #1678) Sheila Peterson: There really isn't a tie between the 25 million that we needed from the Bank of ND and the Department of Human Services. Our overall revenue forecast for the current biennium that we're in, mainly personal income taxes and corporate income taxes were expected to decreased by 50 million so there really isn't a direct tie to Human Services, it just the overall budget. The revenues we expected from all of our sources of taxes verses the appropriations to all the state agencies came into that total to balance out. (Meter #1794) Senator Mathern: Mr. Zentner on the examples of the cuts that need to be made, or could you go to other areas if cuts needed to be made, do they

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have to be in the Medicaid nursing home area? could they be in other areas in the department?

Funding levels? (Meter #1819) Dave Zentner: Certainly the possibility exists to other areas of the budget but frankly we as you know have done things like frozen the SPED program because of problems with the dollars there. There are other areas within the departments budget that are tight so the chances of finding 16.3 million dollars in other portions of the budget within a 5 month period of time at most difficult if not impossible. (Meter #1892) Senator Kilzer: On page 2, Section D, what is the reason of the new recipients? unemployment rate is falling, why, are more people moving in? (Meter #1943) Dave Zentner: If you look at the numbers, the increases have come in our family and children's programs primarily our elderly and disabled are fairly stable. Most of the 6-5 thousand increases come from the children and family programs. (Meter #2072) Chairman Holmberg pointed out: One of the considerations that this committee has to make is in making recommendations is the fact that we don't have a lot of money this session and 16.3 million dollars spent today and 16.3 million we have left to deal with 2 months from now. You have put together a scenario where if the money doesn't come right now prior things may have to occur from the department standpoint. What would be the reaction if the Legislature were to say "you can have the 16.3 million but you are going to have to find 16.3 million dollars to cut for your next biennium in order to make it up?" (Meter #2157) Dave Zentner: we would have to take a look at the program and likely some of the areas I discussed earlier in the testimony would have to be looked at. If you are looking at the Medicaid budget is approximately 48% of the total budget. So if you are going to cut 16.3 million dollars you are going to have to look at the Medicaid program. There is also the federal match, so you are talking about cutting one dollar (\$1.00) of state money, you are really cutting two dollars and fifteen

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cents (\$2.15) of federal dollars, so you are really affecting three dollars and fifteen (\$3.15) we you make that type of cut. (Meter #2281) Chairman Holmberg: these are the types of scenarios that being played out in other states. (Meter #2333) Senator Christmann: How much money do we spend in advertising these various programs so that the people are aware of so they know if they qualify for a piece of the pie? (Meter #2340) Dave Zentner: Very little money. When the children's health insurance program came out we did spend several thousands of dollars on advertising for that program and we did do so media bios, Since 2000-01, we have not spent any direct money other than the brochures that we reproduce. (Meter #2490) Senator Krauter: Any word on the Fmap what is happening on the formula there in the near future and in the long-term? (Meter #2514) Dave Zentner: Depends on the day you hear things, the President has talked about some economic stimulus for states, what form that is going to take, we do not know. Congress is talking but the situation is we don't know what form what it will take. (Meter #2615) Chairman Holmberg: One of the things that we need to do, is as we work in the subcommittees, make sure that we have the flexibility to the law so that there is not a huge influx of money next July of money that has it doesn't just sit there and we have locked ourselves in a situation that we don't want to be in (Meter #2678) Senator Krauter: Inflationary factors that are required by law what are they? (Meter #2678) Dave Zentner: The providers that are required by law is one is the nursing homes, using $\frac{1}{2}$ the CPI, $\frac{1}{2}$? In regulation, the basic care facilities. The budget does have inflation built in that. (Meter #2718) Senator Krauter: Talked about the 100 hour rule, you state that won't take effect, you won't see the financial effect for a period of time yet, what do you mean by that? (Meter #2761) Dave Zentner: Because of this transitional Medicaid, even though people who are currently working over 100 hours, because they are going off the program

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because of income, they will get another transitional 12 months of Medicaid. So in order for this to take effect it won't be real noticeable until 2004. (Meter # 3122) Richard Bendish, Morton County Commissioner, Morton County Social Service Board Member: See written testimony, Exhibit #2. (Meter #3379) Larry Bernhardt, Director of Stark County Social Services, Dickinson ND and County Social Services Directors Association: See written testimony Exhibit #3. Support this legislation. (Meter #3720) Shelly Peterson, President of the ND Long Term Care Association: See written testimony Exhibit #4. (Meter # 4907) Dick Weber, AARP: See written testimony Exhibit #5. (Meter #5328) Former Senator Ken Solberg, Long Term Care Association: Spoke about visit to a Rugby long term care facility and Dunseith facility. Asked the committee to be sure to look down the road, go slow and understand the problems and look at the bills entire picture. IGT funding. Referred to last session House Bill 1196. (Meter #6149) Senator Bowman: Requested if would be available to the subcommittee if they needed more information.. (Meter #6225) Ken Solberg: I would be available to the subcommittee anytime.

TAPE 1 SIDE B

(Meter #0) Representative Devlin: Senate Appropriations cannot take a short sited approach.

(Meter #162) Chairman Holmberg: Announced the subcommittee for Human Services as Senators Bowman, Thane, Kilzer, Krauter, and Lindaas.

(Meter #219) Chairman Holmberg closed hearing of the hearing of SB 2025 of the Human Services division. There was two written testimonies handed in for this bill. Exhibit #6 from Teresa Larsen, Executive Director of the Protection and Advocacy Project and Exhibit #7 from Jack McDonald from The ARC. On Registration Form of people who did not testify is listed as Jerry Jurenu, Heart of America Med. against SB 2025, Tim Tracy, Town & Country Medical

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Senate Appropriations Committee

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Hearing Date 1-7-03

Center, against SB 2025, Corinne Hofmann from Protection and Advocacy for SB 2025 and

Chris Runge, NDPEAAFT 4660 for SB 2025.

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB ~~207~~ 2025 Votes

Senate Appropriations Committee

☐ Conference Committee

Hearing Date Feb. 19, 2003

Tape Number	Side A	Side B	Meter #
#2	x		4,286 - end
Committee Clerk Signature <i>Jan Henderson</i>			

Minutes:

Senator Holmberg explained SB 2025. This bill deals with the Human Service shortfall of \$16.3 million.

Senator Mathern wondered about where to take the money out of, the ending balance, or the Health Care Trust Fund. He didn't feel that all of it should come from the Health Care Trust Fund. **Celeste** from OMB was called upon, who stated that the last she heard was the \$22 Million of the \$25 million at the Bank of North Dakota will have to be use, but it has not been transferred at this time, it will only be transferred until the general fund runs out of money which would leave a zero balance in the general fund. The state will only transfer what ever portion of that \$25 million is necessary to run the state government for the rest of the biennium. The estimate at this time is \$22 million.

Senator Andrist moved for a DO PASS, seconded by **Senator Thane**.

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Senate Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date Feb. 19, 2003

Discussion: **Senator Krauter** wondered when the money would be transferred. **Celeste** answered that sometime in June, maybe. **Pam Sharp**, Interim Director of OMB. The November forecast stated that \$22 million of the \$25 million reserve, would be needed for the general fund. We agreed that we would keep the money in the bank as long as possible. When the money is needed for cash flow purposes, that is when the money will be accessed. **Senator Holmberg** wondered if the ending fund balance was a moving target. Pam responded that the ending fund balance will be zero. The moving target is the amount that we will need to transfer from the Bank of North Dakota. Senator Holmberg wondered if that would be addressed on March 7th when the next budget forecast will be coming out. **Pam** responded that it would. Senator Bowman wondered if the committee would get a print out of the \$16.3 million when it is actually is triggered and what actually happens to it, so we can follow it and see if they actually needed all of it or just a request for it. He would like to track that money and see where it all went. **Dan Zenter**, Director of Medical Services for the Department of Human Services stated that when we are out of money we will access the fund, and only that amount that is needed to get through the end of the biennium. We estimate that will be \$16.3 million, we don't know the exact amount, but not more than \$16.3 million. Senator Bowman expressed his concerns about funding of programs. Senator Mathern suggested some changes to the bill so that the committee would know if the money was needed or not. It would protect Health Care Trust Fund. Senator Holmberg stated that he would be nervous, especially if the projected balance is zero for the general fund. Celeste stated that there may be a conflict. Discussion continued on the funds and what was legal and was not. **Senator Bowman** stated that he just wanted accountability for this fund and where every penny went.

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Senate Appropriations Committee

Bill/Resolution Number SB 2025

Hearing Date Feb. 19, 2003

Roll call vote was taken, which is attached. Total: 10 yes, 4 noes and 0 absent and not voting.

Motion carried. Senator Robinson will carry the bill to the Senate floor.

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Date

Date: 2/19/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2025

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Andrust 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) 10 No 4

Absent _____

Floor Assignment Robinson

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

REPORT OF STANDING COMMITTEE (410)
February 19, 2003 1:19 p.m.

Module No: SR-32-3283
Carrier: ~~Andrist~~ *Robinson*
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2025: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS
(10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2025 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-32-3283

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10/15/03
Date

2003 HOUSE APPROPRIATIONS

SB 2025

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2025

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-28-03

Tape Number	Side A	Side B	Meter #
1	X	X	111 of side 1 + 8.0 side 2
Committee Clerk Signature <i>Chris S. Nyman</i>			

Minutes:

Chairman Svedjan Opened the hearing on SB 2025. A quorum was present.

Dave Zentner, Director of Medical Services of the Department of Human Services. See Written Testimony.

Rep. Warner I didn't see anything specific to SPED or Expanded SPED. What are the costs of unfreezing them?

Zentner The programs are not within the Medicaid budget, they are in the Aging Services Budget. The cost would probably be about 2.3 million.

Chairman Svedjan Clarify what you state in the top of page 3. "under funding from funding switch." 3.5 million dollars. We are always told of the "under funding", but when the legislature appropriates a sum of money, it is then that agency's responsibility to manage within what has been appropriated. How do you explain that? If we don't appropriate the money, is it the

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House Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date 02-28-03

department's expectation that you can continue to spend at a level at which you requested funds, as to the level that we appropriated funds.

Zentner It was my understanding that the reason the language was put in there was to put that into consideration when the department was looking at the issue of how we would manage the program. We were facing an economic turndown and decreasing enrollment. The only way to cut another 3.5 million dollars is to take drastic cuts in nursing homes.

Chairman Svedjan This "under funding" should have been dealt with when the legislature funded what they did. I started working with this budget during the summer of 2002, and it seems to me that this issue of funding should have been dealt with when you started looking at the next biennium's budget. You must live within your means of what the legislature appropriates.

Zentner Based on our understanding of what was intended of section 20, I think we followed the guidance of the legislature.

Chairman Svedjan My concern is will this happen again?

Zentner If the language from the legislature is clear, then we'll follow it. We were told not to change Medicaid until we could see "down the road."

Rep. Delzer I have a different recollection of that. The House meant the Department to handle it with what was appropriated.

Rep. Carlson Page 4 of the testimony, "At the time the two governmentally owned nursing homes return funds, they lose their identity and are used for whatever purpose deemed appropriate by the legislature." It is my understanding that there was a long-term plan for that money, wasn't there?

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House Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date 02-28-03

Chairman Svedjan You are correct. HB 1196, last session worked in nursing facilities and worked with the IGT money to do what was necessary. Part of that plan was to reserve portions of IGT money for following years. There was enough in that reserve for 2.5 biennia.

Rep. Delzer The intent language of section 17 in the ND Century Code on page 1547, what is it?

Chairman Svedjan It is the intent of the 57th legislative assembly on June 30, 2003 unobligated balance of the Health Care Trust Fund, and any investment earnings on that amount during the 03-05 biennium not be appropriated, but be retained in the fund to continue for a period subsequent to the 03-05 biennium. The increased funding levels authorized in this act for the 01-03 biennium.

Rep. Carlson So it seems that using it for the shortfall is a moot point.

Rep. Brusegaard on page 3 of your testimony, 7.6 million of the shortfall is due to utilization, including allotment. Could you break down utilization costs vs. the Governor's allotment for me?

Zentner The allotment for the Medicaid is about 1.3 million. The rest is utilization increase.

Rep. Brusegaard On Page 2. "increased utilization and increase in the number of eligible individuals." Why use a 3-month comparative?

Zentner Chart B shows the increase. 16% is the difference.

Rep. Wald I understand the change in the economy and the reduction in the FMAP, but shouldn't we as a department, when you suspected that it could be a problem in 2 years, couldn't we begin to match the appropriation with the benefits, and couldn't you come forward and tell us we're going to be short?

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House Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date 02-28-03

Zentner We tried to point that out. Without section 20 we would have already made drastic cuts.

Rep. Delzer This is a classic case of the legislature acting and the language doesn't reflect what was intended. I didn't believe in the shortfall, but it was 2-years out. This is a case when the lawyers read what we wrote and it is not what we mean.

Rep. Warnke 13% increase in enrollments, what are the actual numbers?

Zentner 6000-7000.

Rep. Warnke How much money did they add to the Medicaid budget?

Zentner Kids, \$200/month and adults \$300/month on the average.

Rep. Carlson What are the optional services and their costs?

Zentner The services are in my previous testimony. 50-100 million dollars in a biennium including drugs.

Rep. Delzer The last one we had would require 5 million of IGT money.

Zentner We didn't get federal funds for that and we assumed that.

Chairman Svedjan When this matter was brought before the budget section, were you not at that time, considering using 5 million dollars in the excess collections from the intergovernmental transfer source to help offset that \$14 million dollar shortfall.

Zentner There was a suggestion that we use IGT funds for that, but it hasn't happened.

Rep. Delzer What is the actual number now?

Zentner It's hard to predict. We are just seeing the effects of changes we made prior to this. It takes 2-3 months to see any changes. I can't answer that until June. The 16.3 is an estimate with variables.

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House Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date 02-28-03

Rep. Delzer What precedence is there to take deficiency appropriation out of a special fund?

Zentner I'm not sure.

Alan Knudson I can't recall anything like that in my time here.

Sheila Peterson The Department of Corrections had done this before.

Rep. Delzer Mechanically, what are our options? Is the money paid out of next biennium's appropriations?

Sheila Peterson Pass this bill or cut 9,800 off of Medicaid today.

Rep. Delzer I bet this has happened before.

Peterson I don't know of any time having a department's overall be a shortfall.

Knudson At the end of last biennium, in the department's budget they estimated low the amount of money they wanted to transfer into the Medicaid Program. Last biennium they spent money from this year's appropriation to cover that.

Rep. Delzer That's what happened? You just paid it and then started paying for it during the next biennium?

Zentner Correct.

Rep. Warnke If an emergency is put on the whole Department of Human Services, does that make money available to them before the end of the biennium?

Knudson Yes, it does.

Rep. Wald Would you please expand on pg. 6, the last paragraph. Are we doubling up on \$850,000 of appropriations?

Zentner Yes, currently there is \$850,000 in HB 1200 that is now in the Senate. The same dollars are part of the 16.3 million.

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House Appropriations Committee
Bill/Resolution Number SB 2025
Hearing Date 02-28-03

Rep. Wald Should we be taking \$850,000 from the 16.3 million you're asking for?

Zentner Yes.

Wald Of the 16.3, how much goes to nursing homes?

Zentner About 2 million dollars.

Rep. Kempenich What's been done with the increased utilization?

Zentner We try to control it with certificates of need for nursing homes, hospital review, prior authorization, etc. We aren't immune to the PERS increase.

Rep. Kempenich Are we buying into the technology at a rate we can't afford?

Zentner We look at new things and we get them where they are important ones. We are accused of interfering with medicine by controlling prescription drugs. We also monitor physicians.

Rep. Kempenich Where does the \$3 co-pay come into play?

Zentner It is the amount the recipient pays up front.

Knudson With Rep. Warnke's question of putting an emergency clause on SB 2012. If the funding isn't in the General Fund, there would need to be other adjustments made to allow that.

Rep. Delzer The \$850,000 is to cover the 1% allotment. If both bills pass with that in there, it would only be spent once.

Knudson They would have authorization to spend it all.

Rep. Delzer Are there any eligibility changes besides the asset test?

Zentner The \$100 dollar rule, none other than that.

Shelly Peterson, President of ND Long-term Care Association. See Written Testimony.

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House Appropriations Committee

Bill/Resolution Number SB 2025

Hearing Date 02-28-03

Rep. Glassheim How do we fund the 03-05 biennium if they weren't coming out of the trust fund.

Sheila Peterson We would take the money from the trust fund (17 million) to continue priorities stated in the article.

Rep. Glassheim But the language says we won't use money from the trust fund.

Knudson The 2 new payments that come in 03-05 that total about 20 million would be used.

Rep. Wald If we take 16.3 million out, the ending balance in the trust fund would be \$230,000?

Knudson We switched it from general funds.

Bruce Murray, from Protection and Advocacy We favor SB 2025. It represents a bare-bones service that is necessary.

Overview Complete, Meeting adjourned.

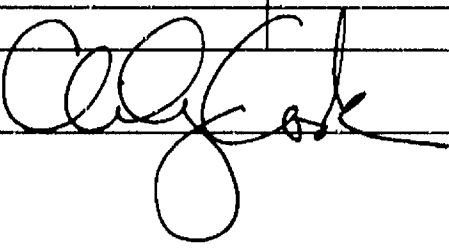
2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2025

House Appropriations Committee
Human Resources Division

☐ Conference Committee

Hearing Date April 3, 2003

Tape Number	Side A	Side B	Meter #
One	XX		
Committee Clerk Signature 			

Minutes:

There was discussion regarding the amendment.

V-C Warnke moved the amendment.

Rep. Kempenich seconded.

VOICE VOTE

5 YES 0 NO 1 ABSENT

Motion passed.

V-C Warnke moved a do pass as amended.

Rep. Kempenich seconded.

ROLL CALL VOTE

5 YES 0 NO 1 ABSENT

Motion passed.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2025

House Appropriations Committee

☐ Conference Committee

Hearing Date 4/4/03

Tape Number	Side A	Side B	Meter #
1	xx		36-45.8
Committee Clerk Signature <i>Almrose</i>			

Minutes: Chairman Svedjan called the hearing on SB 2025 to order.

Rep. Delzer: I believe there are some amendments coming around. Since this bill this time was using all the health care trust fund dollars, IGT dollars, we took a look at it in Human Resources subsection. I will try to explain the amendments and move them. I move amendments .0102 to SB 2025.

Rep. Kerzman: Seconded.

Rep. Delzer: What this amendment does, in the first place, replaces any monies in the health care trust fund with special funds, and then it reduces the amount in the bill from \$16,300 to \$15,450, and that in essence and reflects of HB 1200 which passed and has been signed by the Governor, which used \$850,000 from the health care trust fund to cover part of the deficiency appropriations. In Section 2 of the bill, it takes \$7,942,762 from the criminal law tax trust fund and that's the amount that was forecast to be there in excess oil revenues from the last revenue forecast. We were using the rest of the IGT funds to cover, so that in essence we covered the

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2025

Hearing Date 4/4/03

whole \$16.3, we're using \$7.9 out of the criminal law trust fund and the rest of it will come out of IGT.

Rep. Timm: Have you put any language, or any instructions, or what have you done to make sure that this particular situation doesn't happen again.

Rep. Delzer: I think we've made attempts to do that in 2025, we'll discuss that when we take up 2012 and then I think that there may also be some language offered on 2015, the OMB bill, that also has some considerations for how a deficiency would be handled.

Rep. Kroeber: I guess I would ask LC if we're going to use this, does this need a 2/3 vote of both houses, because that's what the statute reads for use of the permanent oil trust fund.

LC: In this case, there is an emergency clause on the bill being it's being financed to the bill, it would also need a 2/3 vote to pass because it is an emergency measure.

Rep. Carlson: Would it be possible for a counselor to tell us exactly how much money that we have removed from the health care trust fund this biennium and for what purposes.

LC: This biennium.

Rep. Carlson: Yes. It is confusing because we're taking some now, and then there is a bunch in the next biennium, so I guess it would be during this legislative action, how much money will be removed from the health care trust fund.

LC: This legislative action, the way it sits right now, I think we will use in the neighborhood of \$35 million for the next biennium and we'll use about \$8.4 for this deficiency appropriation, removing approximately \$10 million dollars for the 05-07 biennium.

Chairman Svedjan: Any further discussion, hearing none, on the motion to adopt amendment .0102 to SB 2025.

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House Appropriations Committee
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Voice vote: Carried.

Rep. Delzer: I move a Do Pass as amended on SB 2025.

Rep. Kempenich: Seconded.

Rep. Timm: I realize that the department was in the situation where they had to cover people, but from what I understand, they really didn't have the authority when we sent the Human Services budget out last session, to spend this kind of extra money, did they? And are they going to have that again?

Rep. Delzer: We are going to make every effort, that it's understood that the Department is going to be expected to live within its appropriated amount in the next biennium. I think that what they used was actually a section that we put on the bill last time, which said that if there was a deficiency appropriation, then it needed to come before the budget section, and there was some differences in opinions of whether or not that in essence suggested there should be one or not. There were a number of legislators that felt that it was not supposed to happen, but I can see how either side could take an argument on that section of the bill.

Rep. Wald: Just a comment, I was involved when we established the criminal tax trust fund, and the word trust fund around here, should probably be changed so that we are a little bit more honest with ourselves, that it's kind of a temporary storage fund rather than a trust fund.

Rep. Delzer: I guess in the first place, that the community health trust fund was set up to try to make sure that most of that went towards care for mostly elderly and a lot of the Medicaid budget does go on the elderly. The permanent oil trust fund, was the way to set aside some of the money, if oil was better, and I don't think that was ever necessarily meant to grow and grow and grow and to use some of that to cover a shortage, I don't think is probably totally out of line.

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House Appropriations Committee

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That is understanding, of course, that any time we have a trust fund, and take it down to \$0 or nearly \$0, that is ongoing expenses that are going to have to be covered with general funds in the future.

Chairman Svedjan: Any further discussion. Hearing none, on a Do Pass motion as amended, we'll take a roll call vote.

16 YES 4 NO

Motion passes.

Carrier: Rep. Delzer

38048.0102
Title.

Prepared by the Legislative Council staff for
Representative Delzer
March 31, 2003

PROPOSED AMENDMENTS TO SENATE BILL NO. 2025

Page 1, line 5, replace "any moneys in the health care trust fund" with "special funds"

Page 1, line 10, replace "16,300,000" with "15,450,000"

Page 1, line 11, after "Total" insert "special funds", remove "from the health care trust fund",
and replace "16,300,000" with "15,450,000"

Page 1, after line 11, insert:

**"SECTION 2. SPECIAL FUNDS - HEALTH CARE TRUST FUND -
PERMANENT OIL TAX TRUST FUND.** The total special funds appropriation line item
in section 1 of this Act includes \$7,506,238 from the health care trust fund and
\$7,943,762 from the permanent oil tax trust fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 325 - Department of Human Services - House Action

This amendment reduces the Department of Human Services deficiency appropriation by
\$850,000 due to the nursing facility portion of the deficiency appropriation of \$850,000 from the
health care trust fund appropriated in House Bill No. 1200.

The amendment also changes the funding source of \$7,943,762 of the \$15,450,000 deficiency
appropriation from the health care trust fund to the permanent oil tax trust fund.

Date: April 3, 2003
Roll Call Vote #: One

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2025

House Appropriations - Human Resources Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38048.0102

Action Taken Do Pass As Amended

Motion Made By Rep. Warnke Seconded By Rep. Kempenich

Representatives	Yes	No	Representatives	Yes	No
Rep. Jeff Delzer, Chairman	X				
Rep. Amy Warnke, Vice Chair	X				
Rep. Larry Bellew					
Rep. Keith Kempenich	X				
Rep. James Kerzman	X				
Rep. Ralph Metcalf	X				

Total (Yes) Five No 0

Absent Rep. Bellew

Floor Assignment Rep. Delzer

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

REPORT OF STANDING COMMITTEE (410)
April 4, 2003 2:54 p.m.

Module No: HR-61-6866
Carrier: Delzer
Insert LC: 38048.0102 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2025: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 4 NAYS, 3 ABSENT AND NOT VOTING). SB 2025 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "any moneys in the health care trust fund" with "special funds"

Page 1, line 10, replace "16,300,000" with "15,450,000"

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Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 325 - Department of Human Services - House Action

This amendment reduces the Department of Human Services deficiency appropriation by \$850,000 due to the nursing facility portion of the deficiency appropriation of \$850,000 from the health care trust fund appropriated in House Bill No. 1200.

The amendment also changes the funding source of \$7,943,762 of the \$15,450,000 deficiency appropriation from the health care trust fund to the permanent oil tax trust fund.

2003 TESTIMONY

SB 2025

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LaCosta Rickford
Operator's Signature

10/15/03
Date

DAVE Zentner
Exhibit 1

**TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE
REGARDING SENATE BILL 2025
JANUARY 7, 2003**

Chairman Holmberg, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear to provide information regarding the deficiency appropriation within the North Dakota Medicaid Program.

- Section 20 of House Bill 1012, the Department's current Appropriations Bill, states in part that if the Department anticipates that actual expenditures will exceed the funding by the legislative assembly for medical assistance grants, the Department shall report to the Budget Section on the Department's efforts to manage the funds appropriated to the Department to provide for the anticipated shortfall and, if necessary seek Budget Section approval to spend funds at a level which would require a request for a general fund deficiency appropriation for the next legislative assembly.
- During the course of the biennium, the Department reported quarterly to the Budget Section and provided updates regarding actions taken to control expenditures and to ask guidance when it became obvious that current appropriated amounts would not be sufficient to pay for the medical needs of recipients enrolled in the Medicaid Program.
- The primary causes of the current shortfall are noted below:
 - a. The Governor's budget for Medical Services as presented to the legislature in 2001 totaled \$588.8 million. Included in this budget there was \$25 million of Intergovernmental Transfer (IGT) funds that allowed the Department to access an additional \$58 million of federal

Medicaid dollars. During the Legislative Session, the \$25 million of IGT funds were removed from the Department's budget and were replaced with \$21.5 million of general fund dollars. This created a shortfall of \$3.5 million in state general funds.

- b. The appropriation included a funding shift of \$700,000 in general funds to other funds for which no "other revenue" source exists.
- c. The Federal Medical Assistance Percentage (FMAP) decreased by 1.51% as of October 1, 2002. The change was not anticipated at the time the Executive budget was developed. The reduction resulted in a funding shift of about \$4.5 million from federal to state funds.
- d. The number of recipients enrolled in the program has increased by about 12.6% since the start of the biennium. As of November 30, 2002, 52,670 individuals were eligible for full coverage under the Medicaid Program.
- e. Although we have an increase in eligible individuals, an additional variable that drives expenditures is the extent to which eligible individuals utilize the program. During the biennium, the number of individuals receiving services has also increased accordingly from an average of 34,057 for the three-month period ending November 30, 2001 to an average of 39,559 for the three-month period ending November 30, 2002. This is an increase of 16.2% in one year.
- f. The program has experienced more high cost cases in the current biennium. During the last 12 months of the previous biennium, 250 recipients had expenditures that exceeded \$100,000. The total expenditures for these high cost cases were \$31 million. For the last 12 months of the current biennium, 297 recipients had expenditures that exceeded \$100,000. The total expenditures for these high cost cases were \$36.3 million, an increase of 17%. High cost cases are generally the result of neonatal care, severe trauma cases primarily caused by accidents, transplants, and high cost institutional care.

The summary of the Shortfall is noted below:

Under funding from funding switch	\$3,500,000
Special funds – unidentified	700,000
FMAP changes	4,500,000
Utilization including allotment	<u>7,600,000</u>
Total	\$16,300,000

- The Department has taken the following steps to reduce expenditures within the Medicaid Program.
 - a. Eliminated inflationary increases for providers in the last year of the biennium except those required by law.
 - b. Eliminated retrospective payment for hospital outpatient and inpatient psychiatric and rehabilitation hospitals.
 - c. Established limits on inpatient hospital property costs.
 - d. Established limits and payment rates for outpatient partial hospitalization programs.
 - e. Implemented a Maximum Allowable Cost Program for payment of drugs.
 - f. With the assistance of North Dakota pharmacists reduced the use of proton pump inhibitors (antiulcer drugs).
 - g. Implemented quantity limits, pill splitting, etc. for drug dispensing.
 - h. Reduced payment to the lowest rate when a nursing facility resident leaves the facility for hospital or personal leave days.
 - i. Reduced dental benefits to basic preventive and restorative treatments for adults.
 - j. Imposed a \$3 co-payment for brand name drugs. Co-payments cannot be assessed to children, pregnant women and individuals residing in nursing or ICF/MR facilities.

- k. Changed the payment policy for Medicare Part A claims. Previously, hospitals received the full coinsurance or deductible billed. Current policy limits payments to no more than the allowable Medicaid payment.
 - l. Effective January 1, 2003, reinstated the 100-hour rule. Adult family members will no longer be eligible for Medicaid if the principle wage earner works more than 100 hours per month no matter the amount of income earned.
 - m. Effective January 1, 2003, limit the amount of recipient liability offset to no more than \$15 per month for medical expenses incurred prior to becoming eligible for the Medicaid Program.
- The general fund savings generated by these changes is estimated to be about \$2.5 million.
 - The funds to cover this shortfall have been budgeted from the Health Care Trust Fund that is generated from the Intergovernmental Transfer Program. At the time the two-government owned nursing facilities return funds to the state they lose their identity and can be used for whatever purpose deemed appropriate by the legislature including covering the current shortfall in the Medicaid budget. We have learned that the North Dakota Long Term Care Association opposes the use of the Health Care Trust Fund to fund the shortfall.
 - The original Legislation authorizing the Intergovernmental Transfer Program in 1999 was designed to provide alternative care to nursing facility services. It authorized the Department to approve loans and grants to nursing facilities to encourage them to develop alternatives to nursing facility care and provided funding for the Service Payments to the Elderly and Disabled Program (SPED). No funds were used to directly benefit nursing facility services during the first two years of this program.

- If a deficiency appropriation were not provided, the Department would be required to take drastic measures to keep within the current appropriation. Within the last remaining months of the biennium, it would be necessary to eliminate all optional services including drugs for the 19,500 non-medically needy adults currently on the program, lower limits for nursing facility payment to the 60th percentile for all cost categories, reduce payments to providers by 10% and eliminate coverage for the Medically Needy eligibility category. A total of about 9,800 individuals, primarily elderly and disabled, would lose Medicaid coverage. The breakdown of reductions is shown below.

Service	Number of Providers affected	Number of Recipients affected	State Fund Reduction	Total Fund Reduction
Optional Services	3,000	19,500	\$2.7 million	\$8.4 million
Reduce Payments to Providers	3,000	42,200	\$1.7 million	\$5.4 million
Reduce Nursing Facility Payments to 60/60/60 th percentile	81	3,700	\$1.1 million	\$3.7 million
Eliminate the Medically Needy category for eligibility	3,500	9,800	\$9.0 million	\$28.5 million

Totals \$14.5 million \$46.0 million

- It must also be noted that if the Medically Needy category is eliminated, the Department would no longer be able to determine eligibility for nursing facilities using the current method. The Department would be required to base nursing facility eligibility at no more than 300 percent of the current Supplemental Security Income (SSI) payment for a single household.

Currently, 300% of the SSI monthly payment is \$1,656. This will result in a number of individuals who are currently eligible for nursing facility services under the medically needy category to no longer be eligible for this service.

- Implementing the above changes would require numerous emergency rule changes and state plan amendments that would have to be approved by the Federal Government that will take a considerable amount of time and effort to complete.
- Even with these drastic changes to the Medicaid program, the Department would need to find an additional \$1.8 million in general funds from other sources within the Department to meet the shortfall.

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

**TESTIMONY BEFORE THE HOUSE APPROPRIATIONS COMMITTEE
REGARDING SENATE BILL 2025
FEBRUARY 28, 2003**

Chairman Svedjan, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services. I appear to provide information regarding the deficiency appropriation within the North Dakota Medicaid Program.

- Section 20 of House Bill 1012, the Department's current Appropriations Bill, states in part that if the Department anticipates that actual expenditures will exceed the funding by the legislative assembly for medical assistance grants, the Department shall report to the Budget Section on the Department's efforts to manage the funds appropriated to the Department to provide for the anticipated shortfall and, if necessary seek Budget Section approval to spend funds at a level which would require a request for a general fund deficiency appropriation for the next legislative assembly.
- During the course of the biennium, the Department reported quarterly to the Budget Section and provided updates regarding actions taken to control expenditures and to ask guidance when it became obvious that current appropriated amounts would not be sufficient to pay for the medical needs of recipients enrolled in the Medicaid Program.
- The primary causes of the current shortfall are noted below:
 - a. The Governor's budget for Medical Services as presented to the legislature in 2001 totaled \$588.8 million. Included in this budget there was \$25 million of Intergovernmental Transfer (IGT) funds that allowed the Department to access an additional \$58 million of federal

Medicaid dollars. During the Legislative Session, the \$25 million of IGT funds were removed from the Department's budget and were replaced with \$21.5 million of general fund dollars. This created a shortfall of \$3.5 million in state general funds.

- b. The appropriation included a funding shift of \$700,000 in general funds to other funds for which no "other revenue" source exists.
- c. The Federal Medical Assistance Percentage (FMAP) decreased by 1.51% as of October 1, 2002. The change was not anticipated at the time the Executive budget was developed. The reduction resulted in a funding shift of about \$4.5 million from federal to state funds.
- d. The number of recipients enrolled in the program has increased by almost 13% since the start of the biennium. As of January 31, 2003, 53,310 individuals were eligible for full coverage under the Medicaid Program.
- e. Although we have an increase in eligible individuals, an additional variable that drives expenditures is the extent to which eligible individuals utilize the program. During the biennium, the number of individuals receiving services has also increased accordingly from an average of 34,057 for the three-month period ending November 30, 2001 to an average of 39,559 for the three-month period ending November 30, 2002. This is an increase of 16.2% in one year.
- f. The program has experienced more high cost cases in the current biennium. During the last 12 months of the previous biennium, 250 recipients had expenditures that exceeded \$100,000. The total expenditures for these high cost cases were \$31 million. For the last 12 months of the current biennium, 297 recipients had expenditures that exceeded \$100,000. The total expenditures for these high cost cases were \$36.3 million, an increase of 17%. High cost cases are generally the result of neonatal care, severe trauma cases primarily caused by accidents, transplants, and high cost institutional care.

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 - m. Effective January 1, 2003, limit the amount of recipient liability offset to no more than \$15 per month for medical expenses incurred prior to becoming eligible for the Medicaid Program.
- The general fund savings generated by these changes is estimated to be about \$2.5 million.
 - The funds to cover this shortfall have been budgeted from the Health Care Trust Fund that is generated from the Intergovernmental Transfer Program. At the time the two-government owned nursing facilities return funds to the state they lose their identity and can be used for whatever purpose deemed appropriate by the legislature including covering the current shortfall in the Medicaid budget.
 - The original Legislation authorizing the Intergovernmental Transfer Program in 1999 was designed to provide alternative care to nursing facility services. It authorized the Department to approve loans and grants to nursing facilities to encourage them to develop alternatives to nursing facility care and provided funding for the Service Payments to the Elderly and Disabled Program (SPED). No funds were used to directly benefit nursing facility services during the first two years of this program.

- If a deficiency appropriation were not provided, the Department would be required to take drastic measures to keep within the current appropriation. Within the last remaining months of the biennium, it would be necessary to eliminate all optional services including drugs for the 19,500 non-medically needy adults currently on the program, lower limits for nursing facility payment to the 60th percentile for all cost categories, reduce payments to providers by 10% and eliminate coverage for the Medically Needy eligibility category. A total of about 9,800 individuals, primarily elderly and disabled, would lose Medicaid coverage. The breakdown of reductions is shown below.

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Eliminate the Medically Needy category for eligibility	3,500	9,800	\$9.0 million	\$28.5 million

Totals \$14.5 million \$46.0 million

- It must also be noted that if the Medically Needy category were eliminated, the Department would no longer be able to determine eligibility for nursing facilities using the current method. The Department would be required to base nursing facility eligibility at no more than 300 percent of the current Supplemental Security Income (SSI) payment for a single household. Currently, 300% of the SSI monthly payment is \$1,656. This could result in

a number of individuals who are currently eligible for nursing facility services under the Medically Needy category to no longer be eligible for this service.

- Implementing the above changes would require numerous emergency rule changes and state plan amendments that would have to be approved by the Federal Government that will take a considerable amount of time and effort to complete.
- Even with these drastic changes to the Medicaid program, the Department would need to find an additional \$1.8 million in general funds from other sources within the Department to meet the shortfall.
- This bill includes \$850,000 that is the nursing facility share of the 1% allotment ordered by Governor Hoeven due to the revenue shortfall in the current biennium. House Bill 1200 that passed the House also contains \$850,000 for the same purpose, thus creating a duplicate appropriation.

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

#4

**Testimony on SB 2025
Senate Appropriations Committee
January 7, 2003**

Chairman Holmberg and members of the Senate Appropriations Committee, thank you for the opportunity to testify on SB 2025 - the Department of Human Services Deficiency Appropriation. My name is Shelly Peterson, I'm President of the North Dakota Long Term Care Association. I am here to testify on behalf of nursing facilities.

On September 25, 2002 the Department of Human Service announced a cut of \$850,000 to nursing facilities. That cut actually amounts to \$2.6 million cut because of the loss of federal funds. The Department, agreed to postpone the cut until after we had an opportunity to request a deficiency appropriation from the 2003 legislature. As you may be aware, former Senator Solberg, Representative Devlin and Representative Boucher agreed last fall to introduce legislation to avert this cut to nursing facilities. This isn't their legislation, it is OMB sponsored legislation on behalf of the Department of Human Services. I'm here this morning to ask for your support of the \$850,000 for nursing facilities, their share of the allotment cut ordered by Governor Hoeven.

As you maybe aware nursing facilities are not actually overspending. The 2001 legislature appropriated \$299 million for nursing facilities for this biennium and we will probably spend \$295 million. Although we will be about \$4 million under budget the Department indicates because of the change in the percentage of federal financial participation, we will run about \$850,000 short in state general funds. We think it is appropriate to take our share of the cut from the IGT Trust Fund. We do not support funding the full deficiency appropriation of \$16.3 million from the IGT Trust Fund.

Please don't confuse our position of the need of the Department of Human Services to have a deficiency appropriation. We are not in a position to judge their total deficiency needs. They indeed may have a profound need for additional money or indeed thousands of North Dakota citizens may be negatively impacted.

Our position is, keep the Trust Fund intact. We support taking \$850,000 from the Trust Fund for the share of the nursing facility deficiency, not the full \$16.3 million as requested in SB 2025. We are taking this position because of where the Trust Fund dollars originate and because of the action of the 2001 legislature. Behind my testimony is an article on the Trust Fund called, "Caring for North Dakota's Greatest Generation." I would like to review that article at the conclusion of my testimony.

The legislature played a vital role in safeguarding and protecting the Trust Fund. If the Trust Fund is totally depleted this next biennium how will we continue the priorities you established in 2001?

We know you will have great difficulty in balancing and funding the states priorities. I do not have an answer on where can the money come from to fund the Department's deficiency. I guess that question can only be answered by you, as you review all spending, needs and priorities of the state. Please find my attached article on the IGT Trust Fund.

Thank you for the opportunity to present testimony on SB 2025. I would be happy to answer any questions you may have.

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

**Testimony on SB 2025
House Appropriations Committee
February 28, 2003**

Chairman Svedjan and members of the House Appropriations Committee, thank you for the opportunity to testify on SB 2025 - the Department of Human Services Deficiency Appropriation. My name is Shelly Peterson, I'm President of the North Dakota Long Term Care Association. I am here to testify on behalf of nursing facilities.

We are one of the many entities that will be cut unless the Department receives this deficiency appropriation. They have told us and many others that they have a profound need for the deficiency or indeed thousands of North Dakota citizens will be negatively impacted. We don't dispute this fact, however we are concerned with the entire source of funding being the IGT Trust Fund dollars.

Our position is, keep the Trust Fund intact. At a Budget Section meeting this past summer there seemed to be agreement that possibly up to \$5 million IGT Trust Fund dollars be used to help towards the deficiency. We were surprised when SB 2025 appeared and the total source of funding was IGT Trust Fund dollars. In 2001 the legislature played a vital role in safeguarding and protecting the Trust Fund. If the Trust Fund is totally depleted this next biennium how will we continue the priorities you established in 2001?

Behind my testimony is an article on the Trust Fund called, "Caring for North Dakota's Greatest Generation." Please note the language you placed in statute in 2001. We support the position you took in 2001.

We know you will have great difficulty in balancing and funding the states priorities. I do not have an answer on where can the money come from to fund the Department's deficiency. I guess that question can only be answered by you, as you review all spending, needs and priorities of the state. Please find my attached article on the IGT Trust Fund.

Thank you for the opportunity to present testimony on SB 2025. I would be happy to answer any questions you may have.

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

"Caring for North Dakota's Greatest Generation"

Intergovernmental Transfer and the Health Care Trust Fund

When was the Trust Fund Created?

During the 1999 Legislative Session, lawmakers passed SB 2168 which established the Health Care Trust Fund.

The money for the trust fund comes from a funding mechanism called intergovernmental transfer.

How Does North Dakota Qualify for this Funding?

North Dakota qualifies for this unique funding source because we have two governmental nursing facilities located in Dunseith and McVie. The formula for calculating how much money North Dakota qualifies for is complex and is based upon the number of Medicaid resident days in all North Dakota nursing facilities. The total Medicaid resident days are then multiplied by the difference between our Medicare and Medicaid rates. Traditionally Medicare pays more for care than Medicaid.

After application of the formula, North Dakota applies for the Medicaid dollars, and the money is ultimately deposited in the North Dakota Health Care Trust Fund.



How Have The Trust Fund Dollars Been Spent?

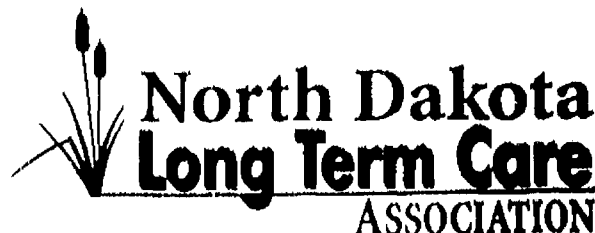
1999-2001

- ★ Service Payments to the Elderly and Disabled (SPED) - \$4.2 million
- ★ Development of assisted living and other alternatives to nursing facility care - approximately \$2 million

2001-2003

HB 1196 was comprehensive long term care legislation and directed how trust fund dollars were to be spent. Former Senator Solberg, Representative Devlin and Representative Boucher worked on HB 1196 nine months prior to it being introduced to the 2001 legislature. HB 1196 funded:

- ★ Salary and benefit enhancement to long term care staff - \$8.2 million
- ★ Increased personal needs money for nursing facility, basic care and developmentally disabled (DD) residents on assistance. Nursing facility and DD residents personal needs allowance increased from \$40 to \$50 per month. Basic care residents personal needs allowance increased from \$45 to \$60 per month.
- ★ Two percent loans to remodel nursing facilities, basic care facilities and assisted living facilities - \$12 million
- ★ Bed reduction / facility closure incentives - \$4 million
- ★ Update nursing facility limits to 1999.



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Lacosta Rickford
Operator's Signature

10/15/03
Date

- ★ HIPAA compliance funds for Department of Human Services (DHS) - \$3 million
- ★ Scholarship and loan repayment grants to nursing facilities to recruit and retain nurses and student nurses - \$589,500
- ★ Service payments to the elderly and disabled (SPED) - \$6.8 million
- ★ Senior Citizens mill levy grants - \$250,000
- ★ Grant program to convert ambulances to quick response units - \$225,000
- ★ Long term care and nursing facility payment study - \$241,006
- ★ Train in-home caregivers - \$140,000
- ★ Targeted case management - \$338,530
- ★ Grants to developmentally-disabled (DD) independent living centers - \$100,000
- ★ \$500,000 each to McVile and Dunseith for transfers.

Legislative Intent of 57th Legislative Assembly

"It is the intent of the fifty-seventh legislative assembly that the June 30, 2003, unobligated balance in the North Dakota Health Care Trust Fund and any investment earnings on that amount during the 2003 - 2005 biennium not be appropriated but be retained in the fund to be used to continue, for periods subsequent to the 2003 - 2005 biennium, the increased funding levels authorized in HB 1196 for the 2001 - 2003 biennium." - HB 1196

Current Status of the Fund

The Hoeven Budget uses all the funds except \$616,902. Approximately \$18.1 million is in the budget for continuing the priorities established by the 2001 legislature. The remaining dollars are for the DHS 2001-2003 deficiency appropriation of \$16.3 million (SB 2025) and \$20 million (SB 2012) is to replace state funds previously used to fund nursing facilities.

NDLTCA Position on the Trust Fund

- ★ Keep the Trust Fund intact.
- ★ Support taking \$850,000 from the Trust Fund for the share of the nursing facility deficiency appropriation, not the full \$16.3 as requested in SB 2025.
- ★ Oppose taking \$20 million from the IGT Trust Fund to replace current nursing facility funding in the 2003/2005 budget (SB 2012).
- ★ Support money from the trust fund to adequately fund care to nursing facility residents during the 2003/2005 biennium.



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Bismarck, ND 58501
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Shelly Peterson, President

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Date

January 7, 2003

SENATE APPROPRIATIONS COMMITTEE
SB 2025

CHAIRMAN HOLMBERG AND COMMITTEE MEMBERS:

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

It is organized on three levels: local chapters, state chapters and the national organization. All three levels provide opportunities to engage policy-makers in efforts to improve public policy affecting people with mental retardation and related developmental disabilities and their families.

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

Our **Mission Statement** is to improve the quality of life for children and adults with mental, retardation and related developmental disabilities and their families through advocacy, education and family support services.

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

The ARC has a number of legislative priorities for the 58th Legislative Assembly. Our **number one priority is to increase the average wage for Community Provider Direct Care Workers by \$1.50 per hour.** Each of the past few legislative assemblies has slowly increased the pay for these workers who deal every day with North Dakotans with disabilities. However, without this emergency appropriation, the state would be taking a step backwards from this goal.

Nearly all of the The Arc's clients deal one way or another with some of the DHS programs that would be severely curtailed or halted without this appropriation.

We understand this is a lot to ask. But a lot is needed for North Dakotans with disabilities. The Arc strongly urges you to support and give a "do pass" to this deficiency appropriation.

If you have any questions, I will be happy to try to answer them. Good luck this session. THANK YOU FOR YOUR TIME AND CONSIDERATION.

1-30-03

Subcommittee 143
Exhibit 1

[REDACTED]

In 1983 State law established the provision of specific in-home and community-based services to delay or prevent institutionalization. It is based on a social model instead of the traditional medical model. The focus is on the person's ability to function in their home and community - ability to care for him/herself and other living skills are considered. The client participates in the cost of services based on sliding-fee-scale adjusted for family size and income. Funding is 95% State general funds and 5% county match. The maximum allowed per recipient per month is \$1,200.

[REDACTED]

Authorized transfer from the SPED Program Pool: **SPED PROGRAM POOL CRITERIA:**

- Liquid assets of less than \$50,000, and
 - Unmet cost for the service(s), and
 - Impaired in 4 ADLs, OR in 5 IADLs with total of 8 points (or living alone, 6 points) and
 - Impairments must have lasted or are expected to last 3 months or more,
- OR**
- If under age 18, screened for nursing facility level-of-care, and
 - Not eligible for Aged & Disabled nor TBI Waivers, and
 - Not living in an institution, dormitory, or congregate housing, and
 - Need for service is not due to mental illness nor mental retardation, and
 - Capable of directing own care or have legally responsible party, and
 - Has need within scope of covered services
- [REDACTED]

HCBS Case Management
Personal Care Service
Adult Day Care
Chore Service

Respite Care
Adult Family Foster Care
Homemaker
Non-Medical Transportation
Family Home Care
Environmental Modification

[REDACTED]

Clients select their provider(s) from the QSP LIST issued by the Aging Services Division to the county social service office for each service.

FUNDING SOURCE ELIGIBILITY **HOME AND COMMUNITY BASED SERVICES FOR THE AGED AND DISABLED**

Aging Services Division
North Dakota Department of Human Services

SPED* PROGRAM	EXPANDED SPED PROGRAM (September 1994)
Homemaker Chore Respite HCBS Case Manager Personal Care Service Adult Foster Care Adult Day Care (7/93) Family Home Care Environ Modification (10/99)	Homemaker Chore Respite HCBS Case Management Personal Care Service Adult Foster Care Adult Day Care (7/93) Family Home Care Environ Modification (10/99)
Authorized transfer from the SPED Program Pool <u>SPED PROGRAM POOL CRITERIA</u> Impaired in 4 ADLs, OR in 5 IADLs with total of 5 points (or living alone, 6 points); impairments must have lasted or are expected to last 3 months or more -OR- If under age 18, screened for nursing facility care Not eligible for Waiver, OR is adversely impacted	Eligible for Basic Care Assistance Program Medical Assistance (recipient/ eligible) Not severely impaired in ADLs: Toileting Transferring Eating Impaired in 3 of 4 IADLs: Meal Preparation Doing Housework Doing Laundry Taking Meds -OR- Needs supervision or structured environment
Sliding Fee Scale Resources less than \$50,000	Manual Chapter 510-05, Medical Eligibility Factors
95% State General Funds 5% County Match (1/94)	State General Funds

* Service Payments for Elderly and Disabled

** NDCC 50-24.5-02 provides for eligible recipients of the Expanded SPED Program to receive services in Acongregate housing.
12-02

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FUNDING SOURCE ELIGIBILITY HOME AND COMMUNITY BASED SERVICES

Aging Services Division
North Dakota Department of Human Services

MEDICAID WAIVER Traumatic Brain Injured	MEDICAID WAIVER Aged & Disabled
Homemaker Chore* Respite TBI Case Management* Personal Care Service Prevocational Services Supported Employment Service Behavioral Management/Programming Transitional Living* TBI Residential Care* Substance Abuse Counseling Environ Modification Training for Family Caregivers Special Equipment Non-Medical Transportation	Homemaker Chore Respite HCBS Case Management Personal Care Service Adult Foster Care Adult Day Care Non-Med Transportation Environ Modification Train Family Caregivers Special Equipment Adult Residential Svc. (10/98)
Medicaid Recipient Diagnosis of TBI or Acquired Brain Injury Screened at Nursing facility level-of-care Over age 18 and not under an IEP Disabled as determined by SSD criteria Capable of directing his/her own care or have a responsible party act in the recipient's behalf as determined by the interdisciplinary ICP team Have had a neuropsychological evaluation	Age 65 and over -OR- If under age 65, determined disabled by SSA criteria Medicaid recipient Screened in need of nursing facility care Provider is not spouse, nor parent, (if minor child)
Manual Chapter 510-05, Medical Eligibility Factors	Manual Chapter 510-05, Medical Eligibility Factors
Federal/State Match	Federal/State Match

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Exhibit 2

**Testimony to the Senate Appropriations Committee
Regarding Senate Bill No. 2025
January 7, 2003**

**Richard Bendish
Morton County Commissioner
Morton County Social Service Board Member**

Chairman Holmberg and members of the Senate Appropriations Committee. I am Richard Bendish and I serve on both the Morton County Commission and the Morton County Social Service Board. The deficiency appropriation that is proposed in Senate Bill 2025 is obviously critical to the continued operation of the Department of Human Services, and therefore it has a profound effect on counties.

This Committee is well aware of the close and complicated linkage between the State and county government in the area of human services. We are like the much talked about balloon that bulges out on one end whenever you squeeze it on the other. The funding in this bill, necessary to maintain the Medicaid-funded optional services, will help keep that balloon right where its at for the rest of the biennium.

Almost every service that is funded by this Legislature, is administered, referred, or supported by county social service agencies. Without the existing services, county workers must attempt to find alternatives, or in most situations, simply tell the elderly, disabled, and poor that there is no help.

We urge you to give Senate Bill 2025 a rapid Do Pass recommendation so that the Department can maintain its current service levels. Thank you.

LaCosta Rickford
Operator's Signature

10/15/03
Date

TESTIMONY BEFORE THE SENATE APPROPRIATIONS COMMITTEE

REGARDING SENATE BILL 2025

January 7, 2003

Chairman Holmberg, members of the committee, my name is Larry Bernhardt, Director of Stark County Social Services in Dickinson, North Dakota and I am here today representing the County Social Service Directors Association.

The Directors Association fully supports this legislation and urges your Committee to pass this bill in order to protect and maintain the clients in North Dakota who so desperately need the Medicaid Program for their existence.

The alternatives outlined by the Department of Human Services for cuts to the Medicaid Program if this emergency appropriation is not approved speak of the devastation that would be felt by almost 10,000 people cut from the program entirely, the 19,500 people who will lose those "optional services" such as pharmacy, dental, optometric, chiropractic, transportation, etc., and the 42,000 providers in the state who have been providing services for the Medicaid Program. This does not account for the unknown numbers of people in long term care who would be stranded in need of care in a facility and no way to cover the costs and no where to go.

There is no safety net to catch these people who would fall off the Medicaid Program. County Social Services do not have the funds to cover such extensive costs and needs in their County General Assistance Programs.

We appreciate the fiscal dilemma in the state of North Dakota and appreciate the difficult job the Legislature has before them. However this problem must be solved and funding must be provided to keep the Medicaid Program funded for the remainder of this biennium. We believe the Department has made significant cuts already to the Program and these cuts will generate some savings into the next biennium, however the basic Medicaid Program must be preserved.

Thank you for your consideration and I would be happy to try to address any questions you may have.



Senate Appropriations Committee

January 7, 2003

SB 2025

Chairman Holmberg and members of the Senate Appropriations Committee, my name is Dick Weber and I am here today on behalf of the nearly 73,000 AARP members in North Dakota.

Our members are concerned about long term care, just as you are. We believe there are significant public policy decisions that need to be made to help us prepare for the aging baby boomers, who will, as repeated studies have shown, want to do things differently. One of those public policy issues is to truly **regard long term care as a continuum of care** beginning at home and designed to support people's choice to stay at home as long as possible.

A 2002 survey of AARP North Dakota members revealed that 86% consider it important to be able to remain at home as long as possible as they age. 89% support AARP North Dakota in advocating for the in-home care services that will help them stay at home. Regardless of age or ability, our citizens ought to be able to live where they choose.

Today there are 138 people waiting for in-home care services here in North Dakota because the Service Payments of Elderly and Disabled (SPED) and Expanded SPED programs have both been frozen, meaning no additional people may receive service through these programs. More people need help to stay at home than there are funds to help. There have already been instances of people who could be cared for at home having to move into institutional care, and others who have died, as their names remain on a waiting list for help at home.

107 West Main Avenue, Suite 125 | Bismarck, ND 58501 | 701-221-2274 | 701-255-2242 fax | 1-877-434-7598 TTY
James G. Parkel, President | William D. Novelli, Executive Director and CEO | www.aarp.org

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We are heartened that long term care needs are among the very first business you will address in this 2003 session. We hope your discussion today and throughout the session will include not just those deserving individuals residing in nursing homes, but also the frail and vulnerable – our family members, neighbors, and friends – who need help to remain at home in their communities.

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SENATE APPROPRIATIONS COMMITTEE

SB 2025

Testimony of Teresa Larsen

January 7, 2003

Chairman Holmberg and members of Senate Appropriations, my name is Teresa Larsen. I am the Executive Director of the Protection and Advocacy Project (P&A), a State agency with the mandate to protect and advocate for individuals with disabilities. I am before you today to ask you to support SB 2025.

I don't believe there is controversy about the need to provide a deficiency appropriation to the Department of Human Services for the current biennium. Without this, there will undoubtedly be serious cuts to medical services for some of our State's most vulnerable citizens. A major concern seems to focus on the appropriateness of using the Health Care Trust Fund (Intergovernmental Transfer or IGT) to cover the deficiency.

IGT revenue first came before the full Legislative body in 1999 through the introduction of SB 2168. My reading of the law that was enacted is that it was to create a "nursing facility alternative loan fund" and a "nursing facility alternative grant fund". The law stated that award grants or loan guarantees were to be made to nursing facilities "to convert all or a portion of the facility licensed to provide such care to a basic care facility, assisted living facility, or other alternative to nursing facility care" or "to any other entity meeting conditions established by the department to develop a basic care facility, assisted living facility, or other alternative to nursing facility care." Appropriations for the biennium ending June 30, 2001 also included IGT funding for Service Payments to the Elderly and Disabled (SPED) Program.

In his testimony before Senate Appropriations on January 28, 1999, Sheldon Wolf (DHS Assistant Director of Medical Services) stated that the IGT funds will "help nursing facilities convert existing beds to less costly and less restrictive settings than a nursing facility. This will allow the

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Department to access more services for the same or fewer dollars currently being spent on nursing facility services." Attachment A is a fact sheet on SB 2168. It speaks to "alternatives to nursing home services" and "more choices".

In testimony before Senate Appropriations on January 28, 1999, the Long Term Care Association shared information on how other states were using IGT funds: Michigan and Minnesota - Medicaid expenditures; Nebraska - conversion of nursing home beds to assisted living beds, the Children's Health Insurance Program, and the Excellence in Health Care Grant Program; Pennsylvania - to balance the line item for long term care and numerous other projects (see Attachment B). Merely adding funding to the existing nursing facility system was apparently not the priority for most states.

Also before Senate Appropriations in 1999, the Long Term Care Association took the position that SB 2168 "will dramatically change our long term care system in North Dakota. It will allow us to transition into a less institutional model of care and allow rural communities to better serve their aging population."

No one begrudges nursing facilities in North Dakota for accessing needed funds. We all want our relatives, friends and neighbors, who require a nursing home environment, to be safe and receive high quality care. Nursing facility staff deserved the \$1.50/hour salary increase they received as a result of the 2001 Legislative Session. But what's happened to the intent of developing alternatives to nursing homes and the choice for more people to remain in their own home in their own community? There's no question that this is what the majority of us want for our family and for ourselves.

I suggest to you that it is very appropriate to use the Health Care Trust Fund for the deficiency appropriation for Medicaid services. Without these services it is possible that even more individuals will end up needing nursing home placements. It seems further prudent to use more of this

money, as is available, to help facilitate alternatives to nursing home placements by unfreezing funding for the SPED Program and allocating salary and inflationary increases for home and community-based service providers.

Thank you for your consideration. I will be glad to answer any questions.

Fact Sheet: Intergovernmental Transfer (SB 2168)

What is it?

SB2168 was introduced by the Department of Human Services. It is designed to create an intergovernmental transfer program to access federal funds which will be used to develop alternatives to nursing facility care. This process is being used in Nebraska to generate additional funds

How does the intergovernmental transfer work?

1 Federal regulations allow the Department to pay nursing facilities owned by political subdivisions a different rate than that paid to nursing facilities that are not owned by a political subdivision. The maximum that can be paid by Medicaid to nursing facilities, in the aggregate, cannot exceed the Medicare Upper Limit.

Since the Medicaid rates, in the aggregate, do not exceed this limit, the difference (or gap between the two) can be paid to the political subdivisions (McVillie Dunseith), thus maximizing the Federal Funds available to the state. The Department estimates that this payment could be \$10 million each year. Of this amount, about 70% is Federal Funds and 30% is state General Funds.

2 Once the McVillie and Dunseith facilities receive the payment, they return the payment (less \$10,000) to the Treasurer's Office by using an intergovernmental transfer.

3 The Treasurer's Office deposits the general funds that were used by the Department to make the initial payment, back into the general fund.

4 The remaining balance, approximately \$7 million each year, is deposited into the North Dakota Health Care Trust Fund.

(SEE Flow chart on the back of this sheet)

How will these funds be used?

The Department proposes using these funds to create new alternatives to nursing home care by converting existing nursing home bed capacity to less restrictive alternatives such as assisted living, or to create alternatives in under-served areas of the state.

Why is DHS proposing this?

The bill will provide a source of funds to enhance current services and to create more choices for consumers. Through this intergovernmental transfer process, we hope to create a funding source to assist providers in developing less costly alternatives to nursing home services such as alternative

residential services, which could enable older North Dakotans and people with disabilities to remain in their own homes and in their own communities longer. Providers will be able to access the money in the fund through grant and loan applications.

How will this meet the needs of North Dakota?

The elderly and disabled citizens of North Dakota and their families will benefit most. They will have more choices to meet their individual needs.

Finally, North Dakota benefits because it will help minimize future expenditures by providing less costly alternatives to nursing home care, thus reducing the tax burden. This will enable the state to better address the needs of its aging population.

When would this take effect?

If this bill became law, it would take effect after the Health Care Financing Administration's approval of a State Plan Amendment.

It is anticipated that this program would continue until the Federal government changes the policy allowing these types of transfer payments, or the aggregate Medicaid payment rate reaches the Medicare Upper Limit Rate.

Funding Facts:

The intergovernmental transfer could generate about \$14 million dollars for the North Dakota Health Care Trust Fund over the biennium. (NOTE: This amount is after all funds used to make the payments are deposited back into the general fund.)

Maximizing the Federal Funds available to the state could, over the biennium, generate \$14 million.

Summary prepared January 1999 by the North Dakota Department of Human Services (701) 328-2321.

Attachment B



COUNTY COMMISSIONERS ASSOCIATION OF PENNSYLVANIA

17 N. FRONT ST. • HARRISBURG, PA 17101-1614 • 717-232-7554 • 717-232-2162 FAX • www.pacounties.org

TO: Members, DPW Medical Assistance Advisory Committee Long Term Care Subcommittee

FROM: *Miko*
Miko Wilt, County Commissioners Association of Pennsylvania

RE: Intergovernmental Transfer Agreement Highlights

DATE: December 16, 1998

The 1998-99 Intergovernmental Transfer (IGT) occurred on October 27, 1998 between the Commonwealth of Pennsylvania and the 20 participating counties. These are the same 20 counties that have participated in the IGT since its inception. The amount of the transfer for this year was \$823,907,000, making it the largest to date. Some highlights of this year's agreement are as follows:

- By far the largest amount of money - over \$537 million - is being used to balance the line item for Long Term Care in the Department of Public Welfare budget.
- Extension by two additional years of relief from county facilities of the county share requirement through June 30, 2003. This helps to maintain county nursing facilities on an even playing field with other nursing facilities that are not required to pay a percentage of the nonfederal costs. This is approximately \$50 million.
- A four year extension of the county transition rate through June 30, 2003. Currently there are 13 county homes receiving this rate. The cost of this transition rate provision is estimated at almost \$23 million.
- Continuation of the Supplemental Security Income (SSI) increase for persons living in personal care and domiciliary care facilities. This \$6.00 per day enhanced funding amounts to approximately \$27 million annually.
- Funding of the Pennsylvania Department of Aging waiver. The IGT now provides for all of the funding for the waiver, which is now expanded statewide, estimated to cost approximately \$37 million.
- Expansion of the County Commissioners Association of Pennsylvania (CCAP) alternative care project which involves the designing of different uses for portions of county nursing facilities - this ongoing project has \$6.5 million reserved from this current IGT.
- Technical assistance grants to CCAP for continuation of the managed care implementation; restraint reduction initiative; behavior management training for county nursing facility staff; and a new grant to help counties prepare for implementation of the Multi-Year Plan for persons with MR support. These four grants total \$1.8 million.

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Salvatore Rickford

Date

10/15/03

- Funds from the IGT are being used - \$17 million - to make up for a funding shortfall in this year's Behavioral Health Services Initiative within the DPW budget.
- Additional funds have been reserved - \$2.5 million - for the COMCARE program - county managed care reinsurance.
- Provision for funding for a variety of other programs sought by DPW including the Long Term Care Demonstration Project (OnLoc); attendant care services; home modification program; and home and community based waiver gaps. These four programs will cost approximately \$30 million.
- Funding for payments to nursing facilities for settlement of the Qualified Medicare Beneficiary (QMB) litigation. This is a one time payment by DPW to nursing facilities for the costs associated with coinsurance for Medicaid eligible residents.

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