

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1146

2005 HOUSE HUMAN SERVICES

HB 1146

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1146

House Human Services Committee

☐ Conference Committee

Hearing Date January 12, 2005

Tape Number	Side A	Side B	Meter #
#1		X	#2458 - 3770

Committee Clerk Signature



Minutes:

Chairman Price called hearing to order. 11 members present, 1 absent.

Gene Hysjulien, Human Services Department.

See Attached testimony:

Rep. Devlin: Does dept. have to give permission before you can do that.

G. Hysjulien: Are you referring to the first note? The provider can make the adjustment as they see fit.

Rep. Weisz: Isn't there going to be some fiscal impact because of the guaranteed return?

G. Hysjulien:. That restores what already is in place. It does not cause an impact.

Jon Larson, Ex. Director, Enable, Inc. North Dakota Association of Community Facilities (NDACF)

See Attached Testimony: #MR: 3680

Chairman Price: Under #2, those audit's and penalties goes both ways, am I correct?

J. Larson: Yes, what we are requesting to adhere to the timelines in statute. There is presently a penalty of 10% against the provider, which is a very stiff penalty and we have proposed a change to 1%.

Chairman Price: Is that the same penalty for the dept. if they don't complete their work in time.

J. Larson: I don't believe there are penalties, but there are clear expectations of what is expected.

Chairman Price: I would appreciate if you would let me know that things are moving along.

J. Larson: I will be glad to do that.

Chairman Price: Do we have a motion?

Rep. Devlin: I make motion for a Do Pass, **Rep. Weisz**, second.

Chairman Price: This basically doesn't change anything, they did get the dept. to agree to other things, which was needed. This has been about 6 years in the making.

Vote: 11 yes - 0 no- 1 absent. **Carrier:** Rep. Price

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1146

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

There is no fiscal impact expected as a result of this proposed legislation. This bill reverses the effect of SB 2086 from the fifty-eighth Legislative session, which required the Department of Human Services, the North Dakota Association of Community Facilities, and a Governor's appointee to review the current reimbursement method used to pay providers of Development Disability(DD) services. The committee met on several occasions and decided not to completely change the reimbursement method, but to review specific areas of the reimbursement system to determine if they could be changed to make them more acceptable to all parties involved. This proposed legislation re-instates sections of the Century Code that were repealed in SB 2086. The Developmental Disability grants budget was built assuming the DD reimbursement system would continue as it has in the past.

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.*

N/A

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.*

N/A

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.*

N/A

Name: Brenda M. Weisz
Phone Number: 328-2397

Agency: DHS
Date Prepared: 01/07/2005

Date: 1/12/05

Roll Call Vote #: 1

**2005 HOUSE STANDING COMMITTEE ROLL CALL
BILL/RESOLUTION NO. 1146**

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Devlin

Seconded By Rep. Weisz

Representatives	Yes	No	Representatives	Yes	No
Chairman C.S.Price	x		Rep.L. Kaldor	x	
V Chrm.G. Kreidt	x		Rep.L. Potter	x	
Rep. V. Pietsch	x		Rep.S. Sandvig	x	
Rep.J.O. Nelson		AB			
Rep.W.R. Devlin	x				
Rep.T. Porter	x				
Rep.G. Uglem	x				
Rep C. Damschen	x				
Rep.R. Weisz	x				

Total **Yes: 11** **No** **0**

Absent **1**

Floor Assignment **Rep. Price**

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

REPORT OF STANDING COMMITTEE (410)
January 13, 2005 5:47 p.m.

Module No: HR-08-0460
Carrier: Price
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1146: Human Services Committee (Rep. Price, Chairman) recommends DO PASS
(11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1146 was placed on the
Eleventh order on the calendar.

2005 SENATE HUMAN SERVICES

HB 1146

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1146

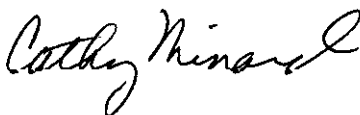
Senate Human Services Committee

☐ Conference Committee

Hearing Date February 14, 2005

Tape Number	Side A	Side B	Meter #
1	x		3680-6274
		x	00-935

Committee Clerk Signature



Minutes:

Chairman Lee opened the public hearing on HB 1146. All members were present.

This bill relates to treatment or care centers for individuals with developmental disabilities.

Testimony in favor of HB 1146

Jon Larson, Executive Director of Enable, Inc. See written testimony (Attachment 1)

Mr. Larson added that he had worked with the Department on this bill and were in agreement with it.

Chairman Lee: Is there enough flexibility to allow the money to follow the client as we're able to move individuals from the developmental center out into the field?

Larson: We had a legislative partnership committee (outside of this one) that recently made some recommendations. And it gets a little complicated, and there might need to be more flexibility. The problem is, that when you move somebody from a facility, like the developmental center or a group home to what they may prefer in a community setting, there may

be some residual costs that still occur in the place they came from. So our proposal included a modest appropriation, and we're still in the process of dealing with that in the House Appropriations Committee, but I don't believe we're going to have much luck. We will continue to work on that and the process will be brought to the Senate

Sen. Warner: Line 15 of the first page says the bill it references profit-motivated institutions or facilities. Not knowing where I come from, I thought most of these facilities were not-for-profits? Can you delineate which are which?

Larson: Most licensed D D providers in the state are nonprofit, there are three for-profit agencies and members from the Department of Human Services might be able to better describe the intent in that language. But my understanding that that would be just to put the language back that existed prior to the passage of SB 2086 that occurred last session. Passage of SB 2086 included several changes that would have facilitated a fee-for-service; so when we made the recommendation not to go for the fee-for-service, those things that SB 2086 did, needed to be put back into the bill. And that's what most of those changes are.

Sen. Dever: Are there fiscal implications in the passage of this bill?

Larson: No. But there were recommendations that came out of that committee. One of the recommendations was that the administrative reimbursement be dealt with.

Gene Hysjulien, Department of Human Services. I think you were asking about where the for-profit were and who they were. That would be Robert E. Miller Corp. and the Coors Corp. and then also SSI which stands for Support Systems, Inc. The return on investment was in the language prior to looking at a fee-for-service so there is no cost. To answer Sen. Dever's question: relating to individual supervised living arrangements and the legislation they're

looking at in relation to transitioning people from the developmental center into the community and it provides for some additional funding. While that population is reducing at the developmental center they are not able to close our an entire unit so there will be period of time where, while they're seeking appropriate placement for the individual, they won't all go at once, they may go one, two or three at a time during that transitioning they would have the funding to keep that unit going until there would be the right number of people moving into the community facility. Then that transaction money would no longer be needed. The same would be true with the private provider, they would be moving people, probably into individual living arrangements that there are in the community like group homes, and they too then, would need to wait until the people from Grafton would get to their group home facility and need transition funding for that. It does not directly relate to HB 1146.

Sen. Dever: So one bill doesn't hinge on the other?

Hysjulien: That is correct.

Mr. Larson began his written testimony (Attachment 2)

Sen. Lyson: How much time does a work group need to have to research this. What is the time limit? Are you looking at another time or looking to drop it?

Hysjulien: I can't give you an exact time. The issue of fee-for-service is not completely off the table. It was felt that it would be something that the Department and the providers should continue to discuss and determine if that is the correct avenue to approach it. During the process of our discussion, there were things that were currently in the payment system that the work group found ways to remedy and the department will attempt to adopt rules to remedy those situations and it appears that the current system is not broken and can work, however, they did

not want to completely want to take it off the table for discussion outside of the legislative process.

Sen. Lyson: I understand what you're saying, but I'm not getting what I want. If we don't set a time limit on something to get something done, it don't seem like it ever gets done. I'm wondering why we're not doing that. I can understand why it can't get done this year, but I'm I wondering why it can't get done by the next session of the legislature.

Hysjulien: The providers and the department have determined that that was probably not in the best interest of the clients and/or the providers at this time and it may not be in the best interest, it is my understanding, to the long term care industry either. The long term care industry looked at it and it took two years to be able to put together a change in that system.

Sen. Brown: What's the purpose of the emergency? Page 3 line 11 and 12

Chairman Lee: It allows it to be effective July 1 instead of August 1.

Sen. Warner: Was the impetus behind SB 2086 to push them into doing this?

Chairman Lee: A private provider of facilities providing services to individuals with developments disabilities were being really shortchanged in compensation. And the state has looked at private providers as one answer to the question of the problem of having proper facilities, but then they weren't being reimbursed at the same rate that comparable workers were getting. So in this whole debate about compensation, we're looking at a better way to get compensation for the private providers. The work group has probably come to the conclusion that there are better ways to do it.

Hysjulien: That's correct.

Sen. Dever: Do I understand that the work group plans to meet informally and not by the direction of the legislature?

Hysjulien: Yes, we would like to have a similar group that would be comprised of providers and department staff.

Chairman Lee: Do you feel that there has been a good communication established here now and that there probably will be some future communication between the providers and the department in order to move forward on meeting the other challenges?

Hysjulien: I would also invite Jon Larson to also comment on this, but my feeling is that it did an excellent job of bringing us to the table talking about these issues and opened up avenues of communication that may not have been used as effectively as they currently are now. I'm very pleased with the progress of the work group and the communication that resulted.

Mr. Larson explained how the committee worked and who was involved and what the goals were. The problem with the ISLA was two OARs, numbers 20 and 21. But that has been addressed. What we would like to do is stay with our current reimbursement system without ruling out the opportunity to continue to work with department on a fee-for-service system. If we can do this in our informal process, that committee would recommend to you again if a fee-for-service payment system is something we desired.

Sen. Lyson: You said that SB 2086 told you to go into and look at a system for pay-for-service system. But instead of that, you didn't do that except to look at what's already there and started to do that, rather than looking at the (muffled).

Larson: We did spend a considerable amount of time looking at the fee-for-system as well. The process of coming to a recommendation to say we're not recommending a fee-for-service

payment system took seven meetings and many subcommittee meetings and a process of about 14 to 15 months. We didn't say that at the beginning, we said that at the end. At the beginning of the process we said, let's look at a fee-for-services system but let's also look at what we might be able to do to fix the current reimbursement system.

Chairman Lee: It may also be helpful to note that SB 2086 came about at the request of the providers in frustration with a reimbursement system that wasn't satisfactory.

Larson: That's correct. We had three representatives from the provider community on this committee. But we also kept them involved through our regular meeting process so all providers were able to have input this decision.

There was no further testimony on HB 1148

Senator Brown moved DO PASS on HB 1148, seconded by Senator Dever.

Dever: I think it's great that they're going to continue to meet as a working group and discuss issues before them, but if they bring legislation the next session, I'm going to be curious about what kind of public input was given in that too.

Lyson: I agree with Sen. Dever, but I still a little heartburn, it almost gives me the impression here that fee-for-service is good, bad or indifferent because I don't know. It seems to me like its out the window, even though they say it's still on the table. If that's what the other bill said, then I don't think it should be off the table and I don't think they should be just thinking about fixing the other one. If the law was there that says to look at it and come up with a solution, they haven't done that and that bothers me, but I certainly wouldn't vote against this.

Chairman Lee: I appreciate your concern, because any work group that is given a task, is expected to perform it. The issue of reimbursement of facilities that provide services for people

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Senate Human Services Committee

Bill/Resolution Number HB 1146

Hearing Date February 14, 2005

with disabilities is a continuing issue. The community providers felt that the fee-for-service idea was going to provide a more fair distribution of funding for them. And as the communications improved, it seems that some of the other changes that could be made were a little less radical solutions to the problem that ended up getting to the table. Am I totally off-base on that?

Vote: 5 yeas, 0 nay, 0 absent Carrier: Senator J. Lee

Date: 2-14-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1146

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Sen Brown Seconded By

Sen Dever

Senators	Yes	No
Sen. Judy Lee - Chairman	✓	
Sen. Dick Dever - Vice Chairman	✓	
Sen. Richard Brown	✓	
Sen. Stanley Lyson	✓	

Senators	Yes	No
Sen. John Warner	✓	

Total (Yes)

5

No

0

Absent

0

Floor Assignment

Sen. J. Lee

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2005 1:08 p.m.

Module No: SR-28-2785
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1146: Human Services Committee (Sen. J. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1146 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1146

**TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1146
JANUARY 12, 2005**

Chairman Price, members of the Committee, I am Gene Hysjulien of the Department of Human Services. I am here today testifying in support of House Bill 1146.

The 2003 Legislative Assembly passed legislation (Senate Bill 2086) relating to implementation of a fee for service ratesetting system for payment to treatment or care centers for individuals with developmental disabilities. SB 2086 created a workgroup composed of one voting member appointed by the governor, three voting members from the department and three voting members from the North Dakota Association of Community Facilities, required all meetings of the workgroup to be open to the public, addressed definitions, fee determination, extraordinary client needs, trust fund, transition, rulemaking and reporting to the legislative council during the 2003 – 2004 interim regarding progress. By October 1, 2004, the department was to certify to the legislative council whether the department and the service providers reached an agreement on a new fee-for-service system.

On June 23, 2004, Jon Larson, one of three representatives from the North Dakota Association of Community Facilities and co-chairperson for the workgroup, testified before the Budget Committee on Human Services regarding the workgroup's activities. Mr. Larson stated in his testimony that after thoroughly analyzing the current system and making recommendations for changes to the existing system, the workgroup was not recommending a change to a fee-for-service payment system at this time. It was determined by the workgroup that a major change like what

would be needed for a new reimbursement system should be researched carefully to analyze its impact on the lives of the people we serve as well as its impact on providers. That was not going to be possible by July 1, 2005. Mr. Larson further testified the recommendations made by the workgroup have the support of the provider association, and they feel that issues that may arise in the future should be dealt with through the positive, constructive dialogue the workgroup employed.

House Bill 1146 repeals some of the provisions that were enacted with the passage of SB 2086 and does away with references to a fee-for-service payment system for DD providers. In summary, it:

- Revives the budget flexibility that DD providers have under NDCC 50-06-18 by incorporating it into chapter 25-18
- Revives the return on investment for for-profit providers under NDCC 25-16-10.1 by incorporating it into chapter 25-18
- Removes two definitions from NDCC 25-18-01 (fee-for-service and historical operating costs)
- Amends NDCC 25-18-05 regarding limitation on owner compensation to take out references to "fee" and would consistently refer to DD providers as "treatment or care centers"
- Repeals NDCC 25-18-02, which required a workgroup to be appointed to discuss a fee-for-service payment system
- Repeals NDCC 25-18-04, which required the department to implement a fee-for-service payment system by July 1, 2005
- Repeals NDCC 25-18-06, regarding workgroup development of criteria identifying extraordinary needs of individuals with developmental disabilities
- Repeals NDCC 25-18-07, regarding establishment of a trust fund
- Repeals NDCC 25-18-08, regarding establishment of protocols and methodologies for transitioning to a fee-for-service payment system

- Repeals NDCC 25-18-11, regarding authority of the department to adopt rules for a fee-for-service payment system
- Repeals NDCC 25-18-12, regarding the department's duty to report to the Legislative Council during the 2003 – 2004 interim regarding progress in developing a fee-for-service payment system
- Would be effective on July 1, 2005.

This concludes my testimony. I would be happy to try to answer any questions the committee members may have. Thank you.

1-12-02
#2

Testimony on HB 1146
House Human Services Committee
January 12, 2005

Chairman Price and members of the committee, my name is Jon Larson. I am the executive Director of Enable, Inc, a licensed service provider for people with developmental disabilities in Bismarck and Mandan. I am also here today to testify on behalf of the North Dakota Association of Community Facilities (NDACF). I am here today in support of HB 1146.

Passage of House Bill 1146 is necessary to reinstate some of the changes that took place in Senate Bill 2086 that was passed in the last legislative session. SB 2086 called for the establishment of a workgroup consisting of representatives of the Department of Human Services, Service Providers, and the Governor's office with the task of creating a "Fee for Service" payment system for developmental disabilities service providers. It had an implementation date of July 01, 2005.

The SB 2086 Workgroup met a total of seven times. Between meetings several subcommittees met to work on the details of assignments given by the workgroup. We had very good participation and cooperation by everyone involved. In June of 2004 we provided our recommendations to the Interim Budget Committee on Human Services. To briefly summarize, the recommendations of this committee are listed below with a note on the progress on each recommendation.

- Lang
Bill
draft*
1. Make changes in North Dakota Administrative Code in the area of allowable and non-allowable costs. Language has been drafted to make the changes as recommended. We hope these will be implemented as soon as possible.
 2. Revise the timelines and penalty provisions relating to audits and cost reporting. Language has been drafted to make the changes as recommended. We hope these will be implemented as soon as possible
 3. Address the needs of the Individualized Supported Living Arrangement Program by changing the administrative reimbursement process. We will be addressing this issue with the appropriations committee.
- W/Be add
this w/approp.*

4. Utilize the concept of money following the client when moving individuals from the Developmental Center in Grafton to community settings. . There is discussion on a proposal to address this recommendation.
5. Recommended that a similarly constituted committee continue to meet to address reimbursement issues. The Department has assured us that they are willing to meet to discuss ongoing issues regarding reimbursement and that this can happen informally.
6. Do not make changes at this time that would change our reimbursement system to a "Fee for Service" payment system.

The SB 2086 Workgroup took their assigned task very seriously. We examined the present reimbursement system thoroughly and also reviewed the implications of a "Fee for Service " payment system. The consensus of that group was to pursue the recommendations of the workgroup and to not pursue a "Fee For Service" payment system at this time.

Thank-you for this opportunity to testify today. I would be glad to answer any questions you may have.

Jon Larson, Executive Director Enable, Inc.
North Dakota Association of Community Facilities

Testimony on HB 1146
House Human Services Committee
February 14, 2005

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Jon Larson, Executive Director Enable, Inc.
North Dakota Association of Community Facilities

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL 1146
FEBRUARY 14, 2005**

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On June 23, 2004, Jon Larson, one of three representatives from the North Dakota Association of Community Facilities and co-chairperson for the workgroup, testified before the Budget Committee on Human Services regarding the workgroup's activities. Mr. Larson stated in his testimony that after thoroughly analyzing the current system and making recommendations for changes to the existing system, the workgroup was not recommending a change to a fee-for-service payment system at this time. It was determined by the workgroup that a major change like what would be needed for a new reimbursement system should be researched

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- Amends NDCC 25-18-05 regarding limitation on owner compensation to take out references to "fee" and would consistently refer to DD providers as "treatment or care centers"
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- Repeals NDCC 25-18-04, which required the department to implement a fee-for-service payment system by July 1, 2005
- Repeals NDCC 25-18-06, regarding workgroup development of criteria identifying extraordinary needs of individuals with developmental disabilities
- Repeals NDCC 25-18-07, regarding establishment of a trust fund
- Repeals NDCC 25-18-08, regarding establishment of protocols and methodologies for transitioning to a fee-for-service payment system
- Repeals NDCC 25-18-11, regarding authority of the department to adopt rules for a fee-for-service payment system

- Repeals NDCC 25-18-12, regarding the department's duty to report to the Legislative Council during the 2003 – 2004 interim regarding progress in developing a fee-for-service payment system
- Would be effective on July 1, 2005.

This concludes my testimony. I would be happy to try to answer any questions the committee members may have. Thank you.