

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1252

2005 HOUSE HUMAN SERVICES

HB 1252

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Human Services Committee

☐ Conference Committee

Hearing Date January 18, 2005

Tape Number

1

Side A

x

Side B

Meter #

15-5477

Committee Clerk Signature



Minutes:

Chairman Price opened hearing on HB 1252.

Rep. Jeff Delzer appeared in support of HB 1252. See attached testimony.

V. Chrm. Kreidt: Do I understand that the rates are set in New Hampshire?

Rep. Delzer: On page 2, line 9-21, indicated after discussion removing % rate, line 8 -9, want to report to the Dept. every 4 years. We will fully support this.

Rep. Weisz: You are supporting including it in the funding?

Rep. Delzer: Yes, with the changes.

Rep. Devlin: You pointed out to restore the money.

Vice Chrm. Kreidt: Is there anyone in opposition?

Rep. Delzer: The dept. will be providing neutral testimony.

V. Chrm Kriedt: Closed hearing.

Chairman Price reopened discussion on HB 1252.

Rep. Devlin: Least medium rate in statue, I see problems. They must report every 4 years.

Shelly Peterson: ND Long Term Care Association.

Testimony attached.

Line 14: amend Dept. HS. Insert-eliminate the worked "the" for the elimination on lines 16-21.

Replace with :the limits will not fall below" Amendment attached in 2006.

2nd Amendment: page 4, line 8: Insert " anew base period must be established every 4 years.

Rep. Kaldor: Is there down side to these amendments?

S. Peterson: If the government has significant deficit, it would spell financial disaster for 1/2 institutional in the state. this new language is more positive that what is in the law now.

Rep. Nelson: How concerned are you in taking the 20/20 language.

S. Peterson: That's why we asked for it. We don't have any other avenue of financial concerns, I don't like it being it removed, would like a little more flexibility.

Rep. Kaldor: If we are below in indirect, what are we in direct?

S. Peterson: Yes, it does adversely affect in indirect costs. Adjustments haven't been enough to cover increases.

Celeste Kubasta: Budget analyst, DHS. Testimony attached.

Vice Chrm Kreidt: Anyone else to testify in favor? Opposition? Neutral?

Barbara Fischer appearing as neutral: Mrg. LTC Hospital Services, DHS.

We would like to bring your attention to language on page 2, line 14. This needs clarification, and also have some concerns with the proposed amendments. The rates came out in November, we need a gap period in order to budget these changes.

Page 3

House Human Services Committee

Bill/Resolution Number HB 1252

Hearing Date January 18, 2005

Rep. Weisz: Does the dept. want to rate language?

B. Fischer: MN/ND remain the only states.

Rep. Damschen: Is there a problem with reporting every 4 years?

B. Fischer: If legislature appropriate money, we can whenever.

Chairman Price: We have an amended bill.

Rep. Weisz: Move to accept the amendments. **Rep. Damschen:** Second.

Chairman Price: Any discussion? Voice vote: Unanimous in favor.

Rep. Devlin: Move Do Pass as Amended and re-referred to Appropriations.

Rep. Porter: Second.

Vote: 12-0-0

Rep. Kreidt: Carrier.

FISCAL NOTE

Requested by Legislative Council
04/22/2005

Amendment to: Reengrossed
HB 1252

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	\$2,463,799	\$0	\$2,509,682
Expenditures	\$0	\$0	\$1,388,979	\$2,463,799	\$1,459,450	\$2,509,682
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.*

This bill would amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27 and subsection 3 of section 50-24.5-02 of the NDCC relating to nursing home rates and basic care rates; and would repeal section 50-24.4-09 of the NDCC relating to interim rates for nursing homes.

For the rate year beginning 2006, the department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period; the limits may not fall below the median of the most recent cost report. Until a new base period is established, the department would be required to adjust the limits and costs annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. A new base period would need to be established at least every four years beginning with the cost report period June 30, 2006.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennium; for 2005-2007 revenue would equal \$2,463,799. For 2007-2009 revenue would equal \$2,509,682.

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

The effect of this bill for 2005-2007 is to increase expenditures by \$3,852,778 in total. The increased expenditures would be funded by general funds of \$1,388,979 and federal title XIX funds of \$2,463,799. For 2007-2009, total expenditures would increase to \$3,969,132 funded by general funds of \$1,459,450 and \$2,509,682 of federal title XIX funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The effects of this bill are included in the budget request as the Budget was before the conference committee at that time with 2% inflation each year.

Name: Brenda M. Weisz
Phone Number: 701-328-2397

Agency: DHS
Date Prepared: 04/22/2005

FISCAL NOTE
Requested by Legislative Council
04/08/2005

REVISION

Amendment to: Reengrossed
HB 1252

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	\$12,350,269	\$0	\$13,323,297
Expenditures	\$0	\$0	\$7,543,824	\$12,350,269	\$9,188,001	\$13,323,297
Appropriations	\$0	\$0	\$3,977,809	\$6,003,885	\$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.*

FISCAL NOTE WAS REVISED TO INCLUDE THE EFFECT OF THE NEWLY RELEASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) OF 62.37% FOR FFY 2007. NUMBERS ORIGINALLY BASED ON FMAP OF 63.23% FOR FFY 2007. EFFECT IS ONLY CONSIDERED FOR THE INFLATIONARY INCREASE PROPOSED BY THIS BILL. THE NEWLY REVISED FMAP ACTUALLY IMPACTS THE LAST 10 MONTHS FOR THE 2005 - 2007 BIENNIAL. WHEN CONSIDERING THE FMAP EFFECT FOR THE LAST 10 MONTHS OF THE BIENNIAL ALONG WITH THE FMAP EFFECT ON THE INFLATION, THE GENERAL FUND APPROPRIATION NEEDED WOULD BE \$5,693,491.

This bill would create and enact a new section to chapter 50-24.1 of the NDCC relating to developmental disabilities service providers; would amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27 and subsection 3 of section 50-24.5-02 of the NDCC relating to nursing home rates and basic care rates; and would repeal section 50-24.4-09 of the NDCC relating to interim rates for nursing homes.

The department shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities.

For the rate year beginning 2006, the department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period; the limits may not fall below the median of the most recent cost report. Until a new base period is established, the department would be required to adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. A new base period would need to be established at least every three years beginning with the cost report period June 30, 2006.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennium;

for 2005-2007 revenue would equal \$12,350,269; \$5,428,315 of this relates to long-term care facilities and \$6,921,954 relates to disability services providers. For 2007-2009 revenue would equal \$13,323,297; \$5,237,294 of this relates to long-term care facilities and \$8,086,003 relates to disability services providers.

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

The effect of this bill for 2005-2007 is to increase expenditures by \$19,894,093 in total; \$8,772,750 of the total relates to long-term care facilities and \$11,121,343 relates to disability services providers. The increased expenditures would be funded by general funds of \$7,543,824 and federal title XIX funds of \$12,350,269. For 2007-2009, total expenditures would increase to \$22,511,298 funded by general funds of \$9,188,001 and \$13,323,297 of federal title XIX funds; of this total \$8,397,136 relates to long-term care facilities and \$14,114,162 relates to disability services providers.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The department's appropriation as included in the budget to the Senate would need to be increased by \$5,061,722, with \$2,022,353 being general funds, to account for the increase in the inflation factors from 2%/2% to 3.52%/3.92% for disability services providers. The appropriation would also need to be increased by \$4,919,972, with \$1,955,456 being general funds to restore the inflation factors at nursing homes to 3.52%/3.92%. The remainder of the fiscal impact of the bill was included in the budget to the Senate.

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

Agency: Human Services
Date Prepared: 04/11/2005

FISCAL NOTE

Requested by Legislative Council
03/31/2005

REVISION

Amendment to: Reengrossed
HB 1252

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	\$10,436,096	\$0	\$13,323,297
Expenditures	\$0	\$0	\$9,041,292	\$10,436,096	\$9,188,001	\$13,323,297
Appropriations	\$0	\$0	\$5,693,491	\$4,493,272	\$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.*

FISCAL NOTE WAS REVISED TO INCLUDE THE EFFECT OF THE NEWLY RELEASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) OF 62.37% FOR FFY 2007. NUMBERS ORIGINALLY BASED ON FMAP OF 63.23% FOR FFY 2007.

This bill would create and enact a new section to chapter 50-24.1 of the NDCC relating to developmental disabilities service providers; would amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27 and subsection 3 of section 50-24.5-02 of the NDCC relating to nursing home rates and basic care rates; and would repeal section 50-24.4-09 of the NDCC relating to interim rates for nursing homes.

The department shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities.

For the rate year beginning 2006, the department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period; the limits may not fall below the median of the most recent cost report. Until a new base period is established, the department would be required to adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. A new base period would need to be established at least every three years beginning with the cost report period June 30, 2006.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennium; for 2005-2007 revenue would equal \$10,436,096; \$3,947,485 of this relates to long-term care facilities and \$6,488,611 relates to disability services providers. For 2007-2009 revenue would equal \$13,323,297; \$5,237,294 of this relates to long-term care facilities and \$8,086,003 relates to disability services providers.

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

The effect of this bill for 2005-2007 is to increase expenditures by \$19,477,388 in total; \$8,150,976 of the total relates to long-term care facilities and \$11,326,412 relates to disability services providers. The increased expenditures would be funded by general funds of \$9,041,292 and federal title XIX funds of \$10,436,096. For 2007-2009, total expenditures would increase to \$22,511,298 funded by general funds of \$9,188,001 and \$13,323,297 of federal title XIX funds; of this total \$8,397,136 relates to long-term care facilities and \$14,114,162 relates to disability services providers.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The department's appropriation as included in the budget to the Senate would need to be increased by \$5,266,791, with \$2,660,765 being general funds, to account for the increase in the inflation factors from 2%/2% to 3.52%/3.92% for disability services providers. The appropriation would also need to be increased by \$4,919,972, with \$3,032,726 being general funds to restore the inflation factors at nursing homes to 3.52%/3.92%. The remainder of the fiscal impact of the bill was included in the budget to the Senate.

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

Agency: Human Services
Date Prepared: 04/04/2005

FISCAL NOTE

Requested by Legislative Council
03/17/2005

Amendment to: Reengrossed
HB 1252

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	\$12,750,269	\$0	\$14,797,194
Expenditures	\$0	\$0	\$7,143,824	\$12,750,269	\$8,354,656	\$14,797,194
Appropriations	\$0	\$0	\$3,577,809	\$6,403,885	\$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.*

This bill would create and enact a new section to chapter 50-24.1 of the NDCC relating to developmental disabilities service providers; would amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27 and subsection 3 of section 50-24.5-02 of the NDCC relating to nursing home rates and basic care rates; and would repeal section 50-24.4-09 of the NDCC relating to interim rates for nursing homes.

The department shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities.

For the rate year beginning 2006, the department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period; the limits may not fall below the median of the most recent cost report. Until a new base period is established, the department would be required to adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. A new base period would need to be established at least every three years beginning with the cost report period June 30, 2006.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennium; for 2005-2007 revenue would equal \$12,750,269; \$5,628,315 of this relates to long-term care facilities and \$7,121,954 relates to disability services providers. For 2007-2009 revenue would equal \$14,797,194; \$5,714,530 of this relates to long-term care facilities and \$9,082,664 relates to disability services providers.

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

The effect of this bill for 2005-2007 is to increase expenditures by \$19,894,093 in total; \$8,772,750 of the total relates to long-term care facilities and \$11,121,343 relates to disability services providers. The increased expenditures would

be funded by general funds of \$7,143,824 and federal title XIX funds of \$12,750,269. For 2007-2009, total expenditures would increase to \$23,151,850 funded by general funds of \$8,354,656 and \$14,797,194 of federal title XIX funds; of this total \$9,037,688 relates to long-term care facilities and \$14,114,162 relates to disability services providers.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The department's appropriation as included in the budget to the Senate would need to be increased by \$5,061,722, with \$1,822,353 being general funds, to account for the increase in the inflation factors from 2%/2% to 3.52%/3.92% for disability services providers. The appropriation would also need to be increased by \$4,919,972, with \$1,755,456 being general funds to restore the inflation factors at nursing homes to 3.52%/3.92%. The remainder of the fiscal impact of the bill was included in the budget to the senate.

Name: Debra McDermott
Phone Number: 328-3695

Agency: Human Services
Date Prepared: 03/21/2005

FISCAL NOTE

Requested by Legislative Council
02/17/2005

Amendment to: Engrossed
 HB 1252

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	\$2,463,799	\$0	\$2,509,682
Expenditures	\$0	\$0	\$1,388,979	\$2,463,799	\$1,459,450	\$2,509,682
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.*

This bill would amend and reenact sections 50-24.4-06 and 50-24.4-10, subsection 1 of section 50-24.4-11, sections 50-24.4-13, 50-24.4-14, 50-24.4-16, 50-24.4-19, and 50-24.4-27 and subsection 3 of section 50-24.5-02 of the NDCC relating to nursing home rates and basic care rates; and would repeal section 50-24.4-09 of the NDCC relating to interim rates for nursing homes.

For the rate year beginning 2006, the department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period; the limits may not fall below the median of the most recent cost report. Until a new base period is established, the department would be required to adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department. A new base period would need to be established at least every three years beginning with the cost report period June 30, 2006.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennium; for 2005-07 revenue would equal \$2,463,799 and for 2007-09 revenue would equal \$2,509,682.

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

The effect of this bill for 2005-07 is to increase expenditures by \$3,852,778 in total; the increased expenditures would be funded by general funds of \$1,388,979 and federal title XIX funds of \$2,463,799. For 2007-09, total expenditures would increase to \$3,969,132 funded by general funds of \$1,459,450 and \$2,509,682 of federal title XIX funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The effects of this bill are included in the 2005-07 budget request in their regular appropriation bill.

Name: Brenda Weisz
Phone Number: 328-2397

Agency: Human Services
Date Prepared: 02/17/2005

FISCAL NOTE
Requested by Legislative Council
01/24/2005

Amendment to: HB 1252

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	\$5,628,315	\$0	\$5,714,530
Expenditures	\$0	\$0	\$3,144,435	\$5,628,315	\$3,323,158	\$5,714,530
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.*

This bill would amend various paragraphs of section 50-24.4 of the NDCC relating to nursing home rates and would repeal paragraph 09 of section 50-24.4 of the NDCC relating to interim rates for nursing homes.

The department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennia; for 2005-07 revenue would equal \$5,628,315 and for 2007-09 revenue would equal \$5,714,530.

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

The effect of this bill for 2005-07 is to increase expenditures by \$8,772,750 in total; the increased expenditures would be funded by general funds of \$3,144,435 and federal title XIX funds of \$5,638,315. For 2007-09, total expenditures would increase to \$9,037,688 funded by general funds of \$3,323,158 and \$5,714,530 of federal title XIX funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The effects of this bill are included in the 2005-07 budget request in their regular appropriation bill.

Name:	Brenda Weisz	Agency:	Human Services
Phone Number:	328-2397	Date Prepared:	01/25/2005

FISCAL NOTE
Requested by Legislative Council
01/12/2005

Bill/Resolution No.: HB 1252

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	\$5,628,315	\$0	\$5,714,530
Expenditures	\$0	\$0	\$3,144,435	\$5,628,315	\$3,323,158	\$5,714,530
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.*

This bill would amend various paragraphs of section 50-24.4 of the NDCC relating to nursing home rates and would repeal paragraph 09 of section 50-24.4 of the NDCC relating to interim rates for nursing homes.

The department would be required to establish limits for cost categories using the June 30, 2003 cost report year as the base period. The limits must be calculated as the median rate plus 20% for direct care, median rate plus 20% for other direct care, and median rate plus 10% for indirect care.

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

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

The department would receive Title XIX funds at the FMAP in effect during each federal fiscal year of the biennia; for 2005-07 revenue would equal \$5,628,315 and for 2007-09 revenue would equal \$5,714,530.

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

The effect of this bill for 2005-07 is to increase expenditures by \$8,772,750 in total; the increased expenditures would be funded by general funds of \$3,144,435 and federal title XIX funds of \$5,638,315. For 2007-09, total expenditures would increase to \$9,037,688 funded by general funds of \$3,323,158 and \$5,714,530 of federal title XIX funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The effects of this bill are included in the 2005-07 budget request in their regular appropriation bill.

Name: Brenda Weisz Agency: Human Services



Phone Number:

328-2397

Date Prepared: 01/14/2005



Date: 1/18/05

Action
accept amends presented
Do pass as amended

Amend
Accept

Roll Call Vote #: 1-12-0-0

Do Pass as amend-# 2-12-0-0

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

House

Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended - Referred to approp -

AMEND: Rep Weiner

Amend: Rep Damschen

Motion Made By DOPT Rep Devlin

Seconded By Rep Porter

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

Total (12) yea

No 0

Absent 0

Floor Assignment Rep. Kreidt

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

Referred to approp -

REPORT OF STANDING COMMITTEE

HB 1252: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1252 was rereferred to the **Appropriations Committee**.

Page 2, line 14, replace "The" with "For the rate year beginning 2006, the"

Page 2, line 16, remove "established", replace "be less in" with "fall below", and after the second "the" insert "median of the most recent cost report"

Page 2, remove lines 17 through 20

Page 2, line 21, remove "each nursing facility that would be subject to a limit under this chapter"

Page 4, line 8, after "established" insert "at least"

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1252

2005 HOUSE STANDING COMMITTEE MINUTES

HB 1252
Relating to Nursing Home Rates

House Appropriations Committee
Human Resources Division

Hearing Date: 2-3-05 Thursday a.m.

Tape Number	Side A	Side B	Meter #
I	X		End: 51.4

Committee Clerk Signature



Minutes: **Chairman Delzer** called the meeting to order at 8:33 a.m. All member present except Rep. Pollert and Rep. Bellew who traveled to Fargo to see President Bush. **Chairman Delzer** noted this meeting is not a full hearing and the purpose is to take information, not testimony. **Barb Fisher, Manager of Long Term Care for the Department of Human Services**, provide handouts an information on HB 1252. (See one-page Long Term Care Continuum for Hospice and Nursing Homes; one-page Nursing Home - Cost of Rebasing and Change to Median Plus 20/20/10; one-page Fiscal Impact of Rebasing using 6/30/06 vs 6/30/07.)

Rep. James Kerzman: Is 2010 still part of the bill?

Chairman Delzer: No, the bill changes it from the 60th Percentile to the Medium Plus. It also sets rebasing to be every fourth year. Currently there is nothing in Code on when to rebase.

Fisher reiterated the bill changes. There is also clean-up language regarding provision for cost setup.

Rep. Kerzman: Can the Governor still have input on it?

Chairman Delzer: With the engrossed bill he can give input before the Legislature decides.

Fisher: We cannot go below the 50th Percentile of all the facility rates in all the cost categories.

If we were to rebase in January '09, it would cost us an additional \$1.76 million in the 07-09 biennium and 09-11 budget.

Chairman Delzer: If we do not rebase until the fourth year, there will still be an impact in 09-11.

Fisher: January 1, 2010 the new rates would start if we rebased in the fourth year. We always use most recent inflation factors. If we limited inflation to two-and-two and then rebased on 2009, total impact is \$2.4 million; or if we rebased in 2010, total impact is \$11 million in that biennium.

Chairman Delzer: Barb or Carol, can you explain how you got the 2% inflator?

Carol Olson, Executive Director of the Department of Human Services: It is based on the CPI Index and we review every biennium. I do not know the exact formula.

Fisher: Section three, four and five: is cleanup language.

Chairman Delzer: On page six, why didn't you take out July 1, 1988 date?

Fisher: It was a reference date on how we calculated property cost. Section eight: had to do with survey and certification review and was unnecessary language; section nine: repeals the IGT information.

Chairman Delzer asked to look at the fiscal note and **Fisher** referred to Nursing Home - Cost of Rebasing handout. (Rep. Kerzman left at 8:59.)

Fisher: There was no change on the amendment that I have heard. We have the January 1, 2005 rates, but the budget was built on the 6/30/05 rates. Because the cost reports had to be in our

office October 30, 2004, timing-wise we cannot use the most current. The 60th Percentile would be about the 146th level facility.

Chairman Delzer: Barb, has the Department looked at creating a fourth rate for therapy for the sole purpose of returning people back to their home?

Fisher: No, Medicare has criteria for restorative therapy and it is limited to 100 days. We could do research.

Chairman Delzer: Thank you, Barb.

Shelly Peterson, President of the Long Term Care Association, provided thirteen pages in handouts relating to HB 1252. All information is based on an independent third-party study of what should be done in payment. Attachment A refers to 2003 Cost Report Year - Use for Rebasing; attachment D: Why Costs Vary Between Nursing Facilities; attachment B: History of Inflationary Adjustments on Costs; attachment C: Bethany Homes example; attachment F: Every facility in ND and the impact of the limits.

Chairman Delzer: Do we have a copy of the '99 cost reports?

Peterson: We can get that. Attachment H: Average Length of Stay for Nursing Facility Residents. We are not begging for money, but we are asking you to maintain the budget as it is. We do not want to see staff cut for families' sake.

Chairman Delzer raised questions regarding pharmacy and consultant costs.

Peterson: We complete the diagnosis on the MDS. Pharmacy is separate.

Dave Zentner, Director of Medical Services for the Department of Human Services: MDS helps with looking at diagnoses and the physician would let us know. We get new diagnoses every quarter, but they are not going into CMS.

Page 4

Human Resources Division

Bill/Resolution Number HB 1252

Hearing Date: 2-3-05

Chairman Delzer: Shelly, Dave and audience, some of the review of CMS data shows there is a high number of people taking a high number of drugs. How do you check to see that this is not happening?

Peterson: We have a consultant review information, not necessarily the original physician. The CMS data and MDS data does not match. If information is not confidential, we could get and review cases with twenty or more drugs.

Chairman Delzer: Where is the required rebasing in the bill?

Peterson: Paragraph nine of section two.

(Rep. Kerzman returned at 9:27)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1252

House Appropriations Committee
Human Resources Division

Hearing Date: 2-11-05 Friday a.m.

Tape Number	Side A	Side B	Meter #
II	X		10.0 - 21.0

Committee Clerk Signature



Minutes: **Chairman Delzer** called the meeting to order on HB 1252.

Rep. Larry Bellew: Basically the provisions of this bill are within the Human Services budget as presented to the committee.

Chairman Delzer: The way it was originally introduced was median plus 20/20/10. When it came out of Human Services Committee, the median was the floor and it is up to the department and the legislative assembly to set how much above the floor. The budget bill is 20/20/10.

Rebasing is every four years. I have amendments to offer (see proposed amendments 50330.0201).

Allen/LC explained amendments including rebasing every three years.

Chairman Delzer: Committee members, the reason for the amendments is that the rebasing affects the upper-limit facilities. The ones below that are basically rebased every year.

Vice Chair Pollert: I would move the amendment 5330.0201.

Rep. Alon C. Wieland: I second it.

Rep. Ralph Metcalf: Is there a dollar figure here regarding the difference in inflators?

Chairman Delzer: The numbers we talked about in HB1012 show \$1.9 general funds on the nursing homes side, in addition of \$120-some on the basic care side. This does affect all nursing homes. I would like to see two things. First, set up a study resolution. Second, consider a bed buyout. They cannot close and just pocket the money. They have to use the money in North Dakota.

Rep. Metcalf: Would the bed buyout come out of IGT?

Chairman Delzer: Right. This bill probably would not be in conference committee.

Allen/LC: Look on page four line six of bill. We changed it to every three years, but should we leave it for 2007? Or 2006?

Chairman Delzer: It needs to be 2006.

Rep. Metcalf: I am going to oppose this amendment. I do not think we can afford it.

Chairman Delzer: We will do a voice vote. Amendment passes 4-2.

Vice Chair Pollert: I move we Do Pass As Amended on HB 1252.

Rep. Wieland: I second it.

Chairman Delzer clarified the rebasing aspect to the committee.

Rep. James Kerzman: I am going to resist this for reasons stated by Rep. Metcalf.

Chairman Delzer: I fully respect your desire not to lower the rates, but if the bill dies, we are back to percentiles. Clerk will take the roll. Motion passes 4-2.

Vice Chair Pollert will carry the bill to full committee.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1252
Nursing Home Rates

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 14, 2005

Tape Number
1

Side A
X

Side B

Meter #
#30.9 - #53.0

Committee Clerk Signature

Chris Alexander

Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1252.

Rep. Jeff Delzer explained that this is the rate setting bill for nursing homes. This changes the rate determination from the percentile to the median plus. Originally in code it was the percentile of 60% as the floor and this bill changes this to the median plus as the floor. Whatever is in the Governor's budget is the median plus 20/20/10. This is reflected in the fiscal note. Also the original bill sets rebasing at every 4 years. The amendment changes the inflation rate for nursing home payments to inflationary rates used by the legislative assembly in developing the Human Services appropriation rather than increase the nursing home input price index and the CPI price index, split half and half. It also sets basic care at the same rate which currently stands below the CPI. This requires the nursing homes to be rebased every 3 years instead of 4 years.

Rep. Jeff Delzer moved to adopt amend #0202 to HB1252.

Rep. Chet Pollert seconded.

Rep. James Kerzman spoke in opposition to this amendment by saying that it means less income for nursing homes. It has been a struggle in long term care for years. I like the 20/20/10 but changing the inflationary rate will mean less money for the nursing homes.

Rep. Jeff Delzer responded that the inflator that is currently in the century code was put in place in 1997 and what we're finding is that we're over \$100 million and the percentage inflator of \$100 million is extreme. Everyone is below the limits yet we're raising the limits when we go to 20/20/10 in the budget. Everyone below that is historically rebased every year and we're going to rebasing every three years for the ones above it. This puts the nursing homes on the same inflator as everybody else but their costs are inflated and the limits are inflated and they have a 3% operating margin and the ones that are below the limits for the indirect have an incentive that is available to them. We'll run a 4.5% to 5% increase for the next two years with the 2 and 2 as compared to the 3-4 and 3-9. It is a big change and it does effect all nursing homes. (meter Tape #1, side A, #35.1)

Rep. James Kerzman commented that we have spent a great bit of effort building up nursing homes to this level and we should be building the other services up to this standard not regressing the nursing homes to the lower standard.

Rep. Ken Svedjan, Chairman commented that Medicare providers are all over the map on this issue. Hospitals are not receiving inflationary raises yet long term care raises are in code. This budget attempt to standardize all inflationary increases including long term care, all providers within Medicaid and even basic care providers. If you look overall at this bill, yes there is a negative impact for changing the inflationary increases but overall the 20/20/10 over median is a

plus for long term care. The rebasing is a plus for long term care and the other changes in there bring long term care overall to a good position.

Rep. Jeff Delzer commented that this does not set it at 2 and 2 it takes a set inflator out of code for both long term care and for basic care and lets the legislative assembly and the Governor's budget decide what the level of inflation should be.

Rep. Ralph Metcalf commented that North Dakota has the finest long term care facilities in the country because we are able to maintain our employees. Inflationary raises help us to keep those employees. The committee has looked into doing a study in this area to see where we should be in long term care. To arbitrarily take out the inflator that is in code already, at this time, is inappropriate. This should not be changed until the study has been completed to ensure that we are not injuring the services that we are currently providing at our long term care facilities. (meter Tape #1, side A, #40.5)

Rep. Chet Pollert commented that we have a list of what the 20/20/10 does and on the direct there are only two facilities that won't be covered by this because there costs are higher than the median plus 20/20/10. On other direct there are 5 facilities out of 79 that go higher than the median plus 20/20/10. On the indirect it is 11 facilities. If we stay on the same path the numbers are all less. The direct would be 7 facilities, under indirect it would be 26 facilities not covered. Now we're proposing 5. And under indirect it would be 56 that would benefit from this. There is also an FMAPP in here for \$10.8 million that we're still appropriating for.

Rep. Ken Svedjan, Chairman called for a voice vote on the motion to adopt amendment #0202 to HB1252. Chairman Svedjan declared that the motion carried.

Rep. James Kerzman requested a roll call vote on the motion to adopt amendment #0202.

Rep. Ken Svedjan, Chairman called for a roll call vote on the motion to adopt amendment #0202 to HB1252. Motion carried with a vote of 15 yeas, 7 neas and 1 absence.

Rep. Jeff Delzer moved a Do Pass As Amended motion for HB1252.

Rep. Chet Pollert seconded.

Rep. Jeff Delzer clarified that amendment #0201 was not necessary to discuss.

Rep. Eliot Glassheim asked if there was to be an arbitrary inflator all across the board decided by the legislature or it going to be pegged to the Consumer Price Index or anything else. (meter Tape #1, side A, #46.6)

Rep. Ken Svedjan, Chairman answered we are removing what is now based on the average of the CPI and the BRI.

Rep. Jeff Delzer commented that this is the way it for everything else in the department of human services.

Rep. Eliot Glassheim asked what the difference in the cost for this amendment.

Rep. Jeff Delzer answered that the difference for long term care was approximately \$1.7 million in general fund side. On the basic care side it adds about \$122, 000 but that is done in HB1012 and we haven't adopted those bills yet.

Rep. Ralph Metcalf asked what the total effect would be on long term care including federal funds.

Rep. Jeff Delzer answered that off of HB1012 the reduction is \$1,755,456 of general fund, \$3,164,516 of estimated income, and the basic care addition is \$162,051 general fund, \$73,408 estimated income, for an addition of \$235,459.

Rep. Ralph Metcalf commented that this meant that yes there was a savings of \$1.7 million in the general funds but it would cost the nursing homes themselves \$5 million.

Rep. Ken Svedjan, Chairman commented that it should be kept in mind the positive impact of rebasing, moving to the 20/20/10. Overall this year there is a \$30 million increase in long term care, \$20 million of which is general fund money. This amendment reduces the general fund portion by \$1.7 million but adds back the \$160,000 for basic care. So the overall increase for long term care is very substantial.

Rep. Ole Aarsvold commented that this committee is debating policy again instead of the money issues.

Rep. Ken Svedjan, Chairman commented that in this case it is hard to separate the two.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion on HB1252. Motion carried with a vote of 18 yeas, 5 neas, and 0 absences. Rep Pollert will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1252.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1252

Page 1, line 2, remove the first "and"

Page 1, line 3, after "50-24.4-27" insert ", and subsection 3 of section 50-24.5-02" and after "rates" insert "and basic care rates"

Page 1, line 22, overstrike "The department shall maintain access to national and state economic change"

Page 1, overstrike lines 23 and 24

Page 2, line 1, overstrike "3."

Page 2, line 4, overstrike "4." and insert immediately thereafter "3."

Page 2, line 18, overstrike "using the appropriate"

Page 2, line 19, overstrike "economic change indices established in subsection 5" and insert immediately thereafter "by the inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 3, overstrike line 6

Page 3, line 7, overstrike "of the increase in the", remove "global insight", overstrike the first comma, remove "incorporated", and overstrike the second comma

Page 3, overstrike lines 8 through 11

Page 3, line 12, overstrike "6." and insert immediately thereafter "4."

Page 3, line 16, overstrike "appropriate index established in subsection 5" and insert immediately thereafter "inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 3, line 17, overstrike "4" and insert immediately thereafter "3"

Page 3, line 18, overstrike "index" and insert immediately thereafter "inflation rate"

Page 3, line 24, overstrike "7." and insert immediately thereafter "5."

Page 3, line 25, overstrike "4" and insert immediately thereafter "3"

Page 3, line 28, overstrike "indices" and insert immediately thereafter "rates"

Page 3, line 29, overstrike "indices" and insert immediately thereafter "rates"

Page 4, line 1, overstrike "8." and insert immediately thereafter "6."

Page 4, line 5, overstrike "9." and insert immediately thereafter "7." and replace "four" with "three".

Page 4, line 29, overstrike "a percentage amount equal to"

Page 4, overstrike line 30

Page 5, line 1, overstrike "section 50-24.4-10" and insert immediately thereafter "the inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 8, after line 22, insert:

"SECTION 9. AMENDMENT. Subsection 3 of section 50-24.5-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Supplement, within the limits of legislative appropriation, the income of an eligible beneficiary receiving necessary basic care services to the extent that the eligible beneficiary lacks income sufficient to meet the cost of that care, provided at rates determined by the department adjusted by the inflation rate for basic care services used to develop the legislative appropriation for the department."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Provides that inflationary increases for nursing home payment rates be based on inflationary rates used by the Legislative Assembly in developing the Department of Human Services appropriation each biennium rather than the average increase in the nursing home input price index and the consumer price index each year.
- Provides that inflationary increases for basic care rates be based on inflationary rates used by the Legislative Assembly in developing the Department of Human Services appropriation each biennium rather than as determined by the department.
- Requires nursing home rates to be rebased every three years.

Date: 2/11/05
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1252

House Appropriations - Human Resources

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50330.0201

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Pollert Seconded By Rep. Wieland

Representatives	Yes	No	Representatives	Yes	No
Chairman Jeff Delzer	✓		Rep. James Kerzman		✓
Vice Chairman Chet Pollert	✓		Rep. Ralph Metcalf		✓
Rep. Larry Bellew	✓				
Rep. Alon C. Wieland	✓				

Total (Yes) 4 No 2

Absent

Floor Assignment Rep. Pollert

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

Deals with inflation rates / rebasing for LTC (nursing home services) every three years.

Date: **February 14, 2005**
Roll Call Vote #: **8 2**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1252

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **50330.0202**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Delzer** Seconded By **Rep Pollert**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold		X	Rep. Alon C. Wieland	X	
Rep. Pam Gulleason	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber		X			
Rep. Clark Williams		X			
Rep. Al Carlson	X				

Total Yes **18** No **5**

Absent **0**

Floor Assignment **Rep Pollert**

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

Date: **February 14, 2005**
Roll Call Vote #: **2 4**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1252

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **50330.0202**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Delzer** Seconded By **Rep Pollert**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer	X	
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew	X	
Rep. Ole Aarsvold		X	Rep. Alon C. Wieland	X	
Rep. Pam Guleson	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber		X			
Rep. Clark Williams		X			
Rep. Al Carlson	X				

Total Yes **18** No **5**

Absent **0**

Floor Assignment **Rep Pollert**

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

REPORT OF STANDING COMMITTEE

HB 1252, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (18 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 3, after "50-24.4-27" insert ", and subsection 3 of section 50-24.5-02" and after "rates" insert "and basic care rates"

Page 1, line 22, overstrike "The department shall maintain access to national and state economic change"

Page 1, overstrike lines 23 and 24

Page 2, line 1, overstrike "3."

Page 2, line 4, overstrike "4." and insert immediately thereafter "3."

Page 2, line 18, overstrike "using the appropriate"

Page 2, line 19, overstrike "economic change indices established in subsection 5" and insert immediately thereafter "by the inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 3, overstrike line 6

Page 3, line 7, overstrike "of the increase in the", remove "global insight", overstrike the first comma, remove "incorporated", and overstrike the second comma

Page 3, overstrike lines 8 through 11

Page 3, line 12, overstrike "6." and insert immediately thereafter "4."

Page 3, line 16, overstrike "appropriate index established in subsection 5" and insert immediately thereafter "inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 3, line 17, overstrike "4" and insert immediately thereafter "3"

Page 3, line 18, overstrike "index" and insert immediately thereafter "inflation rate"

Page 3, line 24, overstrike "7." and insert immediately thereafter "5."

Page 3, line 25, overstrike "4" and insert immediately thereafter "3"

Page 3, line 28, overstrike "indices" and insert immediately thereafter "rates"

Page 3, line 29, overstrike "indices" and insert immediately thereafter "rates"

Page 4, line 1, overstrike "8." and insert immediately thereafter "6."

Page 4, line 5, replace "9." with "7." and replace "four" with "three"

Page 4, line 6, replace "2007" with "2006"

Page 4, line 29, overstrike "a percentage amount equal to"

Page 4, overstrike line 30

Page 5, line 1, overstrike "section 50-24.4-10" and insert immediately thereafter "the inflation rate for nursing home services used to develop the legislative appropriation for the department"

Page 8, after line 22, insert:

"SECTION 9. AMENDMENT. Subsection 3 of section 50-24.5-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Supplement, within the limits of legislative appropriation, the income of an eligible beneficiary receiving necessary basic care services to the extent that the eligible beneficiary lacks income sufficient to meet the cost of that care, provided at rates determined by the department adjusted by the inflation rate for basic care services used to develop the legislative appropriation for the department."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Provides that inflationary increases for nursing home payment rates be based on inflationary rates used by the Legislative Assembly in developing the Department of Human Services appropriation each biennium rather than the average increase in the nursing home input price index and the consumer price index each year.
- Provides that inflationary increases for basic care rates be based on inflationary rates used by the Legislative Assembly in developing the Department of Human Services appropriation each biennium rather than as determined by the department.
- Requires nursing home rates to be rebased every three years.

2005 SENATE HUMAN SERVICES

HB 1252

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

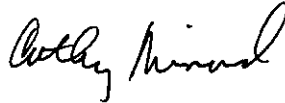
Senate Human Services Committee

☐ Conference Committee

Hearing Date March 2, 2005

Tape Number	Side A	Side B	Meter #
1	x		1275 -end
1		x	0 - 2320

Committee Clerk Signature



JE

Minutes:

Vice Chairman Dever opened the hearing on HB 1252, a bill relating to nursing home rates and basic care rates; relating to interim rates for nursing homes. All members were present.

Representative Delzer introduced the bill. The bill was sponsored at the request of the long term care association. There was support from the governor's office. It changes the rate setting within the Department of Human Services from a percentile to a median plus situation. If this bill is killed, current law sets the floor at the 60th percentile and the department in conjunction with legislative appropriations sets different rates for indirect, direct and other direct. The current percentile was set at \$85 in the last biennium, we have been close to the 90th percentile. The bill sets the floor of the median and it is up to the department, appropriations and the legislature to set median plus. In the budget it is median plus 20 on direct, plus 20 on other direct and 10 on indirect. He reviewed the changes and said they will be made available in testimony. The changes in the bill take place in pages 2 and 3. On lines 19 and 20 the house took the

inflation rate and made it the same for all entities and would be recommended by the Department of Human Services and the governor's office and set by the legislature. The house also had to change the rate for basic care because it was in code but it was below the CPI and that is on page 9 of the bill. The rest of the changes are housekeeping. The repealer goes back to when it was originally set. He distributed attachments 1 and 1A, dealing with the legislative study for long term care and a chart of costs for nursing homes. In the next biennium they want to have some directives for different ways of funding of long term care. Some facilities are doing some restorative care practices. It is actually a negative to nursing homes now so maybe we should consider adding a column for restorative care. We also want to look at the possibility of changing through waivers the amount of paperwork done in nursing homes. The median plus is supported by every one. There is some controversy around taking the limits out but he thinks it is the right thing to do.

Senator Dever asked if the amendment would be considered a budget or policy consideration, will it be more likely to get a look from appropriations if it is on or off the bill.

Representative Delzer said they talked about it a lot. To him it is a budget issue however, the policy drives the budget. They had the opportunity to add this to 1012 or 1252, 1012 will not come before this committee and 1252 will and they thought the more people they could get to see it, the better. When you look at the whole human services budget there are a lot of issues under Medicaid and long term care was the only one that had their CPI DRD set up in the century code that locked what the department and the appropriations committee could do. It should always be up to the legislative assembly.

Representative Kreidt testified in favor of the bill. The house passed the bill 89 - 0 on the floor.

Its a good bill and includes most of what the governor requested. As a past nursing home administrator and having been in the business for a number of years, he feels comfortable with the bill. The study committee is very appropriate and should go forward. He would like to see some way to allow nursing facilities to become a little entrepreneurial in their operations. The facilities are becoming more rehab oriented, the average length of stay is decreasing. It would be nice if they could have a separate rate category and structure to allow them to retain some of that money.

Shelly Peterson, President of the Long Term Care Association, testified in favor of the bill.

(written testimony) (Attachments 2, 2A,2B,2C, 2D, 2E, 2F, 2G, 2H, 3) (meter 2560)

Senator Warner asked if pharmacy costs are the costs of maintaining the pharmacy?

Ms. Peterson said that would be the cost of a pharmacy consultant, the cost of pharmaceuticals are paid separately. Over the counter drugs fall into direct costs, prescription drugs are paid separately.

Senator Warner asked if there are any North Dakota facilities that do not accept Medicaid patients. (meter 5429)

Ms. Peterson said North Dakota has 83 nursing facilities, all are Medicare certified, all except three are Medicaid certified, they are all licensed facilities. The three that do not accept Medicaid, and its because the state health council told them they couldn't, are the three sub acute facilities located in the major hospitals, Medcenter One, St.. A's and Meritcare all have sub acute facilities. They are only allowed to serve the Medicare community.

Senator J. Lee asked about the percentage of residents who are in moderate to severe pain.

(meter 590) There is really no reason for anyone to have pain with the availability of medications.

Ms. Peterson said that is absolutely correct. They have facilities that do an extremely good job of continually evaluating pain. Just because a resident reports pain doesn't mean the facility isn't working on treating that pain. They are doing an excellent job of assessing, asking about, evaluating pain.

Senator Warner asked which facilities would be affected by the inflator language. (meter 1390)

Ms. Peterson said the way the statute read and the way amendment reads, it would be for nursing facilities. Legislation passed in the Senate that DD providers would have the same inflator as nursing homes.

Senator J. Lee said that's right because that bill said whatever long term care has, is what DD will have too.

Ms. Peterson said the purpose behind the DD amendment was that they feel like they are under an equalized rate policy too. 99% of their residents are paid for by the state so they don't have a lot of private pay.

Senator J. Lee asked about the amendment.

Ms. Peterson said it is reinstating the language for the inflator that was introduced in the House Human Services committee.

Senator J. Lee asked if the policy committee on the house side was OK with the inflator, the appropriation committee removed it?

Ms. Peterson said that is correct.

Barbara Fischer, Manager Long Term Care and Hospital Services for the Department of Human Services, appeared in a neutral position on the bill. (written testimony) (meter 1600). On line 17 on page 2 it states the limits may not fall below the median of the most recent cost report. That is in direct contradiction of the previous statement that says the limits shall be established using the June 30, 2003 cost report and it also contradicts the other information that says the limits will be inflated using the inflation factor. Its contradictory language, the intent there is that the limits be established at no less than the median of the cost report that is used to assess those limits which is June 30, 2003. She would recommend an amendment that changes line 17 to read "below the median of the cost report used for the base period". (meter 1775)

Senator J. Lee asked if the original budget presented by the Governor to the House include the \$1.8 million in general funds.

Ms. Fischer said yes because the inflator factor was in statute.

Senator J. Lee confirmed the proposed amendment would put back the \$1.8 that was there in the original bill.

Ms. Fischer said that is correct.

Chairman Judy Lee closed the hearing on HB 1252.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 14, 2005

Tape Number	Side A	Side B	Meter #
1		x	5875- end
2	x		00-500
2		x	3630-4500

Committee Clerk Signature 

Minutes:

Chairman Lee reopened discussion on HB 1252. All members were present.

Chairman Lee: We might not have a lot to discuss except the inflator. My understanding is that you (Shelly Peterson, President of the Long Term Care Association) were fine with the median and 20-20-10. And there was nothing in the bill that gave you heartburn except the inflator?

Shelly Peterson: Correct.

The committee went over the amendment proposed by Shelly (Attachment 3 in minutes dated 3/2/05). Ms. Peterson explained the inflator and rebasing.

Chairman Lee: I'm inclined to restore the inflator and go back to rebasing every four years.

Senator Warner moved DO PASS the amendment proposed by Shelly Peterson to restore the inflator and rebasing every four years, seconded by Senator Lyson.

VOTE: 5 yeas, 0 nays, 0 absent

Senator Brown moved DO PASS as amended and rerefer to Appropriations, seconded by Senator Warner.

VOTE: 5 yeas, 0 nays, 0 absent. Carrier: Senator Brown

Chairman Lee reopened discussion on this bill after break.

Tom Newberger, Woodriver Human Services Foundation, Fargo, Wahpeton, North Dakota and North Dakota Association of Community Facilities which are the developmental disabilities providers throughout the state. The DD facilities has Senate Bill 2342 which has an automatic inflator that has come through this committee. The percent of the appropriation was approved through this committee and the full Senate. Since that time, that bill has gone to the Human Services in the House, passed that committee and is on its way to Appropriations. A concern came up in visiting with Rep. Delzer about the intent. What does it actually do if there's an inflator and there's a dime increase in the wages. His contention is that they net together, so whatever additional funds we would get in a wage increase, would be negated by the inflator. We've always maintained that they'd be separate. Rep. Price suggested that we take SB 2342 and take the language that is in here and put it onto HB 1252. In essence, our fate, the DD providers, is tied to long-term care. The bills says that whatever long-term care gets, DD providers will get. This is why I'm here, to see if it makes sense to you, if so, we have additional language that would clear-up Rep. Delzer's concern about netting the two pieces together.

Chairman Lee: You have an engrossed 2342?

Newberger: I have three in my hand. We talked to legislative council and they talked to their attorneys and it is gray, their department will have to interpret it. Working with Alan Knutson, he suggested language like what is handwritten. What is written at the bottom would be the

proposed amendment. So I'm talking about two things: SB 2342 would need to have an additional amendment and number two, that re-reengrossed, if that flies then we'd need to take this bill and roll it into HB 1252.

Chairman Lee and Senator Brown went over the language.

Newberger: I was anticipating the question about long-term care's thoughts. I talked with Shelly Peterson, from Long-Term care and she's fine with rolling that together. I've talked to the primary sponsor, Sen. Thane, Sen. Fischer, Rep. Aarsvold, and they are fine with rolling the two bills into one bill. We have not visited with Rep. Delzer or Hawken or Sen. Mathern.

Chairman Lee: We can't do anything with SB 2342 anymore but we can take the language from 2342 plus Mr. Knutson's additional sentence and amend that onto HB 1252.

Sen. Brown: I'd like to see an amendment built for this. I'm scheduled to carry this out and we passed it this morning.

Chairman Lee: But Cathy (Clerk) still has the bill and if we choose to further amend we can do that.

Chairman Lee asked Peggy or Carlee to put together an amendment before they voted again.

Chairman Lee adjourned the meeting.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 15, 2005

Tape Number	Side A	Side B	Meter #
1	X		3,110-3890

Committee Clerk Signature



Minutes:

Chairman Lee opened the meeting to discuss HB 1252. All Senators were present.

Chairman Lee covered the amendments with the committee. On Page 2, line 17, they removed "most recent" and after "report" add "used for the base period."

Action taken:

Senator Brown made a Do Pass recommendation on the amendment. Seconded by Senator Lyson. The vote was 5-0-0.

Senator Brown made a Do Pass as Amended recommendation and re-refer the bill to Appropriations. Seconded by Senator Dever. The vote was 5-0-0.

Senator Brown is the carrier of the bill.

Chairman Lee closed the meeting on HB 1252.

Date: 3-14-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass amendment

Motion Made By Sen. Warner Seconded By

Sen. Lyson

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment

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

Shelly Peterson's amendment + restore rebasing to every 4 years.

Date: 3-14-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass ~~as~~ as amended

Motion Made By

Sen. Brown

Seconded By

Sen. Warner

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

Total (Yes)

5

No

0

Absent

0

Floor Assignment

Sen. Brown

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

re-refer to appro

Proposed Amendments to HB 1252

Page 1, line 4, remove "and"

Page 1, line 5, after "homes", insert ", and to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers and to provide an appropriation"

Page 1, line 22, remove overstrike over "The department shall maintain access to national and state economic change"

Page 1, remove the overstrike over lines 23 through 24

Page 2, line 1, remove the overstrike over "3."

Page 2, line 4, remove the overstrike over "4." and remove "3."

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "using the appropriate"

Page 2, line 19, remove the overstrike over "economic change indices established in subsection 5" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "of the increase in the" and insert immediately thereafter "Global Insight", then remove the overstrike over "nursing home input price"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "6." and remove "4."

Page 3, line 20, remove the overstrike over "4" and remove "3"

Page 3, line 26, remove the overstrike over "7." and remove "5."

Page 3, line 27, remove the overstrike over "4" and remove "3"

Page 4, line 3, remove the overstrike over "8." and remove "6."

Carlee - 3/15/05

Page 4, line 7, replace "7." with "9." and "three" with "four"

Page 4, line 31, remove the overstrike over "a percentage amount equal to"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "section 50 24.4 10" and remove "the inflation rate for nursing home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Page 9, after line 4, insert:

"SECTION 11. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

1. **Operating costs for developmental disabilities service providers.** The department of human services shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities.
2. Any additional funds appropriated by the legislative assembly will be in addition to this annual inflator."

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1252

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers; to"

Page 1, after line 6, insert:

"SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Operating costs for developmental disabilities service providers. The department of human services shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities. Any additional funds appropriated by the legislative assembly must be in addition to the annual inflator."

Page 1, line 22, remove the overstrike over "The department shall maintain access to national and state economic change"

Page 1, remove the overstrike over lines 23 and 24

Page 2, line 1, remove the overstrike over "3."

Page 2, line 4, remove the overstrike over "4." and remove "3."

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "using the appropriate"

Page 2, line 19, remove the overstrike over "economic change indices established in subsection 5" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "of the increase in the", after the second overstruck comma insert "Global Insight", and remove the overstrike over "nursing home input price"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "6." and remove "4."

Page 3, line 20, remove the overstrike over "4" and remove "3"

Page 3, line 26, remove the overstrike over "7." and remove "5."

Page 3, line 27, remove the overstrike over "4" and remove "3"

Page 4, line 3, remove the overstrike over "8." and remove "6."

Page 4, line 7, replace "7." with "9." and replace "three" with "four"

Page 4, line 31, remove the overstrike over "a pccrocntagc amount cqual to"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "scction 50 24.4 10" and remove "the inflation rate
for nursinq home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Renumber accordingly

Date: 3-15-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1252

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass amendments*

Motion Made By

Sen. Brown

Seconded By

Sen. Lyson

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

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

Date: 3-15-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1252

Senate Human Services

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as amended bill

Motion Made By Sen Brown Seconded By Sen. Dever

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Brown

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

re-refer to upper

REPORT OF STANDING COMMITTEE

HB 1252, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers; to"

Page 1, after line 6, insert:

"SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Operating costs for developmental disabilities service providers. The department of human services shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities. Any additional funds appropriated by the legislative assembly must be in addition to the annual inflator."

Page 1, line 22, remove the overstrike over "The department shall maintain a cccccc to national and state economic change"

Page 1, remove the overstrike over lines 23 and 24

Page 2, line 1, remove the overstrike over "3."

Page 2, line 4, remove the overstrike over "4." and remove "3."

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "using the appropriate"

Page 2, line 19, remove the overstrike over "economic change indices established in subsection 5" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "of the increase in the", after the second overstruck comma insert "Global Insight", and remove the overstrike over "nursing home input price"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "6." and remove "4."

Page 3, line 20, remove the overstrike over "4" and remove "3"

Page 3, line 26, remove the overstrike over "7." and remove "5."

Page 3, line 27, remove the overstrike over "4" and remove "3"

Page 4, line 3, remove the overstrike over "8-" and remove "6."

Page 4, line 7, replace "7." with "9." and replace "three" with "four"

Page 4, line 31, remove the overstrike over "a pcrcontagc amount equal to"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "ccction 50 24.4 10" and remove "the inflation rate
for nursing home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1252

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1252

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 22, 2005

Tape Number	Side A	Side B	Meter #
1		b	

Committee Clerk Signature



Minutes:

Chairman Holmberg called the hearing to order on HB 1252.

Representative Jeff Delzer, District 8, McLean Burleigh County, testifying in support of HB 1252 which is a bill put in at the request of the long-term care association which had a number of changes that happened in House Human Services, House Appropriations and again in Senate Human Services. The bill will change how nursing home rates are set based on a percentile basis and this will change it to a median plus 20-20-10 and is in the Governor's budget. He distributed documentation of the nursing home costs to the state of North Dakota from 1980-2007 which is a guideline as to how the costs are increasing. He indicated the changes included changing the inflator to being CPI which increased general fund money, decreased the number of beds being funded, added DD and the rebasing request is moved to 4 years instead of 3 years. The House requests you remove the standing committee report on the amendment to HB 1252.

No questions were asked.

Senator Judy Lee, District 13, Fargo, testified in support of HB 1252, indicating the goal of the Policy Committee is to have inflaters reinstated and be the same for both DD and long term nursing care and to go to the 4 year rebasing. There is some conflict in language which needs to be changed and changes will be supported.

Senator Krauter asked why the change in the inflater. The response was that the numbers are determined by using the consumer price index and the global concept incorporated information.

Representative Gary Kreidt, District 33, Morton County, testified in support of HB 1252 indicating the rebasing and 20-20-10 is key to the bill. There was change in Senate Human Services Committee to allow rebasing every 4 years and asks this committee to put that back in the bill. The other component is the CPI for how the costs are inflated.

Shelly Peterson, President, ND Long Term Care, distributed written testimony with attachments and testified in support of HB 1252 addressing how limits are set, the median plus system, rebasing, why costs vary between nursing facilities, why inflation adjustments are crucial and equalized rates. She indicated all of the changes are the result of a comprehensive study of the nursing facility payment system. She discussed the attachments to her testimony and indicated that Medicare controls 95 percent of nursing home revenue and controls the level of care; effective October 1 the new rate will be \$38.00 a day if Congress approves the cuts. The number one driving factor for costs is staffing.

Senator Krauter requested an explanation on attachment A under indirect the 2004 and 2005 limit as to why they are going down. The response was they are not actually going down with the adjustments.

Senator Fischer asked about the reasons the insurance rates have gone up so high. The response was from 1999 to 2005 there has not been a claim, but the rates are driven nationally because of multi million dollar awards for settlements.

Senator Mathern asked what the percentage of residents receiving payments through Medicare vs. Medicaid. The response is statewide average is 5-6 % last month. There is an increase and 16 % are on Medicare.

Senator Krauter asked if the insurance increase is for the same facility. The response was that this coverage is strictly the professional and general liability and the umbrella is the same coverage.

Senator Krauter asked to explain the fiscal note of 3.52 % vs. 3.92 %. The response is that on Attachment C the percentage increases are based on 18 months of costs.

David Zentner, Director, Medical Services, Division of Human Services, testified on HB 1252 responding to questions asked. He indicated that all nursing homes are required to submit a cost report as of June 30 annually used in setting the rates for January 1-December 31 of the following year. The 3.52 and 3.92 percent reflects 18 months of inflation. He indicated that there are some problems with the way the bill is currently written and he has some amendments that were distributed, but it was requested the subcommittee would look at those.

Senator Mathern expressed concerns about the provider tax and how do you see that in the next biennium. The response is that the tax process is a separate issue and is a pass through to the DD providers. The money paid in is to the tax department and becomes general fund dollars.

Senator Mathern asked what the position of the Department is on the Governor's Budget. The response was they always support the Governor's budget.

Page 4

Senate Appropriations Committee

Bill/Resolution Number 1252

Hearing Date March 22, 2005

Tom Neuberger, Executive Director, Red River Human Services, President ND Association

of Community Facilities, testified in support of HB 1252 specifically the long-term care

industry and the DD industry to need the automatic inflater.

Vice Chairman Bowman closed the hearing on HB 1252.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1252

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 31, 2005

Tape Number

1

Side A

a

Side B

Meter #

1013-1775

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the discussion on HB 1252.

Senator Fischer discussed 1252 on Nursing Homes and suggested this bill be passed out as is let in go to conference and bounce it off the House. Senate bill 2342 will be discussed in conference.

Senator Fischer moved a do pass as it came from the Senate Policies committee, **Senator Christmann** seconded, discussion followed regarding placing this bill to go to conference without the appropriation and the fiscal note was discussed.

A roll call vote was taken resulting in 14 yes, 0 no and 1 absent. The motion carried, **Senator Brown** in Human Services will carry the bill.

Chairman Holmberg closed the discussion on HB 1252.

Date

Roll Call Vote #:

3/31/05
1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1252

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DP

Motion Made By

Fischer

Seconded By

Christmann

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	/		SENATOR KRAUTER	/	
VICE CHAIRMAN BOWMAN	/		SENATOR LINDAAS	/	
VICE CHAIRMAN GRINDBERG	/		SENATOR MATHERN	/	
SENATOR ANDRIST	/		SENATOR ROBINSON	/	
SENATOR CHRISTMANN	/		SEN. TALLACKSON	/	
SENATOR FISCHER	/				
SENATOR KILZER	/				
SENATOR KRINGSTAD	/				
SENATOR SCHOBINGER	/				
SENATOR THANE	/				

Total (Yes)

14

No

0

Absent

1

Floor Assignment

Hum Serv

Brown

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

REPORT OF STANDING COMMITTEE (410)
March 31, 2005 4:38 p.m.

Module No: SR-59-6926
Carrier: Brown
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1252, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1252, as amended, was placed on the Fourteenth order on the calendar.

2005 HOUSE HUMAN SERVICES

CONFERENCE COMMITTEE

HB 1252

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Human Services Committee

XX Conference Committee

Hearing Date April 14, 2005

Tape Number

1

Side A

x

Side B

Meter #

22.5-50.4

Committee Clerk Signature



Minutes:

Chairman Price opened the conference committee on HB 1252.

Chairman Price, Delzer, Sandvig, Sen. J. Lee, Fischer, Mathern.

Chairman Price asked the Senate delegation for their explanation on their amendments.

Sen. J. Lee: As you are aware of in HB 1252, we are interested in supporting, is that there would be the same inflator used for providers of DD services, as well as LTC workers, and of course we want to include the QSP's as well. Not that the bases is the same, but that they would be increasing by the same amounts as we move along. So there would be two sections there as a base, as well as the inflators. We moved the rebaseing to 4 because we retain the inflators of the consumer price index in Global Concept, Inc. but with 2342 we pretty much blew that one away. We are really here to decided what that number should be, as it is out of the other one.

Rep. Delzer: I have a question on the mechanics, seems what I heard, in these discussions, is a lot of us have talked about this. In the end, if we do an adjustment in 1012, where the money is.

In essence, what we need to do, in this bill, and we need to go back to the house version. When the senate put the amendments on, regarding page number 3 of the second engrossment, with senate amendments, you left on lines 26-27, an inflation rate the nursing home services use to develop the legislative appropriation for the dept. It seemed to me, that if you wanted to go all the way back, that should have come out. Was it left in for a purpose? Because you put global insight back up in number 5. I was just questioning if there was a specific purpose regarding that?

Sen. J. Lee: That is an oversight, we also learned shortly after this was passed through the Senate, that it is difficult to adjust to both the same, because one is so expensive and one retrospective, so we recognize that there are some challenges there. I really want to talk about what our intent was. The intent was that they be inflated comparably. What the mechanics are to doing that, I think that is why we are here today to figure that out. That would be what the Senate policy committee was important, because they are really longer term, LTC providers, that the DD providers would have an equal opportunity.

Rep. Delzer: A good share of the amendments were put on in House Appropriations, specifically the one that said the inflators should be based on the legislative appropriations level set by the Gov. office/Legis. Assembly. The reason we did that is that we feel as you do, that everyone should be inflated equally, then if you need to make some adjustments at a later date over an above the inflation level. If we can take the LTC out of code, how it is set, then it is set by the appropriation process and everybody receives the appropriation level; not just the DD/LTC. You have all the other providers also. It is certain the intent to help to increase the inflator module with in 1012.

That is the issue on the table for 1012.

Sen. Mathern: Comment on the language referred to by Rep. Delzer. One of the reasons, that it is tied to this bill, was to make it consistent with 2342 as that had that language also. There are some difficulties with that language, as it might restrict the dept. some way in the budget preparation.

Sen. J. Lee: Having some kind of an established inflator was really important to the HMS members, but we also recognized and discussed again, that when 2342 came back to us, that 2 years from now, if the budget isn't there, we will change the inflator statute anyway. We like the idea of having some determination of an inflator, so that it doesn't pass from the consciousness of the group, I guess. It is important to us, that we do establish an inflator.

Chairman Price: There has been several groups in discussion about this. What was your groups take on it.

Sen. J Lee: We had the bill about dental services. I have been involved with the indigent and dental payment, the reimbursement there has been so low, that is has affected access tremendously. We recognize that. But I told them that even if they didn't end up getting an established number, and I don't really think that they should, at least it raises the awareness of the problem in these areas, to have it not just a line item in the Human Services budget, but that it has been brought to the attention of our legislators, by considering that bill, so that it is recognized universally, than they have been before. It is not that we aren't going to pay these providers a little extra. Because we are not paying them to even cover their costs in some cases, they can't provide the service, we are not getting the care for people who need it, and my market area, and even in the Bismarck area, with all the new businesses coming in, there will be such

competition for employees, it will be hard for these providers to keep their staff complete. I think we need to recognize the challenges of the providers in trying to be in a market that other jobs have better conditions, easier work for more money. Why wouldn't they do that. It isn't just the matter of putting more money in the providers pocket, it has a ripple effect.

Sen. Mathern: In light of that discussion, I am glad to hear that we are in agreement to move on.

I have some suggestions that I would like to hand out, proposals to consider. I don't plan to make a motion on this. I have a few documents with some main points of mine, that we have DD providers, LTC and QSP's in one common inflationary index. Starting out at 2, moving to 3.92 which is about what 1252 would be at. That we would somehow address, what Rep. Delzer is saying, by in 1252 setting out the needs and doing the appropriation in 1012, where we would clarify that, where the money is and that the amount of money that I see that we could do this, is about 4.5 million, which is about half of what is the full funding of what 1252 implication is with the providers salaries and then that amount is actually under the governor's budget, we would still do the ???? increase for the DD providers in terms of salary, in process in January 2007. So those are the points to consider, the amendments that would do that, in the second phase. The 1252 amendments, if you look in point one, page one, section one, that is the language that would bring all of the providers into one inflationary rate, there is definition in there that works with QSP's whether they are independent or county. That language will permit the dept. to move forward. Then on page two, section twelve would again clarify the inflationary rate increases being the same, changing 1252 then to make all of those correspond with each other. Then section thirteen would be the legislative intent to make sure that we keep track of the money that

would be involved in this proposal and that we fund it in 1012. So those two things, one would be the inflationary increase and other the ten cents, that the House already has in, the DD providers. And then stepping another increase in it, forty seven cents on January 1, 2006. And another forty eight cents in 2007. Those proposals then would be in 1012. I think it is necessary to provide information in advance of what that might cost and that clarifies each of these changes in terms of what it costs in general fund dollars, the other fund dollars and then what total money would be available with these changes. I did research in regards to the provider tax, I think one of the challenges in doing this, would be the costs involved. To do the wage increase for the DD providers, would be 2.7 million dollars of general funds. Total funds of 7.8 million. The way we have structured the provider tax, I believe in a sense we are raising that money, (2.7 million).

That is the last chart that indicates that we have projected into tax, how much we have budgeted and we have a difference. Which means we are using that additional money to match more money. For this year and the next biennium, we are talking about \$900,000.00 which is the difference. If you take that amount and you use it in Medicaid type services, you are basically are bringing in 2.7 million, and so I really see that the DD providers, through the mechanisms of the provider tax, and the state and federal government, is bringing the money in. I think this would be one way of looking at these options we have discussed, and I hope that we would consider this at some point.

Rep. Delzer: I guess we have ask the question of how far into 1012 we want to get in with this conference committee on 1252, and that is a tough subject. I understand that, because we are all involved. But in looking at this, I see a couple things that bother me about it, one is 1252 was a bill that was put in to change the percentile rate for nursing homes to a medium plus. Now, all of

a sudden, if we would consider this, we would be doing more on the DD and Asp's and also if we did this, the way I read this, it seems we would be ignoring all of the other providers, as they would be left out of the mix. To me, that is wrong, that is the reason that we did what we did in 1252, was to put that all providers were treated equally. Realizing that nursing homes are paid somewhat different, but they also have an operating margin and other things. These issues are out there, unfortunately most of them deal in 1012. I really don't know how far we want to go with that.

Sen. Mathern: I agree that these issues are in 1012, but what I want to do is just clarify that these changes in 1252 would have an impact and I don't want us to be surprised about that. So that was my intent in bringing this forward. The other issue in terms of the other providers, 1252 does come to us with a special rate, but it does with these amendments, basically started out at the 2%, which is where the other providers are, in the Senate side, it was the intent that we would bring the QSP's into 1252. We were hoping that it would be considered at this time.

Rep. Delzer: When I read through this, I don't see anything regarding QSP's, just DD's. Am I missing something?

Sen. J. Lee: That is true, but in the conversation that we had about 2342 with assurances from the house that we were doing the right thing, the QSP's would be addressed in this bill, and we would be disappointing a whole lot of people, if QSP's aren't addressed in this bill.

Rep. Delzer: They will be addressed in 1012, with the inflators in 1012.

Sen. J. Lee: The consensus was at that time that even though QSP's are not in here, that they would be in discussion in 1252, because they are all kind of holding hands. Rep. Delzer is certainly correct in saying that there is connections with 1012, and do agree that a policy bill,

shouldn't be entirely determining what happens on the appropriations side, but it would be naive to suggest that what we do here, doesn't have an impact on what happens on the appropriations side. We have tried to be extremely responsible in Human Services in trying to figure what we are doing and how it affects appropriations and whether or not there is enough money to do what we are considering doing and the same thing is happening here. It would be irresponsible for us, in some willy nilly fashion, to decide to compensate these various providers in a particular way as a matter of policy and not consider whether or not there is a way to do it in 1012. I think that is our responsibility to do that.

Chairman Price: We are running out of time, does anyone else want to give us something to look at before our next meeting? Any other amendments floating out there? Senator Mathern, just for curiosity, at the time we did these, we had two private pays, are they still private pays.

Sen. Mathern: I do not know if they are, I don't think they are but I can check that out.

Chairman Price: I just remembered that discussion that you felt that there was one that was close to the end of the trust money, at that time.

Sen Lee: I certainly have sympathy for all of the providers, I think there is something honorable about thinking that everybody should have the exactly the same inflator, but I think it is a little different when we are looking at this group, unfortunately any small thing we do has a big impact on the budget, and I am very aware of that. But the vast majority of income, that comes into a long term care facility, is going to be from Medicaid. Somewhere in this conversation, in the last month or so, I was told 95%, even if that is not right, it's not all that far off. So it isn't the same if someone is working in the dentist office, where the vast majority of their patients are going to be paid for this way. So it provides so little latitude for them to deal with their operating costs,

recognizing the direct - indirect, doesn't leave them much left over for salaries, when they are tied so totally to the Medicaid reimbursement and I think it is a special challenge to those who are providing those services. I don't know what the right answer is, I think we are smart enough with all the people in this room, to figure out the right thing. And I think we are able to do it.

Sen. Mathern: I would like to add to, in light of salary issue here. Two sessions ago, we did provide specific salary increase for the staff at the LTC facilities. I feel this is the time to do it for the DD providers, and then with the inflationary rates for the QSP's, maybe that is all we can do this session. But then next session, we will need to address the QSP's directly. So this is, I feel a step in process, not doing everything at one time.

Rep. Delzer: Certainly that is true, I would like to remind the committee, that we did, last session, do 87 cents and 3% for the DD providers, over and above, when everybody else was at no inflation increase with the exception of LTC, which was in code, and they were inflated at what the code said. We have a lot of issues, and the time is short.

Sen. Mathern: We ran out of money, so they couldn't all get that money, during the year.

Rep. Delzer: Not last session, we ran out of money in 01.

Chairman Price: Mr. Zentner, this a question I have heard before. Did the DD facilities get the .87 cents and the 3%.

Mr. Zentner: 33% percent of benefits, 3%.

Sen. Fischer: What about the 01.

Mr. Zentner: There was a shortfall.

Chairman Price: We have another meeting scheduled, so we will reschedule this. Meeting adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL NO. HB 1252

House Human Services Committee

☒ Conference Committee

Hearing Date April 18, 2005

Tape Number

1

Side A

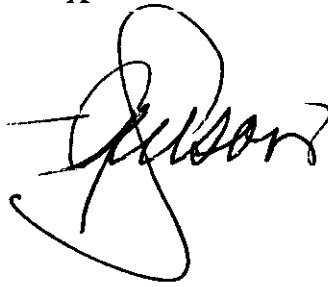
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Side B

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6.9-31.5

Committee Clerk Signature



Minutes:

Conference Committee: Senator J. Lee, Senator Fisher, Senator Mathern, Chairman Price, Rep.

Delzer, Rep. Sandvig. All Present

Chairman Price: (7.2) Another piece of this discussion that is pretty critical is the restoration of the FMAP. That 3.8 million that we are going to be short. Are there any other amendments that anyone wishes to bring at this time?

Senator Mathern: I would like to move the following amendments that I am handing out. (See attached amendment .0304) Motion seconded by Senator Lee. There amendments are same amendments that we had on the table before. Essentially the amendment I would be offering to this committee is just the 0304 that would bring the DD providers long term care and holiday service providers to payment; one common inflation rate by the end of the biennium. Note the cost involved in doing those things in section 12 & 13. It would clarify the formula in terms of

coming up with the cost and then the intent as noted there would be that the actual appropriation for the dollars would be in 1012. The actual dollars are as attached would be the third page. The nursing home inflationary rate would go to the 3.92 rate January of 2006 the general funds there are \$650,000. The qualified service providers would go to that rate in July 2006. The nursing homes would be January 2007, the qualified services providers would be July 2006, the DD division inflater would go to 3.92 not until July of 2006. That would be \$805,000 and then there would be a salary increase begun building on the 10 cents that the House put in and 47 cents January 2006; 48 cents January 2007. All these amendments together, if appropriated, is in 1012 would amount to 4.5 million bringing in 12.2 total funds. Basically we are talking here about having incremental change toward bringing these three groups toward a common inflater rate by the end of the biennium and making sure that the dollars for the DD provider for salaries are separate from the inflater in order to recognize the fact that there are costs going up for the DD provider so that if those costs are not recognized, they really can't give the salary increase. I tried to make it very clear in terms of the amendment to 1252 the actual costs that this would have to be put into 1012 and I hope that we can proceed with this. I believe it is the bear minimum we can do in light of the fact that we are doing 4 and 4 salary increases for the state employees. I think there are some special needs in these three provider groups that will help us begin addressing those.

Rep. Delzer:(11.2) Tell us the cost of continuing this in the next biennium?

Senater Mathern: It depends on what their final costs are in terms of this biennium how that comes out. We have a decrease also in the amount of \$500,000 in the DD division. I don't know how the department can make up that \$500,000? There are a number of places in the human

services budget where there are deficiencies part of the budget so I don't know how they will transfer it into actual operating this year. Now if they take it out of these providers than the cost is less because they are inflating over a lower amount. If the department thinks it can fund all its programs within the present budget at this level we would be talking about another 3.9% or more over the next biennium after this biennium. The actual dollars amount I don't have.

Rep. Delzer:(12.4) Said they could fund at the current levels with the inflation that is in the current bill within the budgeted amount. That is certainly what I was expecting when it left the house. When I look at this amendment; to me I can't support it for one reason is that again that we are setting groups apart from other groups. That is part of the whole problem, when we had testimony in front of 1012 and I understand this is entirely a different bill, but if we set somebody apart in code on an inflation rate we are going to have 20-25 bills next year from other groups wanting to keyed off the same rate. That is why it should be the house passed it out; the way 2342 finally was passed and I understand that 1252 would be the last bill and if there is a change it would take precedencies over that. That is a major issue to me and there are a number of issues being talked to me on 1012 that are not ready to be laid on the table quite yet, but I think it will handle every bodies position in the end.

Senator J. Lee: I think allot of people have a goal of having an appropriate inflater for every body, but in my mind it is not the same for a long term care or DD facility when the money they are looking for is for salaries and they are really limited to what is available to them. The amount available to them is limited in great measure by what we provide for them. Currently the DD providers are paid the following on average \$9.24/hr for group homes with an inflation of 2% per year brings the age to 9.71 by the end of the biennium without considering any additional

increases. If we go to 3% we are only at \$9.91/hr. I just have a really hard time thinking that we have done, with any sense of honor at all, support salaries that are going to be less than \$10/hr for people who are doing really difficult work and even if you can find them. We are asking people to do hard work in difficult surroundings for less than \$20,000 year. I think the idea of adding incremental changes is a good one and I think that is something we should be looking at closely and that is one of the reasons I support the concept of this amendment in that we are going to have something stepped up.

Senator Mathern:(15.8) I appreciate your concern about the other bill and the other providers. I think this is an attempt to get three provider groups who deal with dependent people, honorable people, in a similar way. It does get us recognizing qualified service providers, group home facilities and long term care facilities and nursing homes toward a common inflator. It does leave that issue about everyone else coming to us. But this is a step toward doing something. It is using a group of providers that are all pretty much dependent on Medicaid dollars to service their constituents. I think this is a step toward a common approach toward.

Chairman Price: Do we have any changes that we talked about on Friday?

Senator Mathern:(17.5) I did ask the department to run these. This is the data that is attached and prepared by the Department of Human Services so you are aware of this.

Rep. Delzer: That is considering everyone else stay at 2%.

Chairman Price: The reason I ask that is we have some other proposals on the table too beyond these groups. Those of us that were here Friday had discussed.

Rep. Delzer:(18.4) We can't go to terrible far into that. There are two ways to do this. You can set it up like this where you do the three or you can keep everybody the same.

Senator Lee:(18.7) It seems to me that is what we are doing here. We are doing something for the people who are particularly far behind. I can't understand, the whole time I have been in the legislature, with providers receiving less than the people who are working in our own developmental centers. This doesn't seem right to me. With the provider tax netting about \$13,000,000 to the state even after the money is sent back to them to help pay for the taxes so it seems to me that some of that money that is being collected through these providers ought to be returned to them. My understanding is that those numbers were not used in determining the budget so it is about 2.7 million total including the 90,000 that would be state and the balance from other sources that would be available for us to work on and I think it is perfectly reasonable to consider using some of these in order to send this back to them for their workers.

Rep. Delzer: By law there is a reason that money isn't particularly earmarked because they can't. The problem I see with these amendments it is setting three groups up different than everyone else. We are trying to keep every body the same.

Chairman Price: Mr. Zentner, what would happen if something like this happens and we all of a sudden hit a budget situation we were in the previous biennium and we have to make reductions? Would these three groups be held harmless more so than the doctors or dentists or anyone else out there?

Mr. Zentner: If it is in statue we would have to work our way around it.

Senator Lee: I would have a lot more sympathy for these people than I do for doctors and dentists.

Senator Mathern:(22.2) We would still revisit this in the next legislative session. If we could not sustain this I suspect that would come as a recommendation from the Governor where we in

appropriations committee would change the law. I think this is just setting the goal there of working together with these three provider groups. If oil prices stay high and other things continue we would have the money and then we can make a decision there.

Chairman Price: (23.4) Senator Lee you have the average wage for the group homes. Do you have it for the developmental center too?

Senator Lee: My understanding was that the \$1.05 would bring them in sink with that, but I don't have it with me so I don't want to guarantee that figure.

Senator Mathern: Even if we adopt this it would keep them under other state employees.

Brenda Weisz: (discussed the different levels)

Rep. Delzer: Is that with their fringe too?

Brenda Weisz: Yes

Chairman Price:(26.2) You gave us the \$8.78 first salary number.

Senator Mathern: I would just add to clarify we are talking about here \$1.05. Not immediately in July.

Chairman Price:(26.8) What does 2% add up to the first year, Senator Mathern?

Senator Mathern: One of the difficulties is figuring out if they actually can offer much of any salary increase? I have hear a wide range of health insurance increases; from 8.5 to 22%. I have heard some heating costs and gasoline costs all of those things going up. So I am not so sure a group home can assure a salary increase at a 2 percent level because of those other costs. I suspect they may have to decrease staff hours or decrease benefits if we only stay at the 2%.

Chairman Price: We do have a motion on the floor and we do need to vote on it. I would like to take a look at this. Any other comments.

Page 7

House Human Services Committee

Bill Number HB 1252

Hearing Date April 18, 2005

Senator Lee: Would you be more comfortable if you had a change to review the proposal overnight and vote on it tomorrow?

Chairman Price: I would like to have a change to look at it and look at some of the other sneers that we have.

Senator Mathern: As far as I am concerned you can leave the motion on the table and not vote on it. I did hand the specific amendment out last week and I did prepare the financial copies and go to everybody to review. I withdraw the motion. Senator Lee withdraw her second.

Chairman Price: Adjourned meeting (31.5)

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1252

House Human Services

☒ Conference Committee

Hearing Date 4/20/05

Tape Number

1

Side A

x

Side B

Meter #

1.3-31.4

Committee Clerk Signature

Minutes: Conference Committee #3

Chairman Price: We will open the conference committee on HB 1252.

Committee members: Chrm. Rep. Price, Delzer, Sandvig Sen. J. Lee, Fischer, Mathern.

Sen. Mathern you had something to pass out to correct from the last meeting?

Sen. Mathern: I provided a hand out last time regarding the provider tax. There are some mistakes that I had in the last hand out, in the amount of dollars, I wanted to correct that and I also didn't use the proper wording in the name of the fund. It is called the Provider Assessment Fund, this is just a hand out to clarify that.

Chairman Price: Thank you.

Sen. Mathern: We did have an amendment moved this last session, that we withdrew at your request, I do have another set of amendments that I would like to hand out at this point. I would move that amendment 5033-0.0308.

Sen. Lee: I second the motion.

Sen. Mathern: These amendments address the concerns that I was hearing from the conference committee. These amendments change the date of how many months the higher inflator would be in place for the second year of the biennium. This would just put it in place for six months of the second year of the biennium. This will reduce the general fund by one-half. Puts the DD and the nursing homes at the same rate for the second year of the biennium, they would only get six months of the higher rate. Second issue is putting this in statute. It is saying upfront that it is not a guarantee forever, because the next legislative assembly can address it again. The third major issue is funding of the proposal, funds this entire proposal from the Health Care Trust Fund. I believe funding these areas out of the Health Care Trust Fund brings us closer to what was the understanding that we would use the Health Care Trust Fund. These amendments, I think, address the concerns that you had raised in our last meeting.

Chairman Price: The Senate appropriations used the Health Care Trust Fund to fund MMIS, is that correct.

Sen. Mathern: Correct.

Chairman Price: So that balance is not there at this time, correct.

Sen. Mathern: That is only with the assumption that we fund something else.

Rep. Delzer: When I look at the legislative intent language, I prefer it to be out of code. It puts the Dept. in the Governor's office in quite a bind. You have it in code and you say we have to take a look at it. I think the inflator should be out for awhile. I don't think we should take this out of code and I don't support this amendment.

Chairman Price: I was happy that we moved forward on the actuarial price. I have changed my mind on having some of these features in code and taking away some of the flexibility.

Sen. Lee: I struggle with removing them from code, recognizing that there is a challenge because I see more and more on how it is that has not always been favorable to some of the other positions of other providers. In understanding the history of it, the fact they were put in place, in the first place, as there has been continuing problems with getting increased dollars in for long term care, and typical consideration by the appropriations committees and legislative body's at that time, to make sure, as it always has been a big number, to try and stop it from becoming such a big number after 2 or 3 sessions, that it just became an unbelievable one. It was a means of ratcheting up regularly, so that big leaps didn't have to be made, so it didn't become ignored for a number of session. There is a good reason for it being there.

Sen. Mathern: I think what these amendments do is to suggest that it puts some decision making in code, has probably one sector of the service providers. The goal is to have other sectors also, attain that status that there is some mechanism for determining the proper level of reimbursement that goes outside of just our broad decision making based on the numbers of budget dollars available income in terms of tax revenue and other pressures of other legislatures in regards to funding other programs. I think the goal is appropriate that we try to have some other indicators to guide us. Now it doesn't say those indicators are the final dollars that we set, but I think those indicators give us data, some with which we can make good decisions, and have been helpful in the Nursing home industry and would also be helpful, if we could add that data to our DD provider groups/QSP's. I think it is an attempt to provide some other framework, but it doesn't set it into determining the dollar amount.

Chairman Price: Sen. Mathern, in your proposals, you are leaving all of the other providers at 2%, there is no increases for the remaining providers?

Sen. Mathern: Yes, just the three provider groups. What I thought was that the intent that I was hearing from various people, was that we would try to at least get these 3 groups together. But I have no problem, at some point, moving to other groups and this is just an incremental steps in determining how these groups should go.

Chairman Price: I am not speaking for everyone, but on our side, we had the discussion regarding the dental reimbursement bill that was killed, just for the fact, that they were trying to bring more providers into the equal, rather than singling out various groups. We did not want to start down that road again.

Sen. Mathern: I would be willing to work with any of the groups, I am presuming that should be in 1012, I think that is their concern too.

Chairman Price: We have a motion on the floor, regarding 0308 set of amendments.

Vote: 3 - 3. Motion failed

Chairman Price: Are there any other amendments?

Rep. Delzer: I have one, is shows, that the Senate would recede, and we would change line 7, 3-4, would be the rebasing back from 3 years to 4 years. I would move to the amendments.

Sen. Fischer: I second.

Chairman Price: Can you explain a bit further about your amendments.

Rep. Delzer: This will take it back to the version 2020-10 that was passed by the house, initially put in for long term care. It does take the indices out, and are set by appropriations, it does put in code, rebasing every 4 years. When the house passed it, we went to 3, the Senate went to 4, this was explained to me that the time frame as the dept. does budgets during the biennium and would be difficult for them to provide adequate information on a 3 year framework.

Sen. J. Lee: The reason that we went back to 4, was the concession that we put the indices in, so this ends up being a double hit, as far as I can see. In going from taking out the indices and also retreating from 3 years to 4 so if we are going remove those indices, then let's go back to the way it came out of the house, to 3. At least they will know there will be a shorter interval as far as the rebasing is conducted. The only question I would have about that, if it becomes a challenge, because it ends up every other time between sessions, and I would appreciate any information from someone in the dept. or Ms. Peterson, let me know so we can address that.

Chairman Price: Who from the dept. would like to address that.

Dave Zentner, Director of Medical Services, DHS. The one concern we would have is regarding the 3 years, on the budgeting side, we are not going to have the information on the budget to know what our base is going to be, every other time we have to rebase. The four year process, we will have the information at the time we build the budget. That is one of our concerns.

Chairman Price: There would be nothing prevent an enhancement, for example, if it were at the four years.

D. Zentner: The four years fits well, as we can prepare the budget, it would be clear of what our base would be, when we needed to rebase.

Chairman Price: Thank you.

Sen. J. Lee: That is why we moved back to 4 is because we didn't want enchantments, we thought it would have been a bit of a challenge in the rebasing part of it.

Rep. Delzer: That is also why it is back in the amendment.

Sen. Mathern: I appreciate sharing these amendments, I think that is what these conference committees are meant to do, but I have two issues. When the Senate (1252) wanted to bring another provider group to some method of budgeting for the future, We did that in formal amendments on the floor. We talked about DD providers, also talked about adding QSP's to this process. That was the intent for 1252, I don't see where Rep. Delzer's amendment offers that, it seems to me to only address Nursing home groups. I know we could provide for them in the appropriations bill, but this amendment would leave them out in 1252. I am also wondering what the fiscal impact would be and if you have that data, Rep. Delzer.

Rep. Delzer: What this amendment would do, is go back to the House version of the bill that the house passed. It is 2 and 2 for everyone. We want to make any enhancements, that would be done in 1012. That would be for anybody or any particular group that we want to enhance further that anyone else. It treats everyone the same, puts them on the legislative appropriation level. The fiscal effect that was currently in 1012 would cover what would be in 122 at this time.

Sen. Mathern: I was wondering if we would be adding the DD provider group to a process, other than the 2% across the board, a process of determining a inflator.

Rep. Delzer: No, what we are doing is taking LTC out of the inflator and putting them in the same rest of the providers in the DHS. . No one would have a set inflator, it would be up to the budgeting process, governor's office and appropriations. The House, not only passed 1252 the way we passed it, we passed 1012, the way we passed and defeated 2342, which was in essence, the same issue on the DD provider. The House has spoken 3 times on this issue, and you have spoken 1. That is part of the difference.

Sen. Mathern: This is the comment that we are trying to move towards having a more predictable inflator process and having all of these groups being a part of the process and I think your amendment takes us back to a more strict legislative decision each time, but each one could be different.

Rep. Delzer: Yes, that is correct.

Chairman Price: We are also adding the actuarial piece into the budget process which we have not had before.

Sen. Mathern: 1461 ?

Chairman Price: And 1465,

Sen Mathern: When do we receive the data come from that, do you know?

Chairman Price: The dept. should have it for their budgeting piece, the time frame was adjusted. Basically, the dept. has contracted with them and instructs them as to when they need that information. I am hoping that would give us a truer picture of ND vs using a national indicator. Where we are, based on our economy, and also based on a national trend.

Rep. Delzer: As a rule, they need it sometime in March/April and OMB in June/July.

Sen. J. Lee: I didn't have time to look at this before coming down this AM, but am looking at 0300 (House) and 0400 (Senate) there were some other things that were important, that we are not including, if we recede entirely from those amendments. In Sec. One, even if we don't have inflators, with the indices in, it was an important part of our discussion, that the DD providers have the same as the LTC providers. I recognized there was some challenges with that language because the way the costs are determined, whether it is determined through the added process where the DD providers, other provision for LTC. Needed to be tuned up to make it work. That

was an important part of the policy portion there and that doesn't require that an index be used but it does say that they are going to be treated comparably, we didn't up with the portion that talks about the Senate amendment, page 2 lines 24 and on...03 base period... There was a great deal of support for using the medium cost at the time of our hearing. I want to make sure you don't ignore the fact and other things that were a part of the bill, that are not in this as a result of what is happening.

Rep. Delzer: That is in there. Page 2 on both of them.

Sen. J. Lee: I am looking for it, I can't find it. Thank you, Medium is there, Sec. 1 is not, and we need that there.

Rep. Delzer: The only thing that is different in Sec. 1, are the indices, regarding 2342, we were concerned about and why we defeated that bill, because if we put that in code that way, if the dept. comes and indicated that they want to treat DD better than we treat LTC. If this is code, we can't do that, it will limit the dept. to treating them the same. We don't want to tie the hands of the dept. If we want to do something for DD, we need to state the indices instead of stating LTC. We do not want to pit against each other.

Sen. J. Lee: I just want to have everyone treated adequately. I am not pleased with any legislative intent language in any amendment, unless it is indicated specifically. Our intention was for DD/QSP to receive better compensation. How can I be assured that that will happen, if we take this out?

Sen. Mathern: I have some of the same concerns, but I believe that 2342, it believe that the house passed it.

Rep. Delzer: We reworked the bill.

Sen. Mathern: Thank you, I was sure I was right. I want to reinforce Sen. Lee's statement concerning equality for DD/QSP's.

Sen. J. Lee: My question still stands, how do I know that these groups will be taken care of. We are at ground zero, and there is no promise that they will be treated right. Some of the data we got was \$11.50 - \$8.70 per hour. This shows there is a need for a better pay for these people.

Chairman Price: I guess the only thing I can do, is accept the conference committee report on the floor, and 1012 meets at 11:00AM. We know there are amendments for that and we have 3 of the members sitting right here.

Sen. J. Lee: I think this motion goes forward, I don't want to see this on the floor, until I see it and I see what happens and what the amendments are on 1012.

Chairman Price: Are you chairman on your side for this committee?

Sen. J. Lee: Yes.

Chairman Price: You will have to sign off on the report.

Sen. J. Lee: Yes, I know, just letting you know that would be part of the plan.

Chairman Price: Any other comments. Clerk will call the roll on Amendment #0307.

Vote: Chairman Price - Delzer - yes - Sandvig - NO, **Sen. J. Lee:** for the record I am holding my NO, and voting yes. Fischer - yes - Mathern NO. 4 yes - 2 No Passed.

Carrier: Chairman Price.

April 13, 2005

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1252

That the Senate recede from its amendments as printed on pages 1568 and 1569 of the House Journal and pages 847 and 848 of the Senate Journal and that Reengrossed House Bill No. 1252 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers and qualified service providers; to"

Page 1, line 4, remove the second "and"

Page 1, line 5, after "homes" insert "; and to provide for legislative intent"

Page 1, after line 6, insert:

"SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Operating costs for developmental disabilities service providers and qualified service providers. The department of human services shall determine the budget for private, licensed developmental disabilities service providers and qualified service providers by inflating historical costs or payments by the annual percentage developed for long-term care facilities. The department shall consider any additional funds appropriated by the legislative assembly to be in addition to the annual inflator. In this section, a qualified service provider is a county agency or independent contractor that agrees to meet standards for personal attendant care service as established by the department of human services."

Page 1, line 22, remove the overstrike over "The department shall maintain access to national and state economic change"

Page 1, remove the overstrike over lines 23 and 24

Page 2, line 1, remove the overstrike over "3."

Page 2, line 4, remove the overstrike over "4." and remove "3."

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "using the appropriate"

Page 2, line 19, remove the overstrike over "economic change indices established in subsection 5" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "of the increase in the", after the second overstruck comma insert "Global Insight", and remove the overstrike over "nursing home input price"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "6." and remove "4."

Page 3, line 20, remove the overstrike over "4" and remove "3"

Page 3, line 26, remove the overstrike over "7." and remove "5."

Page 3, line 27, remove the overstrike over "4" and remove "3"

Page 4, line 3, remove the overstrike over "8." and remove "6."

Page 4, line 7, replace "7." with "9." and replace "three" with "four"

Page 4, line 31, remove the overstrike over "a percentage amount equal to"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "section 50 24.4 10" and remove "the inflation rate for nursing home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Page 9, after line 4, insert:

"SECTION 12. NURSING HOME, DEVELOPMENTAL DISABILITIES SERVICES PROVIDER, AND QUALIFIED SERVICE PROVIDER OPERATING COSTS - EXCEPTION. Notwithstanding section 50-24.4-10, the department of human services shall inflate nursing home historical costs by two percent for the rate year beginning January 1, 2006. Notwithstanding section 1 of this Act, the department of human services shall inflate developmental disabilities services providers historical costs by two percent for the rate year beginning July 1, 2005. Notwithstanding section 1 of this Act, the department of human services shall inflate qualified service providers' payments by two percent for the rate year beginning July 1, 2005.

SECTION 13. LEGISLATIVE INTENT. It is the intent of the fifty-ninth legislative assembly that the appropriation necessary to fund the inflationary increases provided for in this Act and to increase the average wage for employees of developmental disabilities services providers by 47 cents per hour effective January 1, 2006, and 48 cents per hour effective January 1, 2007, be included in House Bill No. 1012."

Renumber accordingly

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1252

That the Senate recede from its amendments as printed on pages 1568 and 1569 of the House Journal and pages 847 and 848 of the Senate Journal and that Reengrossed House Bill No. 1252 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers and qualified service providers; to"

Page 1, line 4, remove the second "and"

Page 1, line 5, after "homes" insert "; to provide an exception; to provide an appropriation; and to provide for legislative intent"

Page 1, after line 6, insert:

"SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Operating costs for developmental disabilities service providers and qualified service providers. The department of human services shall determine the budget for private, licensed developmental disabilities service providers and qualified service providers by inflating historical costs or payments by the annual percentage developed for long-term care facilities. The department shall consider any additional funds appropriated by the legislative assembly to be in addition to the annual inflator. In this section, a qualified service provider is a county agency or independent contractor that agrees to meet standards for personal attendant care service as established by the department of human services."

Page 1, line 22, remove the overstrike over "The department shall maintain access to national and state economic change"

Page 1, remove the overstrike over lines 23 and 24

Page 2, line 1, remove the overstrike over "3."

Page 2, line 4, remove the overstrike over "4." and remove "3."

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "using the appropriate"

Page 2, line 19, remove the overstrike over "economic change indices established in subsection 5" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "of the increase in the", after the second overstruck comma insert "Global Insight", and remove the overstrike over "nursing home input price"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "6:" and remove "4."

Page 3, line 20, remove the overstrike over "4" and remove "3"

Page 3, line 26, remove the overstrike over "7:" and remove "5."

Page 3, line 27, remove the overstrike over "4" and remove "3"

Page 4, line 3, remove the overstrike over "8:" and remove "6."

Page 4, line 7, replace "7:" with "9:" and replace "three" with "four"

Page 4, line 31, remove the overstrike over "a percentage amount equal to"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "section 50 24.4 10" and remove "the inflation rate for nursing home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Page 9, after line 4, insert:

"SECTION 12. NURSING HOME, DEVELOPMENTAL DISABILITIES SERVICES PROVIDER, AND QUALIFIED SERVICE PROVIDER OPERATING COSTS - EXCEPTION. Notwithstanding section 50-24.4-10, the department of human services shall inflate nursing home historical costs by 2 percent for the rate year beginning January 1, 2006. Notwithstanding section 1 of this Act, the department of human services shall inflate developmental disabilities service providers historical costs by 2 percent for the rate year beginning July 1, 2005, and by 2 percent for the first six months and in accordance with section 1 of this Act for the remaining six months of the rate year beginning July 1, 2006. Notwithstanding section 1 of this Act, the department of human services shall inflate qualified service providers' payments by 2 percent for the rate year beginning July 1, 2005.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$656,008, or so much of the sum as may be necessary, and from other funds the sum of \$1,110,008, to the department of human services for nursing home inflationary increases in accordance with provisions of House Bill No. 1252, for the biennium beginning July 1, 2005, and ending June 30, 2007. The funding is provided to inflate historical costs by 2 percent for the rate year beginning January 1, 2006, and by 3.92 percent for the rate year beginning January 1, 2007.

SECTION 14. APPROPRIATION. There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of

\$402,612, or so much of the sum as may be necessary, and from other funds the sum of \$676,813, to the department of human services for inflationary increases for developmental disabilities service providers, for the biennium beginning July 1, 2005, and ending June 30, 2007. The funding is provided to inflate historical costs by 2 percent for the rate year beginning July 1, 2005, and by 2 percent for six months and 3.92 percent for six months of the rate year beginning July 1, 2006.

SECTION 15. APPROPRIATION. There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$2,770,554, or so much of the sum as may be necessary, and from other funds the sum of \$5,036,173, to the department of human services for the costs associated with adding funding for increasing the average wage of employees of developmental disabilities service providers by ninety-five cents per hour, forty-seven cents on January 1, 2006, and forty-eight cents on January 1, 2007, for the biennium beginning July 1, 2005, and ending June 30, 2007.

SECTION 16. APPROPRIATION. There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$291,149, or so much of the sum as may be necessary, and from other funds the sum of \$225,437, to the department of human services for the costs associated with increasing payment rates for qualified service providers, for the biennium beginning July 1, 2005, and ending June 30, 2007. The funding is provided to increase payment rates by 2 percent beginning July 1, 2005, and by 3.92 percent beginning July 1, 2006.

SECTION 17. LEGISLATIVE INTENT. It is the intent of the fifty-ninth legislative assembly that the sixtieth legislative assembly review the appropriateness of inflationary increases provided for nursing homes, developmental disabilities service providers, and qualified service providers."

Renumber accordingly

50330.0307
Title.0500

Prepared by the Legislative Council staff for
Representative Delzer
April 19, 2005

**Conference Committee Amendments to Reengrossed HB 1252 (50330.0307) -
04/20/2005**

That the Senate recede from its amendments as printed on pages 1568 and 1569 of the House Journal and pages 847 and 848 of the Senate Journal and that Reengrossed House Bill No. 1252 be amended as follows:

Page 4, line 7, replace "three" with "four"

Renumber accordingly

0307

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number HB 1252 (as (re)engrossed)

Date: 4/20/05

Your Conference Committee Human Services

For the Senate:

For the House:

YES / NO

YES / NO

Sen Lee J.
Sen Frishev
Sen Mathern

✓
✓
✓

Rep Price, Chm
Rep Dehner
Rep Sandberg

✓
✓
✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE) from)

the (Senate/House) amendments on (SJ/HJ) page(s) 1568 - 1569

 , and place on the Seventh order.

✓, adopt (further) amendments as follows, and place HB 1252 on the Seventh order:

 , having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) was placed on the Seventh order of business on the calendar.

DATE: 4/20/05
CARRIER: Rep Price

LC NO. of amendment

LC NO. of engrossment

Emergency clause added or deleted
Statement of purpose of amendment

MOTION MADE BY: Sen Mathern

SECONDED BY: Sen J Lee

VOTE COUNT 4 YES 2 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1252, as reengrossed: Your conference committee (Sens. J. Lee, Fischer, Mathern and Reps. Price, Delzer, Sandvig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1568-1569, adopt amendments as follows, and place HB 1252 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1568 and 1569 of the House Journal and pages 847 and 848 of the Senate Journal and that Reengrossed House Bill No. 1252 be amended as follows:

Page 4, line 7, replace "three" with "four"

Renumber accordingly

Reengrossed HB 1252 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1252

5

Madame Chairman and members of the Human Services Committee. For the record my name is Rep Jeff Delzer, I represent district 8 which is parts of Mclean and Burliegh counties.

1252 is the rate setting bill for nursing home part of long term care. It was introduced by the sponsors at the request of the long term care association. I cannot speak for the Governor's office or the department but I believe they generally concur since the financial support has been included in the governor's proposal for the our budgeting consideration.

On page two, lines 9-21 of the bill is the largest change. That is where the removal of the current percentile rate setting is done and replaces it with a median plus twenty, twenty and ten rate setting process.

On page four of the bill, lines 8 and 9 add language which would require the department to rebase every four years. There are some other changes in the bill which I believe the department and the association can better explain.

Madame Chairman and members of the committee, in general I fully support the aspect of the change from percentile to median plus, however there are a couple of things which I would like to bring to your attention for discussion.

For your information I myself am reluctant to put in code the actual amount of the full reimbursement. If you look at the old language it was a floor which the department could go no lower than. I would ask that you discuss the possibility of doing likewise with the median system. The reason that I think that may be the way we should keep it is because then the level is set by the legislature through the appropriation process, and also, if there is a shortfall, which we hope never happens, then the long term care industry could at the discretion of the department be treated the same as all the other providers.

On Both the rebasing and rate setting issue, I would like to pass on to the committee the knowledge that the Human Resource section of appropriations is looking at how we could do some things differently to better serve the population and make it work with the long term sustainability of our budget. We do not have all the numbers yet but will almost certainly have some concerns, suggestions, and ideas as to how that committee would like to move the process forward.

I believe the repealer has to do with old language about interim rates back when we went to rate equalization back in the late 1980's and early 90's.

With that Madame Chair I will conclude my testimony and let the more knowledgeable from the association and department testify. Thank you for your time and I would be glad to try to answer any question you may have.

Rep Jeff Delzer

(2)

Testimony on HB 1252
House Human Services Committee
January 18, 2005

Chairman Price and members of the House Human Services Committee, thank you for the opportunity to testify on HB 1252. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1252. I'm also pleased to report HB 1012 carriers the necessary appropriation to implement HB 1252.

I am going to provide you with a lot of information today. My goal is have you understand the nursing facility payment system as proposed in HB 1252. In my testimony I will address:

- ★ Nursing facility limits and the median plus system of setting limits.
- ★ Why costs vary between nursing facilities and is there a difference in quality.
- ★ Study results on high cost versus lower cost nursing facilities.
- ★ Why inflationary adjustments are critical.
- ★ Equalized rates.
- ★ Explain "rebasing."

All of the changes in the nursing facility payment system as proposed in HB 1252 are a result of a comprehensive study of the nursing facility payment system. The North Dakota 57th Legislative Assembly passed HB 1196 in 2001. Section 29 of this bill authorized a study of the nursing facility payment system and the states equalized rate policy. The study was to include an evaluation of the existing system and any recommendations for change.

The Department of Human Services awarded a contract of around \$80,000 to Myers and Stauffer to conduct the study. Myers and Stauffer, LC is a nationally based accounting firm, who has worked for Medicaid agencies in over twenty-five states. They specialize in providing accounting, auditing, computer database and consulting services to state Medicaid and other governmental agencies. I've supplied one copy of their comprehensive study to your Vice Chairman to share with you. The report is over 150 pages and I would be happy to e-mail it to any of you.

The changes we are proposing to you are based upon the recommendations of the report. Issues that have been studied by the experts, by an independent third party, knowledgeable on rate setting systems.

Nursing Facility Limits and the Median Plus System

The first major change is on page two, lines 14 through 21. It states the Department shall use the June 30, 2003 cost report as the base year. It further states the limits will be the median rate plus 20% for direct and other direct and the median rate plus 10% for indirect care.

To demonstrate what this means please look at Attachment A. Explain median plus system. Why median plus 20-20-10? It was the recommendation of the department's consultant (page 57 of the report.)

The Governor's Budget - HB 1012 contains the appropriation to convert to the median plus system (\$228,000 general funds) and for rebasing to the 2003 cost report (\$2.9 million general funds).

Before we leave this section I want to share with you a concern I've hear. If you look at the deleted language, you see the limits used today are not set in statute. What is in statute is a floor, the minimum amount the limits can't fall below. There is concern if a crisis would occur in the state and the department would be faced with making cuts to providers, another floor should be set rather than specific funding levels. We understand this concern. Setting a floor in this section could be something like the limits would not fall below the median. If you set a floor, what might be considered is the floor would be the median of the most current cost report. As you can see in Attachment A, we aren't even at the median for indirect.

What happens the years between rebasing? The limits are adjusted by the average of the CPI and Global Insight, Inc. See Attachment B (green), for the history on inflation adjustments on limits and costs. This is outlined on page 3, item 5. The frequency of rebasing is outlined on page 4, number 9. It states rebasing will occur every four years. The department has an amendment for this section. We are supportive of the department's amendments which seeks to clarify the rebasing years. Why rebase every four years? Again a recommendation of the consultant. On page 55 of the report it states:

"We do recommend establishing a maximum number of years between rebasing. We suggest that rebasing occur no less frequently than every four years, with the opportunity to rebase more frequently if spending patterns change significantly."

The remaining section of the bill are housekeeping - taking out old language or adjustment in new terminology. I want to draw your attention to page 6, section 7 - Prohibited Practices. Subsection 1 keeps in place equalization of rates. Nursing facilities are prohibited from charging private paying residents more for similar services. Except for a private room, Medicare and Medicaid determines the rates of all residents. That's why we are so passionate in our lobbying. You, the legislature controls the amount of money available for resident care. If you don't provide the necessary funding, all 6,000 residents could be effected. Staffing, quality of care, rates of deficiency are all affected.

What I'd like to do now is briefly share with you, the bullet points I shared with you at the beginning of my testimony:

- Attachment C - Why Cost Vary Between Nursing Facilities and Does it Make
(Yellow) a Difference?
- Attachment D - Analysis of North Dakota Skilled Nursing Facilities.
(Orange)
- Attachment E - Nursing Facility Limitations as of December 15, 2004
- Attachment F - Quality Measures
(Blue)
- Attachment G - Average Length of Stay

This concludes my testimony. I would be happy to answer any questions.

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

2003 Cost Report Year - Use for Rebasing

	Direct	Other Direct	Indirect
1 Four Seasons Health Care Center, Inc	57.19	10.32	Hillcrest Care Center 26.21
2 Prince of Peace Care Center	57.64	10.57	Marian Manor Healthcare Center 27.29
3 Manorcare Health Services	58.98	10.90	Strasburg Care Center 29.56
4 Mott Good Samaritan Nursing Center	60.64	11.03	Medcenter One Care Center 30.25
5 St. Rose Care Center	60.77	11.09	Shenoyenne Care Center 30.60
6 Oakes Manor Good Samaritan Center	61.50	11.23	Wishek Home for the Aged 31.20
7 St. Benedict's Health Center	62.07	11.54	Pembler Nursing Center 31.53
8 Maple Manor Care Center	62.17	12.30	Medcenter One St. Vincent's Care Center 32.08
9 Benedictine Living Center of Garrison	62.41	12.34	Bethel Lutheran Home 34.00
10 Jacobson Memorial Hospital Care Center	62.87	12.41	Manorcare Health Services 34.04
11 Parkside Lutheran Home	64.10	12.50	Good Shepherd Home 34.21
12 Tioga Medical Center	64.22	12.60	Central Dakota Village 34.63
13 Osnabrock Good Samaritan Center	64.52	12.92	Four Seasons Health Care Center, Inc 35.32
14 Tri-County Nursing Home	64.62	12.98	Lutheran Home of the Good Shepherd 35.45
15 Dunseith Community Nursing Home	64.65	13.01	Golden Acres Manor 35.46
16 Manorcare Health Services	64.68	13.09	Napoleon Care Center 35.97
17 Park River Good Samaritan Center	65.14	13.11	Rosewood on Broadway 35.99
18 Crosby Good Samaritan Center	66.27	13.14	Baptist Home 36.03
19 Lakota Good Samaritan Nursing Home	66.96	13.17	Villa Maria Health Care 36.07
20 Aneta Parkview Health Center	67.63	13.18	Northwood Deaconess Health Center 36.07
21 Nelson County Health System-Care Center	67.82	13.30	Hi-Acres Manor Nursing Center 36.12
22 Hillcrest Care Center	67.89	13.45	St. Aloisius Medical Center 36.13
23 Townner County Medical Center	68.04	13.47	Townner County Medical Center 36.27
24 Good Shepherd Home	68.10	13.69	St. Benedict's Health Center 36.44
25 Golden Acres Manor	68.51	13.72	Medcenter One Golden Manor 36.82
26 Pembler Nursing Center	69.02	13.77	Knife River Care Center 36.87
27 St. Gerard's Nursing Home	70.25	13.79	Manorcare Health Services 36.98
28 Presentation Medical Center	70.27	13.86	Woodside Village 37.09
29 Napoleon Care Center	70.82	13.89	Oakes Manor Good Samaritan Center 37.18
30 Ashley Medical Center	71.11	13.92	Mott Good Samaritan Nursing Center 37.19
31 Arthur Good Samaritan Center	71.33	14.00	Elm Crest Manor 37.31
32 Wedgewood Manor	72.06	14.09	Luther Memorial Home 37.44
33 Hill Top Home of Comfort, Inc.	73.94	14.11	Lutheran Sunset Home 37.54
34 St. Catherine's Living Center	74.20	14.15	Valley Eldercare Center 37.60
35 Souris Valley Care Center	74.25	14.18	Missouri Slope Lutheran Care Center 38.30
36 Knife River Care Center	74.31	14.18	Maple Manor Care Center 38.53
37 North Central Good Samaritan Center	74.70	14.23	Elm Home 38.56
38 Larimore Good Samaritan Center	74.74	14.25	Trinity Homes 38.63
39 Rock View Good Samaritan Center	75.17	14.25	Heartland Care Center 38.78
40 Medcenter One Golden Manor	75.20	14.38	Prairieview Nursing Home 38.83
41 Prairieview Nursing Home	75.58	14.40	Larimore Good Samaritan Center 39.01
42 Southwest Healthcare Services	75.61	14.47	St. Luke's Home 39.06
43 Strasburg Care Center	75.65	14.54	Aneta Parkview Health Center 39.14
44 Marian Manor Healthcare Center	75.69	14.58	Park River Good Samaritan Center 39.26
45 Cooperstown Medical Center	75.87	14.75	Maryhill Manor 39.39
46 Devils Lake Good Samaritan Center	76.09	14.75	Devils Lake Good Samaritan Center 39.49
47 St. Luke's Home	76.18	14.93	St. Gerard's Nursing Home 39.59
48 Wishek Home for the Aged	76.55	14.95	Lakota Good Samaritan Nursing Home 39.61
49 St. Aloisius Medical Center	76.64	14.96	Osnabrock Good Samaritan Center 39.76
50 Lutheran Home of the Good Shepherd	76.74	14.97	Wedgewood Manor 39.77
51 Elm Crest Manor	76.80	15.00	Parkside Lutheran Home 39.77
52 Elm Home	76.98	15.02	Bottineau Good Samaritan Center 39.91
53 Valley Eldercare Center	79.49	15.09	Tioga Medical Center 40.47
54 Villa Maria Health Care	79.56	15.14	Tri-County Nursing Home 40.65
55 Hillsboro Medical Center	79.69	15.16	Southwest Healthcare Services 40.72
56 Mountrail Bethel Home	79.94	15.17	Arthur Good Samaritan Center 40.79
57 Garrison Memorial Hospital	80.02	15.23	Souris Valley Care Center 41.09
58 Shenoyenne Care Center	80.05	15.25	Bethany Home 41.36
59 Bethel Lutheran Home	80.81	15.28	Prince of Peace Care Center 41.79
60 Bethany Home	80.99	15.34	Benedictine Living Center of Garrison 42.32
61 Rosewood on Broadway	81.03	15.41	Rock View Good Samaritan Center 42.47
62 Medcenter One Care Center	82.15	15.45	Ashley Medical Center 42.74
63 Woodside Village	83.20	15.48	Nelson County Health System-Care Center 42.77
64 Medcenter One St. Vincent's Care Center	83.41	15.48	North Central Good Samaritan Center 43.00
65 Missouri Slope Lutheran Care Center	84.27	15.72	Garrison Memorial Hospital 43.35
66 Northwood Deaconess Health Center	84.31	15.78	Hill Top Home of Comfort, Inc. 43.68
67 Luther Memorial Home	84.38	15.81	85th Crosby Good Samaritan Center 43.84
68 Central Dakota Village	84.53	15.93	Dunseith Community Nursing Home 44.02
69 Hi-Acres Manor Nursing Center	84.86	15.99	Mountrail Bethel Home 44.09
70 Westhope Home	84.87	16.00	Presentation Medical Center 44.35
71 Lutheran Sunset Home	86.32	16.04	St. Catherine's Living Center 44.72
72 Bottineau Good Samaritan Center	86.88	16.05	Hillsboro Medical Center 45.02
73 Trinity Homes	88.00	16.18	Westhope Home 45.22
74 Maryhill Manor	88.24	16.50	Heart of America Medical Center 45.73
75 Heartland Care Center	89.10	17.13	Cooperstown Medical Center 47.01
76 Baptist Home	91.23	18.02	St. Rose Care Center 47.70
77 Heart of America Medical Center	91.65	18.33	Jacobson Memorial Hospital Care Center 54.51
78 Kenmare Community Nursing Home	92.50	19.00	North Dakota Veterans Home 66.49
79 North Dakota Veterans Home	94.68	19.79	Kenmare Community Nursing Home 70.98
2004 Limit	87.15	15.27	
2005 Limit	89.81	15.75	38.56
Median plus 202010	90.24	17.28	42.71

Types of Costs:

RN, LPN, CNA's, Therapy, OTC Drugs, Med Supplies

Types of Costs:

Laundry, Social Service, Activities & Food

Types of Costs:

Chaplain, Pharmacy, Plant, Housekeeping, Dietary, Salaries, Med Records, Administrative, Insurance

HISTORY OF INFLATIONARY ADJUSTMENTS FOR NURSING FACILITIES

Year	Limit	Limits and Costs	
		Costs – 18 months	Converted to Yearly
2000	3.1%	3.9%	→ 2.60%
2001	2.69%	3.78%	→ 2.52%
2002	2.94%	3.73%	→ 2.49%
2003	2.26%	2.67%	→ 1.78%
2004	2.53%	3.34%	→ 2.23%
2005	3.17%	4.36%	→ 2.91%

Type of Inflator Used for Nursing Facilities:

DRI: 1990 – 1993

CPI: 1994 – 1997

DRI/CPI: 1998 to Present

HISTORY OF REBASING – NURSING FACILITIES

Frequency of Rebasing	
Cost Reporting Year Ending	For Rate Year Beginning
1987	1990
1992	1994
1996	2000
1999**	2002
2003 (HB 1252)	2006 (HB 1252)
2007 (HB 1252)	2010 (HB 1252)

* Currently limits are established using the 1999 cost report year.

**Today the 1999 cost report is used for setting limits. Sixty-four of seventy-nine facilities or 81% of the nursing facilities are not getting reimbursed for all of their costs in 2005. A total of \$7.4 million in un-reimbursed costs in 2005.

Equalization of Rates

Nursing facilities are the only provider legally subjected to an equalized rate system. State government determines and controls 94% of our income, the federal government or Medicare controls the remaining 6%.

Why Costs Vary Between Nursing Facilities and Does it Make a Difference?

There is great variance in nursing facilities costs regarding direct care spending. For the 2004 rate year, costs vary between \$57.19 per day to \$94.68. The question that was raised during the 2003 Legislative Session was what creates the cost differences and is there a difference in quality between high cost and low cost nursing facilities?

The Association worked with Eide Bailly to identify the reason why costs vary. On the greater question of "quality" the Association worked with Garth Rydland of Woodside Village in Grand Forks. Garth was a master's level student in Health Care Administration and used this topic of quality for his thesis.

Why Costs Vary Between Nursing Facilities:

Costs will fluctuate based on five main issues.

1. Nursing Costs

- a. Rate per hour is impacted by supply, demand and longevity.
- b. Some facilities aggressively adjust wages to attract and retain staff. This includes a number of rural facilities.
- c. Hospital attached nursing facilities tend to have higher RN and LPN wage rates.
- d. The mix of RNs/LPNs impacts nursing wage rates.
- e. CNA wages are impacted by employment alternatives. More options available, the higher the wages tend to be.
- f. The compliment of benefits affects nursing costs.
- g. Facilities that have a corporate office tend to have staffing levels lower than their peers.

2. High turnover of staff.

3. Use of agency staff.

4. Layout of physical plant, number of nursing stations, and air conditioning of plant.

5. Facilities with strong therapy programs have higher costs (PT/OT/Speech).

Results of Quality Study - Variables that are Statistically Related to Quality of Care

This study looked at twenty-one variables as a possible link to quality of care. Of the twenty-one variables studied only three significantly linked to quality of care. Those three variables were, RN staffing, nursing turnover and nursing compensation. The other variables considered and evaluated in the study included:

- Licensed nurse hours/adjusted resident day
- CNA hours/adjusted resident day
- Agency staffing
- Licensed nurse turnover rate
- CNA turnover rate
- Tenure of Director of Nursing
- Tenure of Administrator
- Prevalence of pressure ulcers
- Prevalence of daily physical restraints
- Prevalence of infection
- Prevalence of pain
- Incidence in decline in activities of daily living
- Resident acuity level
- Residents with Medicaid as payment source.
- Ownership type (for-profit or not for-profit)
- Chain affiliation
- Number of occupied beds
- Hospital attached
- Number of surveyors

Three Variables Related to Quality:

1. **Nursing facilities with more RN hours than LPN hours had a better quality of care.** The proportion of RN to LPN hours, not the level of licensed nursing staffing, was the most significant variable in the study. Nursing facilities that staffed more RN hours than LPN hours had about a 50% chance of not receiving a deficiency, while less RN hours than LPN hours resulted in a deficiency 83% of the time.
2. **Nursing facilities with lower licensed staff turnover had a better quality of care.** Higher levels of turnover were associated with lower quality of care; lower levels of turnover were associated with higher quality of care.
3. **Nursing facilities who spent more money on nursing compensation had a better quality of care.**

Conclusion:

For this study period, there is a difference in quality between high cost and low cost facilities. High cost facilities were more likely to have better quality of care survey results. Of the seventy percent of the facilities who received a deficiency, the quality of care survey results improved as the nursing cost per day increased.

**Analysis of High Cost and Low Cost Nursing Facilities
Comparison of Staffing and Survey Characteristics
July 2002 to June 2003**

Area of Measurement	10 Highest Direct Care Cost Per Day	10 Lowest Direct Care Cost Per Day	Average
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STAFFING CHARACTERISTICS

Licensed Nurse Hours	1.61	1.07	1.23
RN Hours	0.72	0.48	0.57
LPN Hours	0.88	0.59	0.66
CNA Hours	3.26	2.48	2.91
Total Nursing Hours	5.05	3.70	4.35

SURVEY RESULTS

Number of Deficiencies	3.9	5.9	4.3
Number of Facilities Receiving "G" Actual Harm Deficiency	0	3	14
Number of Surveyors	4.3	3.7	4.0

**Analysis & report completed by
Garth Rydland, Administrator of Woodside Village in Grand Forks**

ATTACHMENT E

NAME OF HOME	Provider No	No Bed Census	Standards Days	Actual Rate	Other Direct	Indirect	Property	Allowed Rate	Other Direct	Indirect	Percent Occupancy	90.0% Occupancy	Limited Direct	Other Dr	Indirect Limits	Total	Actual versus Allowed Difference	Fiscal Impact of Limits	Total
Amity Medical Center	030188	44	15078	69.76	17.35	45.64	6.42	69.76	15.75	38.65	93.63%						(1.50)	(6.89)	103.887
Alachua Slope Lutheran Care Center	030004	250	90488	91.95	87.13	15.39	39.39	12.42	85.13	19.59	99.41%						(0.74)		66.961
St. Vincent's Nursing Home	030005	101	36823	40.93	85.16	14.87	36.53	22.07	85.13	14.61	99.01%						(2.44)		43.920
Resthaven Healthcare Center, Inc	030055	54	19000	16.56	14.16	41.09	20.27	71.66	14.16	38.55	91.07%								
Golden Acres Manor	030058	50	21038	20.44	73.21	14.48	37.89	10.11	73.21	14.48	93.89%								
Griggs County Nursing Home	030095	58	18230	77.86	13.64	38.54	15.97	77.86	13.64	38.54	92.65%						(15.26)		193.053
Lake Region Lutheran Home	030010	108	36302	37.993	89.59	14.81	39.59	14.81	39.59	14.81	98.54%						(20.86)		261.393
Jacobson Memorial Hospital	030077	25	9051	91.10	15.32	67.53	8.49	75.10	15.32	38.65	98.54%								
Garrison Memorial Hospital	030134	26	9230	82.23	65.05	11.63	37.15	15.75	98.05	11.63	97.54%								
Marian Manor Nursing Home	030067	86	30658	30.85	82.51	15.05	31.77	5.81	82.51	15.05	94.09%						(3.65)		46.541
St. Gerards Nursing Home	030163	37	12751	120.84	74.67	15.36	42.30	4.87	74.67	15.36	94.09%						(3.06)		100.919
Trinity County Retirement & Nursing Home	030148	58	18964	66.74	13.85	43.70	15.28	67.74	13.85	38.65	94.14%								
Hillcrest Care Center	030209	12	4382	46.66	85.41	17.92	60.09	10.78	85.41	15.75	99.77%						(2.17)		9.529
Kennedy Community Nursing Facility	030018	81	27935	25.999	91.76	15.96	41.36	9.98	91.76	15.75	99.77%						(1.82)		23.471
Friendship Healthcare Center	030264	44	14488	13.682	65.16	17.14	40.27	13.63	65.16	14.41	96.66%						(1.39)		20.138
Trinity Nursing Home	030028	292	102235	101.87	81.18	14.41	40.35	12.61	89.91	14.41	96.66%						(1.27)		173.800
Golden Manor Inc.	030106	50	18029	17.162	80.35	14.69	39.32	7.78	80.35	14.69	96.52%						(0.87)		12.079
Straburg Nursing Home	030033	68	24206	21.311	77.84	15.62	32.57	2.76	77.84	15.75	97.25%						(0.07)		1.654
Trope Medical Center	030176	30	10166	99.43	16.85	43.46	6.20	77.03	15.75	38.65	92.59%						(1.10)		11.183
Praviewe Home	030053	90	20719	206.73	78.75	15.50	41.30	4.91	78.75	15.50	94.35%						(2.65)		54.905
Wetmore Home for the Aged	030039	90	31498	26.361	82.50	15.54	33.20	2.63	82.50	15.54	95.62%								
Arleta Parkview Health Center	030112	39	12818	11.956	77.77	14.32	43.08	13.10	77.77	14.32	98.60%						(1.20)		56.784
Arthur Good Samaritan	030058	47	15679	16.575	69.25	16.95	60.91	12.23	69.25	15.75	91.15%						(0.27)		349.015
Baptist Home	030003	141	51002	48.689	98.67	16.02	37.98	5.58	98.67	15.75	98.83%						(4.43)		367.829
Bethesda Good Samaritan Center	030118	81	27935	25.999	91.76	15.96	41.36	9.98	91.76	15.75	98.83%						(2.71)		75.704
Sunrise Care Corporation	030066	62	22068	21.425	82.56	13.84	42.83	18.05	82.56	13.84	94.23%						(4.18)		92.202
Westwood Manor	030194	60	21125	21.522	16.47	13.94	44.82	7.56	72.05	13.84	96.20%						(6.17)		130.341
Proday Good Samaritan Center	030122	52	20436	71.73	13.29	47.34	5.62	71.73	13.29	38.65	91.29%						(8.69)		180.022
Orlando Lake Good Samaritan Center	030115	172	26211	26.221	13.86	42.85	5.82	78.00	13.86	38.65	94.66%						(4.00)		104.852
St. Luke's Home	030091	64	26197	81.07	15.32	35.76	6.96	87.02	15.32	35.76	92.45%						(2.63)		74.529
Dunell Community Nursing Home	030051	42	13904	15.109	16.36	44.65	5.53	81.27	15.75	38.65	92.67%						(6.00)		170.940
Prince of Peace Episcopal	030012	64	20984	60.81	10.94	48.62	8.34	54.39	14.84	38.65	83.29%						(6.17)		79.001
Endline Health Manor	030108	54	18021	17.463	84.06	13.77	43.35	10.33	84.06	10.31	89.16%						(0.21)		4.386
Bethany Home	030051	102	68675	69.15	14.94	43.75	10.53	86.17	13.77	38.65	91.16%						(3.38)		61.091
Elm Home	030051	136	47767	59.696	83.40	19.23	41.02	7.83	83.40	15.75	94.35%						(5.10)		351.773
Rosewood on Broadway	030015	108	36756	40.02	82.55	18.01	39.19	27.00	82.55	15.75	94.35%						(0.54)		113.208
Villa Maria	030086	138	47911	50.033	84.10	17.81	37.54	10.87	84.10	15.75	91.65%						(1.51)		166.229
Sequent Manor Health Care Center	030224	35	11001	107.03	55.00	12.14	40.16	10.19	55.00	12.14	95.42%						(0.86)		9.453
Benedictine Living Center Garrison	030247	63	22003	20.815	63.84	16.61	40.30	9.27	63.84	15.75	95.42%						(0.07)		2.757
Lutheran Living Center	030016	113	39388	37.008	88.25	15.02	39.76	5.37	88.25	15.75	98.20%						(0.15)		7.637
Central Dakota Village	030020	100	35942	37.070	84.02	15.03	37.45	25.91	84.02	15.03	97.98%						(0.37)		54.926
Hi-Across Manor Nursing Center	030021	142	50914	53.002	89.85	14.55	38.60	10.26	89.85	14.55	98.38%						(1.59)		54.926
Lakota Good Samaritan Center	030097	54	17661	16.927	68.14	12.88	41.76	13.77	68.14	12.88	98.38%						(2.44)		23.856
Lakota Healthcare Center	030119	50	16763	16.976	66.93	10.34	40.24	5.97	66.93	10.34	98.64%						(4.54)		96.089
Maple Manor Nursing Home	030083	63	22975	23.960	66.93	13.36	41.09	6.88	66.93	13.36	95.77%						(5.16)		78.374
Larimore Good Samaritan Center	030113	425	15774	144.28	74.81	13.27	33.12	10.31	74.81	13.27	99.09%						(0.37)		109.294
Medcenter One Care Center	030288	120	43317	43.121	90.11	15.18	32.12	4.84	90.11	15.18	99.09%						(0.34)		6.890
Luther Memorial Home	030024	99	33069	30.673	89.24	14.15	41.02	7.30	89.24	14.15	91.27%						(2.82)		71.614
North Central Good Samaritan Center	030173	61	21181	20.714	72.28	13.28	43.81	7.84	72.28	13.28	94.67%						(5.16)		8.674
North Central Good Samaritan Center	030142	54	18622	17.310	63.04	11.91	39.02	5.52	63.04	11.91	94.22%						(0.37)		109.294
Maple Good Samaritan Nursing Center	030114	54	15113	13.511	73.04	13.04	38.99	8.06	73.04	13.04	98.65%						(0.34)		6.890
North Central Good Samaritan Center	030029	80	26893	26.489	87.37	16.34	41.47	8.73	87.37	15.75	97.16%						(0.59)		5.138
Elm Crest Manor	030116	61	21693	18.320	82.15	15.18	35.58	6.14	82.15	15.18	97.16%						(2.82)		75.717
Northwood Deaconess Home	030031	77	27057	25.005	92.41	15.75	41.38	15.16	89.91	15.75	96.01%						(1.00)		73.866
Oakdale Good Samaritan Center	030024	102	34316	31.902	67.91	12.12	38.07	7.31	67.91	12.12	91.92%						(2.73)		27.057
Onabrook Good Samaritan Center	030117	31	11552	10.687	64.70	13.91	44.95	5.14	64.70	13.91	96.17%						(6.30)		70.888
Park River Good Samaritan Center	030154	80	28070	27.417	67.45	15.66	39.48	5.44	67.45	15.66	95.87%						(0.84)		23.579
Rock View Good Samaritan Center	030155	42	14011	14.966	79.13	16.09	52.82	8.20	79.13	15.75	91.15%						(14.17)		198.536
Mountain Laurel Home	030032	37	20543	18.275	80.59	13.97	44.66	8.69	80.59	13.97	98.47%						(6.01)		123.463
Shenandoah Care Center	030216	154	55878	55.878	12.92	12.07	91.69	14.94	31.52	12.86	99.41%						(5.15)		90.063
St. Catherine's Health Center	030016	132	37761	37.761	12.92	43.80	6.25	72.02	12.86	38.65	95.50%						(8.06)		304.753
Penitentiary Nursing Center	030033	41	14586	12.649	67.43	12.83	32.76	2.19	67.43	12.83	97.27%								
Good Shepherd Home	030036	47	17070	17.093	69.05	16.36	34.09	3.99	69.05	15.75	99.23%						(0.61)		10.413

NAME OF HOME	Provider No.	No. Beds Census	Standard Days	Actual Rate Direct	Other Direct	Indirect	Allowed Rate Property	Other Direct	Indirect	Percent Occupancy	90.0% Occupancy	Limited Direct	Other Dir Indirect	Actual versus Allowed Difference Direct	Other Dir Indirect	Fiscal Impact of Limits Direct	Other Direct Indirect	Total
Washburn Home	030037	32	11176	10018	56 90	17 85	45 80	6 78	66 90	15 75	38 65	85 42%						103 378
Bethel Lutheran Home	030038	168	57620	53937	78 63	15 96	35 42	14 27	78 63	15 75	35 42	83 71%						12 100
Menor Care Health Services Fargo	030013	109	35573	39462	66 43	12 19	40 81	7 70	66 43	12 19	38 65	89 17%						80 395
Menor Care Health Services Minot	030028	108	39238	41322	61 08	11 24	36 70	6 54	61 08	11 24	38 65	89 59%						
Wells River Care Center	030002	85	28175	30612	77 56	15 10	38 37	4 83	77 56	15 10	38 65	89 78%						
Heart of America Nursing Facility	030135	80	25139	24683	81 86	18 97	48 29	7 52	89 91	15 75	38 65	89 80%						
St. Anthony's Home	030109	40	14399	13114	69 98	14 18	39 78	10 48	69 98	15 75	38 65	89 35%						
Perskold Lutheran Home	030137	48	15398	17068	70 54	16 67	38 98	4 72	70 54	15 75	38 65	87 65%						
St. Anthony's Center	030128	106	34328	33701	79 86	14 67	40 24	5 63	79 86	15 75	38 65	88 48%						
St. Anthony's Nursing Home	030019	48	16290	14940	85 32	16 97	47 88	5 71	85 32	15 75	38 65	89 73%						
Valley Elder Care Center	030017	160	57696	64004	76 49	18 28	36 44	16 64	76 49	15 75	38 65	89 07%						
Valley Memorial North	030021	118	42787	42353	82 42	15 59	43 59	15 16	82 42	15 59	38 65	98 65%						
Hill Top Home of Comfort, Inc.	030271	50	17895	18747	82 76	19 36	62 62	9 77	82 76	15 75	38 65	98 92%						
North Dakota Veterans Home	030293	38	13758	13668	96 46	19 36	62 62	9 77	96 46	15 75	38 65	94 64%						
Totals		6378	2203296	2176879														

Sixty-four (64) of seventy-nine (79) nursing facilities exceed at least one limit, eighty-one percent (81%)

QUALITY MEASURES - CHARACTERISTICS OF NURSING HOME RESIDENTS

North Dakota and United States Comparative

Measure	North Dakota's Rate	North Dakota's Rank	National Average	National Range	
				Worst Rate	Best Rate
Percent of short stay residents with delirium	3.14%	30 th	2.94%	5.51%	0.00%
Percent of short stay residents with delirium with an additional level of risk adjustment (FAP)	2.33%	9 th	2.77%	4.27%	0.00%
Percent of short stay residents who walk as well or better on day 14 as on day 5 of their stay*	27.97%	40 th	29.36%	19.58%	54.07%
Percent of short stay residents who had moderate to severe pain	28.05%	42 nd	21.98%	51.02%	4.00%
Percent of residents who have moderate to severe pain	6.90%	28 th	6.78%	12.47%	2.40%
Percent of residents whose need for help with daily activities has increased	18.43%	41 st	16.20%	25.01%	10.33%
Percent of residents with infections	12.69%	**	**	**	**
Percent of residents who were physically restrained	2.69%	4 th	7.62%	17.11%	1.50%
Percent of residents with pressure sores	5.76%	3 rd	9.02%	13.78%	5.37%
Percent of residents with pressure sores with an additional level of risk adjustment (FAP)	7.11%	5 th	9.49%	12.77%	6.53%
Composite of all 10 measures	15.91%	15 th	16.38%	19.72%	13.42%

*This is the only measure where a higher rate is better.

**National comparisons are inappropriate due to variation between states on how they collected infection data.

Short Stay Measures: 10/01/03 - 03/31/04

All Other Measures: 01/01/04 - 03/31/04

★ — WHAT ARE NURSING HOME QUALITY MEASURES? — ★

Definitions of Quality Measures:

Delirium:

Delirium is severe confusion and rapid changes in brain function. Symptoms may appear suddenly, from a variety of causes. Delirium is not dementia, senility or a part of normal aging. Delirium is a serious condition requiring medical attention.

Walking Improvement:

Improved walking is an increase in a resident's ability to walk with little help or no help at all. Residents who stay in a nursing home for a short time are generally expected to maintain or improve their ability to walk.

Moderate to Severe Pain:

The percentage of residents reported to have very bad pain at any time, or moderate pain every day, in the seven days prior to the assessment. Generally, a lower percentage on this measure is better. Two nursing homes could provide the same quality of care and have the same number of residents with pain. However, if one of the nursing homes does a better job checking the residents for pain, they could have a higher percentage on this measure. In this example, although the percentage for one nursing home is higher, it does not mean they are not providing good care.

Loss of Ability in Basic Daily Tasks:

This quality measure shows the percentage of residents whose need for help doing basic daily tasks has increased. Basic tasks such as feeding oneself, moving from one chair to another, changing positions while in bed and going to the bathroom alone. Sudden or rapid loss of one or more of these basic daily tasks could mean the residents needs medical attention. Some residents will lose function in their basic daily activities even though the nursing home provides good care.

Infections:

Examples of infection are pneumonia, wound infection and urinary tract infection. Certain types of infection can be prevented by shots (immunization like flu or pneumonia) and other by care by nursing home staff.

Physical Restraints:

A physical restraint is any device, material, or equipment that keeps a residents from moving freely. Restraints should only be used when they are necessary as part of the treatment of a resident's medical condition. Only a doctor can order a restraint.

Pressure Sores:

A pressure sore is a skin wound. Pressure sores usually develop on bony parts of the body such as the tailbone, hip, ankle, or heel. They are usually caused by constant pressure on one part of the skin.

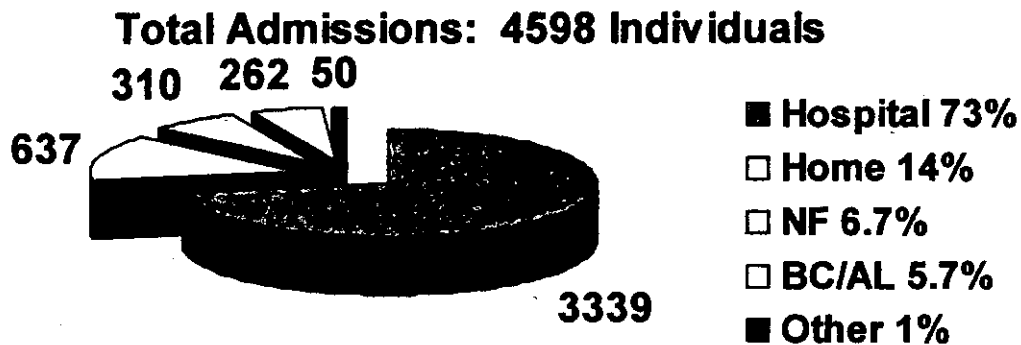
Results of Survey on Average Length of Stay for 12 month period ending June 30, 2004.

80 of 80 nursing facilities reporting (100% return rate)

- Average Length of Stay: 96 days.
- Range of Average Length of Stay: 16 days to 210 days.

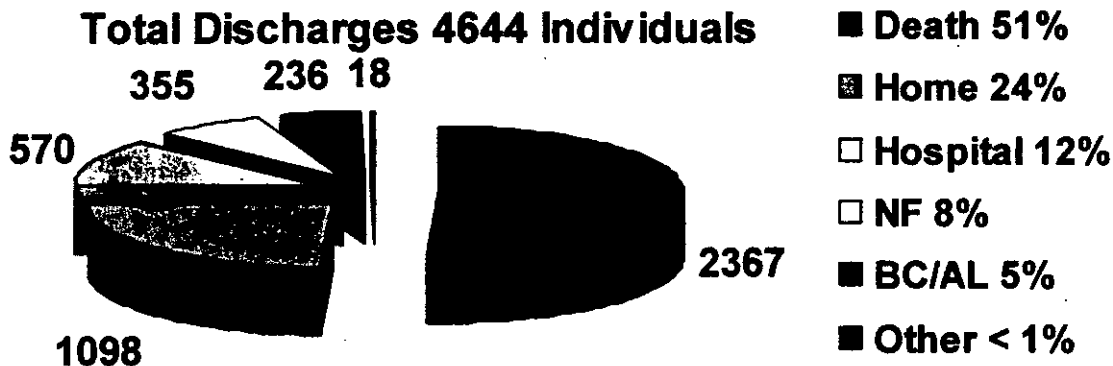
Admissions

Where Admissions Came From:



Discharges

Discharge Destination:



3

Testimony on HB 1252
Celeste Kubasta
Office of Management and Budget
January 18, 2005

Good morning, Madam Chair and members of the House Human Services Committee.

For the record, my name is Celeste Kubasta and I am the budget analyst for Human Services in the ND Office of Management and Budget.

I am here today in support of rebasing and the limits of median plus 20 percent for direct care, median plus 20 percent for other direct care, and median plus 10 percent for indirect care for nursing facility costs as described in section 4 of House bill 1252.

As you are aware, the Governor's executive recommendation includes the fiscal effects of these changes. The \$8,772,750 provided for 2005-07 includes general funds of \$3,144,435 and federal title XIX funds of \$5,638,315.

Representatives from the Department of Human Services are here today to explain the technical calculations in the bill. I would be happy to answer any question you may have.

4

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

REGARDING HB 1252

JANUARY 18, 2005

Chairman Price and members of the committee, I am Barbara Fischer, Manager Long Term Care and Hospital Services, with the Department of Human Services. I appear before you today to provide information on HB 1252.

This bill amends certain ratesetting provisions for nursing facilities. Chapter 50-24.4 was enacted in 1987 to establish a case-mix rate equalization payment system for nursing facilities. Throughout the years different provisions have been amended while maintaining the case-mix rate equalization concept.

There are two provisions in this bill that actually change the nursing facility ratesetting calculations. Other amendments included in the bill are cleanup amendments, and have no impact on ratesetting. I will not be addressing these in my testimony.

Subsection 4 on page 2, would change the methodology used to establish limits to a median, plus a fixed percentage for each of the cost categories. This is a major change since the existing language establishes the floor at the 60th percentile. Currently, the Department cannot establish limits that fall below that established floor. The new language would specifically define at what level the limits must be established, and would eliminate any flexibility the Department currently has to alter the limits used to establish rates for nursing facilities.

The governor's budget for nursing facility payments does include a change in the calculation of the limits to the median plus 20/20/10, based on the cost report year ending June 30, 2003 that can be done under the existing language. The amendment would make the median plus 20/20/10 limitation calculation the permanent mechanism for establishing limits, and would allow for no flexibility in the ratesetting system. Currently the only flexibility in nursing facility ratesetting that can significantly impact the Department's budget is where the limits are set. The other major components of ratesetting, the cost report period for allowable costs, the operating margin, the incentive, and inflation factors are required by this chapter. Without some flexibility in nursing facility ratesetting there is no avenue available to deal with changes in the economy, or utilization that may require cost saving measures during the interim between sessions. The Department experienced such a situation during the 2001-2003 biennium.

We do support the concept of using the median plus as a mechanism to establish limits, since it bases the limitations on average cost plus rather than using the percentile basis, that guarantees that some providers will have costs that exceed the established limits. We do, however, believe that the statute should identify the lowest point below which no limits could be set, rather than identifying the percentages included in the Myers and Stauffer 2002 study recommendation to change from the percentile method to a median plus method. That recommendation also stated "the recommendation also allows for this suggested median plus level to be reduced or raised in proportion to our suggested limit levels to fit within the Medicaid funding limitations."

Section 9 on page 4 provides that rebasing of the limits will occur every 4 years, which was the minimum recommended by Myers and Stauffer in the 2002 study of North Dakota's nursing facility ratesetting processes.

Nursing facility limits were rebased January 1, 1994 using the 1992 cost report; January 1, 2000 using the June 30, 1996 cost report; and January 1, 2002 using the June 30, 1999 cost report. The governor's budget includes rebasing when determining the median plus using the June 30, 2003 cost report for the rates effective January 1, 2006. The rebasing in 1994 and the proposed Executive Budget for the next biennium was not legislatively initiated, whereas the rebasing in 2000 and 2002 was a direct result of legislation. The inclusion of a 4 year rebasing requirement will not allow for this type of flexibility in future years.

Both section 4 and section 9 make reference to certain cost report years. To ensure there is no misunderstanding in the future as to which rate year any limits established or reestablished under this bill are to be applied, we suggest including language to identify the rate years that would be effected by using June 30, 2003 and June 30, 2007 as base periods. I have attached some suggested language that would identify the rate years.

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

Respectfully submitted,
Barbara Fischer
Medical Services Division
Department of Human Services
701-328-4578

~~*~~ HB 1252

Suggested language regarding base period and rate year dates

~~*~~ Page 2, line 14

Delete "The" and replace with "For the rate year beginning January 1, 2006, the"

Page 4, delete lines 8 and 9 and replace with:

- ~~X~~ 9. For the rate year beginning January 1, 2010 and every four years thereafter, the department shall establish limits using a new base period. The first cost report year to be used as a new base period shall be the cost report year ending June 30, 2007.

Testimony on HB 1252
House Appropriations Committee - Human Resources Division
February 3, 2005

Chairman Delzer and members of the House Appropriations Committee - Human Resources Division, thank you for the opportunity to testify on HB 1252. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1252. It's a pleasure to testify on HB 1252. The appropriation in HB 1012 carries the necessary funding to implement HB 1252. I am not here to ask you to provide any additional funding.

I am going to provide you with a lot of information today. My goal is have you understand the nursing facility payment system as proposed in HB 1252. In my testimony I will address:

- ★ Nursing facility limits and the median plus system of setting limits.
- ★ Why costs vary between nursing facilities and is there a difference in quality.
- ★ Study results on high cost versus lower cost nursing facilities.
- ★ Why inflationary adjustments are critical.
- ★ Equalized rates.
- ★ Explain "rebasing."

All of the changes in the nursing facility payment system as proposed in HB 1252 are a result of a comprehensive study of the nursing facility payment system. The North Dakota 57th Legislative Assembly passed HB 1196 in 2001. Section 29 of this bill authorized a study of the nursing facility payment system and the states equalized rate policy. The study was to include an evaluation of the existing system and any recommendations for change.

The Department of Human Services awarded a contract of around \$80,000 to Myers and Stauffer to conduct the study. Myers and Stauffer, LC is a nationally based accounting firm, who has worked for Medicaid agencies in over twenty-five states. They specialize in providing accounting, auditing, computer database and consulting services to state Medicaid and other governmental agencies. I've supplied one copy of their comprehensive study to your Chairman to share with you. The report is over 150 pages and I would be happy to e-mail it to any of you.

The changes we are proposing to you are based upon the recommendations of the report. Issues that have been studied by the experts, by an independent third party, knowledgeable on rate setting systems.

Nursing Facility Limits and the Median Plus System

The first major change is on page two, lines 14 through 21. It states the Department shall use the June 30, 2003 cost report as the base year. It further states the limits may not fall below the median of the most recent cost report.

To demonstrate what this means please look at Attachment A. In the original legislation we proposed to establish the new limits of median plus 20/20/10 in statute, rather than set a floor. A point that the limits could not fall below. The median plus 20/20/10 was the recommendation of the independent consultant employed by the department. The median plus 20/20/10 is what is funded in HB 1012, what is supported by the Governor, the department and by the professionals caring for residents and operating long term care facilities.

We recognize that putting the limits in statute might be difficult for the department should a funding crisis occur and across the board cuts need to occur. We are comfortable with the "floor" being set in statute and our need to work with you to determine the appropriate level of funding for nursing facility residents. The "floor" states the rates could not fall below the median. Every legislative session, since I've been in this position, legislators have provided adequate funding for nursing facility residents. I'm comfortable you will continue to do so and that we need to justify to you how those funds are spent.

HB 1012 contains the appropriation to convert to the median plus system (\$228,000 general funds) and for rebasing to the 2003 cost report (\$2.9 million general funds).

What is rebasing? Today our limits, the maximum we can get paid is established based upon our June 30, 1999 cost report. 1999 was six years ago. Rebasing means selecting a more current year to base limits on. HB 1252 provides that limits will now be based upon the June 30, 2003 cost report. This legislation also outlines the frequency of rebasing (Page 4). It states rebasing will occur at least every four years. Why rebase at least every four years? It was the recommendation of the consultant:

"We do recommend establishing a maximum number of years between rebasing. We suggest that rebasing occur no less frequently than every four years, with the opportunity to rebase more frequently if spending patterns change significantly."

What happens between the years when we don't have rebasing? Limits are adjusted by the average of CPI and Global Insight (formally DRI). See Attachment B for a history on inflationary adjustments.

There was a question raised on our general and professional liability insurance increases. See Attachment C for testimony on this issue before an interim committee. I was hopeful to bring you detailed information from the major insurer of nursing facilities, Guide One. I was only able to get general information. They indicated the cost for insurance was on average \$100 per bed in 1999 and in 2004 probably averaged \$375 to \$400 per bed. Claims during this period of time were minimal. Please see Bethany Homes, A Guide One client. During this period of increase, Bethany Homes has not paid out any claims.

The remaining sections of the bill are housekeeping - taking out old language or adjustment in new terminology. I want to draw your attention to page 6, section 7 - Prohibited Practices. Subsection 1 keeps in place equalization of rates. Nursing facilities are prohibited from charging private paying residents more for similar services. Except for a private room, Medicare and Medicaid determines the rates of all residents. That's why we are so passionate in our lobbying. You, the legislature controls the amount of money available for resident care. Nursing facility revenue is government controlled costs are not. Nursing facilities cannot raise tuition, increase fees, raise prices or increase mill levies. Nursing facility rates are strictly controlled by state government and government is the only entity that can increase revenue for nursing facilities. Nursing facilities are the only provider mandated in North Dakota Statute to have Equalization of Rates. North Dakota is only the second state in the nation to have Equalization of Rates.

What I'd like to do now is briefly share with you, the bullet points I shared with you at the beginning of my testimony:

- Attachment D - Why Cost Vary Between Nursing Facilities and Does it Make
(Yellow) a Difference?
- Attachment E - Analysis of North Dakota Skilled Nursing Facilities.
(Orange)
- Attachment F - Impact of Nursing Facility Limitations for 2005
- Attachment G - Quality Measures
(Blue)
- Attachment H - Average Length of Stay

This concludes my testimony. I would be happy to answer any questions.

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

Budget Committee on Health Care
January 20, 2004

Chairman Lee and members of the committee. I am Shelly Peterson, President of the North Dakota Long Term Care Association. Thank you for the invitation to testify before you on two issues:

1. Insurance carriers who provide general liability insurance coverage for nursing facilities; and
2. A summary of legislation passed by states regarding the nursing home survey process.

General Liability Insurance Coverage:

We recently surveyed our members to gather information regarding their general liability insurance carrier and premium costs. Prior to this survey, members voiced great concern about the cost of coverage and access to affordable options. Most members reported over 100% increase in their insurance premiums in 2002 alone.

One method to control premium costs was to increase the size of deductibles, the first dollars paid out in a claim. Long term care facilities with Guide One (the major insurer in North Dakota) do not have a deductible. Other insurance carriers generally have deductibles, some of them quite high.

Two major nursing facility providers have formed their own captives. A captive is an insurance company formed to insure the risks of its parent entity, essentially a form of self-insurance. This type of insurance is sought when it's difficult to purchase traditional insurance on the commercial market. North Dakota statute does not permit the establishment of a North Dakota captive company. North Dakota does recognize and license foreign captives. The foreign captive company must be licensed in North Dakota as an insurance company under title 26.1 to sell insurance in North Dakota. The two entities to form captives are the Good Samaritan Society of Sioux Falls, South Dakota, the largest not-for profit nursing home provider in the United States and Benedictine Living Communities, a Minnesota based non-profit corporation. The Good Samaritan Society formed their captive in 2001 and the Benedictine Living Communities formed their captive in 2003.

In March 2004 we have been told Uniter, an underwriting management corporation will be making available a long term care risk retention group in North Dakota. This Georgia based company hopes to bring another option for general and professional liability to the long term care community of North Dakota. See Appendix D, handout developed by the North Dakota State Insurance Department describing captives and risk retention groups.

Not considering the facilities covered by a captive, the vast majority of nursing facilities receive their coverage through Guide One. In 2001, Guide One dropped all for profits.

The few for profit nursing facilities operating in North Dakota utilize either: C.N.A. Health Pro or Accord/Arch Specialty Insurance. Basic care and assisted living facilities have also found insurance through: Lexington Insurance, Church Mutual, Philadelphia Insurance Company or Catholic Mutual Relief Society of America.

Premium Per Bed for General and Professional Liability Insurance

	BC/AL Bed	Range for BC/AL Premium	NF Bed	Range for NF Premium
Not For Profit	\$208.35 (n=10)	\$91.77 - \$471.70	\$412.97 (n=35)	\$178.88 - \$626.58
For Profit	\$360.37 (n=2)	\$283.53 - \$564.00	\$518.79 (n=4)	\$315.74 - \$755.75
Captives (all serving non- profits)	\$324.23 (n=4)	\$163.39 - \$1,092.73	\$405.50 (n=18)	\$334.58 - \$705.66

The costs identified in the chart above include general and professional liability insurance, including the cost of the umbrella coverage.

A significant problem compounding this issue is the nursing facility payment system. Sixty percent (47 of 79) of the nursing facilities are not getting this increased premium recognized in their rates. Nursing facility limits are based upon cost reports filed in 1999, and minimal inflated for the past five years. With general liability costs increasing 100% in one year, minimum inflation adjustments will never catch up with the cost of doing business. For nursing homes to get their general liability costs paid, the limits will need to be updated.

In summary, long term care providers currently obtain general liability coverage through:

1. Forming their own captive (22)
2. Guide One (49)
3. C.N.A. Health Pro (6)
4. Accord/Arch Specialty Insurance (4)
5. Lexington Insurance (2)
6. Church Mutual (2)
7. Philadelphia Insurance Company (1)
8. Catholic Mutual Relief Society of America (1)

**North Dakota Department of Human Services
Long Term Care Continuum
Nursing Homes 2005-2007 Budget**

	Beds	Total	Federal	State
Hospice	37	4,079,503	1,433,554	2,645,949
Nursing Homes	3594	344,698,020	121,156,778	223,541,242
Total	3631	348,777,523	122,590,332	226,187,191

	August-06	February-06	February-07
Average Price	122.65	131.86	139.23
Hospice Price	141.97	151.52	159.11

Nursing Home - Cost of Rebasing and Change to Median Plus 20/20/10

	Total	General	Federal
Nursing Home Need (Before Rebasing and 20/20/10)	340,004,773	119,445,897	220,558,876
Cost of Rebasing at 99/85/75	8,138,633	2,916,375	5,222,258
Subtotal	348,143,406	122,362,272	225,781,134
Cost of Changing Limits to Median Plus 20/20/10	634,117	228,060	406,057
Total Nursing Home Budget to OMB	348,777,523	122,590,332	226,187,191

	Total	General	Federal
Nursing Home Need (Before Rebasing and 18/18/10)	340,004,773	119,445,897	220,558,876
Cost of Rebasing at 99/85/75	8,138,633	2,916,375	5,222,258
Subtotal	348,143,406	122,362,272	225,781,134
Cost of Changing Limits to Median Plus 18/18/10	19,279	7,788	11,491
Total Nursing Home	348,162,685	122,370,060	225,792,625

Variance	(614,838)	(220,272)	(394,566)
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Nursing Home Need (Before Rebasing and 15/15/10)	340,004,773	119,445,897	220,558,876
Cost of Rebasing at 99/85/75	8,138,633	2,916,375	5,222,258
Subtotal	348,143,406	122,362,272	225,781,134
Cost of Changing Limits to Median Plus 15/15/10	(1,373,607)	(489,287)	(884,320)
Total Nursing Home	346,769,799	121,872,985	224,896,814

Variance	(2,007,724)	(717,347)	(1,290,377)
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Fiscal Impact of Rebasing using 6/30/06 vs 6/30/07

	07/09	09/11
Rebase 6/30/06	1,681,787	9,598,533
Rebase 6/30/07	-	9,517,348
Net impact of rebasing 6/30/06 vs 6/30/07		\$1,762,972 Total Funds

Fiscal Impact of limiting inflation to 2%/2%

07/09	09/11
(5,481,218)	(8,025,912)

**Fiscal Impact of Rebasing using 6/30/06 vs 6/30/07
with inflation limited to 2%**

	07/09	09/11
Rebase 6/30/06	1,982,360	11,487,220
Rebase 6/30/07	-	11,029,888
Net impact of rebasing 6/30/06 vs 6/30/07 with 2%		\$2,439,692 Total Funds

Testimony on HB 1252
Senate Appropriations Committee
March 22, 2005

Chairman Holmberg and members of the Senate Appropriations Committee, thank you for the opportunity to testify on HB 1252. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1252. HB 1252 revamps the Nursing Facility Payment System.

In my testimony I will address:

- ★ Nursing facility limits, the median plus system of setting limits and rebasing.
- ★ Why costs vary between nursing facilities.
- ★ Study results on high cost versus lower cost nursing facilities.
- ★ Why inflationary adjustments are critical.
- ★ Equalized rates.

All of the changes in the nursing facility payment system as proposed in HB 1252 are a result of a comprehensive study of the nursing facility payment system. The North Dakota 57th Legislative Assembly passed HB 1196 in 2001. This bill authorized a study of the nursing facility payment system and the states equalized rate policy. The study was to include an evaluation of the existing system and any recommendations for change.

The Department of Human Services awarded a contract of just over \$80,000 to Myers and Stauffer to conduct the study. Myers and Stauffer, LC is a nationally based accounting firm, who has worked for Medicaid agencies in over twenty-five states. They specialize in providing accounting, auditing, computer database and consulting services to state Medicaid and other governmental agencies. I've supplied one copy of their comprehensive study to Senator Fischer Chairman of the Sub-Committee on HB 1012. The report is over 150 pages and I would be happy to e-mail it to any of you.

The changes we are proposing to you are based upon the recommendations of the report. Issues that have been studied by the experts, by an independent third party, knowledgeable on rate setting systems.

Nursing Facility Limits and the Median Plus System

The first major change is on page two, lines 14 through 17. It states the Department shall use the June 30, 2003 cost report as the base year. It further states the limits may not fall below the median of the cost report used for the base period.

To demonstrate what this means please look at Attachment A.

HB 1012 contains the appropriation to convert to the median plus system (\$228,000 general funds) and for rebasing to the 2003 cost report (\$2.9 million general funds).

Rebasing

What is rebasing? Today our limits, the maximum we can get paid is established based upon our June 30, 1999 cost report. 1999 was six years ago. Rebasing means selecting a more current year to base limits on. HB 1252 provides that limits will now be based upon the June 30, 2003 cost report. This legislation also outlines the frequency of rebasing (Page 4). It states rebasing will occur at least every four years. The independent consultants recommended:

"We do recommend establishing a maximum number of years between rebasing. We suggest that rebasing occur no less frequently than every four years, with the opportunity to rebase more frequently if spending patterns change significantly."

Attachment B - Fiscal Impact of Limits

History of Inflationary Adjustment:

What happens between the years when we don't have rebasing? Today limits are adjusted by the average of CPI and Global Insight (formally DRI). See Attachment C for a history on inflationary adjustments.

Attachments B & C show even though you've provided an average of DRI/CPI since 1998, costs are escalating beyond that.

Annual inflationary adjustments on limits and rates is an important feature of the payment system. Although government controls our income, costs are most often difficult to control. See Attachment D for the MedCenter One Product Price Comparison; and Attachment E regarding Bethany Homes and their increase in general and professional liability insurance. Going down to just a CPI inflationary adjustment will be very difficult. It would be manageable if we could simply tell our suppliers what we are willing to pay for their product or service, but it's not that easy. Nursing facilities try to implement cost controlling practices, but many cost increases are outside their scope of authority. To attract and retain staff, we need to offer competitive salary and benefit packages. Approximately 75% of a nursing facilities budget is staffing.

The House appropriated a 2% annual inflator adjustment on rates. This means that after you pay all "mandatory" cost increases, you may have enough left over for a 1%, maybe 1.5%, salary increase.

Equalization of Rates

Today, Medicaid is in control of 95% of a nursing facilities revenue and Medicare, the federal government, controls the other 5%. Nursing facilities are the only business in North Dakota and the second one in the nation to be subjective to such government rate setting controls. DD community providers are very similar to nursing facilities, 99% of their clients are Medicaid, thus Medicaid controls their income in the same manner.

Medicare and Medicaid determines the rates of all residents. That's why we are so passionate in our lobbying. You, the legislature controls the amount of money available for resident care. You are the only entity that can increase revenue for nursing facilities.

State Budget Actions are Dramatic - Causing "Five" Times the Damage

The \$1.75 million dollar general fund reduction in the inflator by the House translates into a \$8.75 million dollar reduction. This state general fund reduction is dramatic, causing five times the damage. For every dollar taken away from nursing homes rates, the impact is \$5 because of the lost federal match and private pay reduction. A \$1.75 million dollar general fund reduction results in additional losses of \$3.2 million dollars in federal funds and \$3.8 million dollars in private pay. Total impact of \$8.75 million! \$8.75 million that could never make it to the community and residents cared for in North Dakota.

What I'd like to do now is briefly share with you, the bullet points I shared with you at the beginning of my testimony:

- Attachment A - 2003 Cost Report Year - Use for Rebasing
- Attachment B - Fiscal Impact of Limits for 2005
- Attachment C - History of Inflationary Adjustments on Costs
- Attachment D - MedCenter One Product Price Comparisons
- Attachment E - Bethany Homes Data
- Attachment F (Yellow) - Why Cost Vary Between Nursing Facilities and Does it Make a Difference?
- Attachment G (Orange) - Analysis of high cost vs. low cost Nursing Facilities.

- Attachment H - Average Length of Stay
- Attachment I - Quality Measures
(Blue)
- Attachment J - Nursing Facility Payment System
- Attachment K - Map of North Dakota Nursing Facilities

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

Senator Tim Mathern,

April 14, 2005

Provider Tax Revenue:

In July 2003 North Dakota imposed a "Provider Assessment" on all licensed ICF/MR beds in North Dakota. The Federal Government sets a maximum limit on this tax of 6% of the annual revenue. When this tax began in 2003 the assessment was set at \$4,300 annually per licensed bed and was projected to bring in \$4,395,288 for the biennium. Each ICF/MR Provider was given a rate increase of \$4,300 per bed to cover the cost of this assessment. Since virtually all licensed ICF/MR beds in North Dakota are paid by Medicaid, the Federal government pays their portion of this increased cost. The projections at the start of the 03-05 biennium were to have tax revenue of \$6,217,800, an increased cost to the general fund of \$1,822,512 for a NET gain to the General Fund of \$4,395,288.

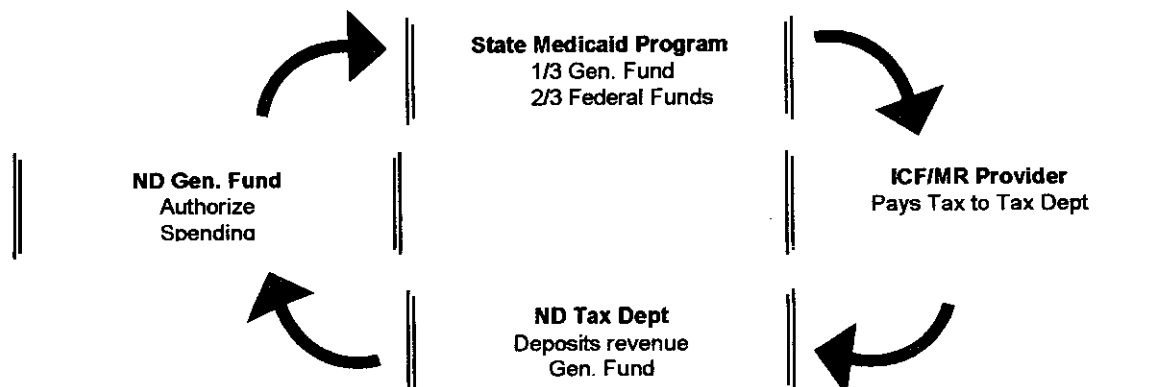
On July 01, 2004 the Department increased the provider assessment \$600 per bed to \$4,900 per licensed ICF/MR bed. This increased the tax revenue to the state slightly increased the cost to the general fund and had the effect of increasing the NET income to the general fund by \$306,648 for the 03-05 biennium.

The increased rate for this assessment will continue into the next biennium and should produce approximately an additional \$300,000 to the general fund annually above what was originally projected from the provider tax. For the last year of this biennium and the two years of next biennium there should be an additional \$900,000 of revenue to the general fund over what has been projected. The \$900,000 additional general fund increase is a conservative number because we can anticipate that the Department can raise the tax again each July 01.

When used for a Medicaid service these dollars will be matched with Federal monies. With this match these increased funds will purchase approximately \$2,700,000 worth of services. This \$2.7 million can be generated from this provider tax instead of coming from the general fund.

(July 01, 2004 - \$600/bed increase in provider assessment)

	04-05 Projected	04-05 Budgeted	Difference
Annual Tax Revenue	\$3,542,700	\$3,108,900	\$ 433,800
Annual General Fund Cost	\$1,038,408	\$ 911,256	\$ 127,152
Net General Fund Increase	\$2,504,292	\$2,197,644	\$ 306,648



Amendments Requested by Senator Mathern
HB 1012
April 13, 2005

Program & Policy

	General Funds	Other funds	Total Funds
Long Term Care			
<u>Section 4</u> Nursing Home inflation @ 2% January 2006 and 3.92% January 2007	656,008	1,110,008	1,766,016
<u>Section 7</u> Qualified Service Providers inflation @ 2% July 2005 and 3.92% July 2006	291,149	225,437	516,586
Disability Services Division			
<u>Section 5</u> Developmental Disability Service Providers inflation @ 2% July 2005 and 3.92% July 2006	805,223	1,353,625	2,158,848
<u>Section 6</u> Increase average wage of developmental disability service providers by \$0.47 per hour on January 1, 2006 and \$0.48 per hour on January 1, 2007.	2,770,554	5,036,173	7,806,727
Total of Amendments	4,522,934	7,725,243	12,248,177

Prepared by Debra A. McDermott, Assist. Director Fiscal Administration

1 SECTION 6. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION.

2 Notwithstanding section 54-16-04, the department of human services may transfer
3 appropriation authority between line items within each subdivision of section 3 of this Act and
4 between subdivisions within section 3 of this Act for the biennium beginning July 1, 2005, and
5 ending June 30, 2007. The department shall notify the office of management and budget of
6 any transfer made pursuant to this section. The department shall report to the budget section
7 after June 30, 2006, any transfers made in excess of \$50,000 and to the appropriations
8 committees of the sixtieth legislative assembly regarding any transfers made pursuant to this
9 section.

10 SECTION 7. ESTIMATED INCOME - LIMIT - COMMUNITY HEALTH TRUST FUND.

11 The estimated income line item in subdivision 2 of section 3 of this Act includes \$114,755 from
12 the community health trust fund. The department of human services expenditures from this
13 fund may not exceed this amount for the biennium beginning July 1, 2005, and ending June 30,
14 2007.

15 SECTION 8. COMPULSIVE GAMBLING PREVENTION AND TREATMENT FUND -

16 **TRANSFER TO THE GENERAL FUND.** On July 1, 2005, the director of the office of
17 management and budget and the state treasurer shall transfer \$100,000 from the compulsive
18 gambling prevention and treatment fund to the general fund.

19 **SECTION 9. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE.** During the
20 2005-06 interim, the legislative council shall consider studying, with input from representatives
21 of the department of human services and the long-term care industry, methods of improving the
22 sustainability of funding long-term care services in the state, including a review of case mix and
23 rate equalization, consideration of additional support for facilities providing additional restorative
24 care services, and consideration of options for reducing the number of required reports of
25 facilities providing high-quality care or for seeking waivers to change the survey process.

North Dakota Department of Human Services

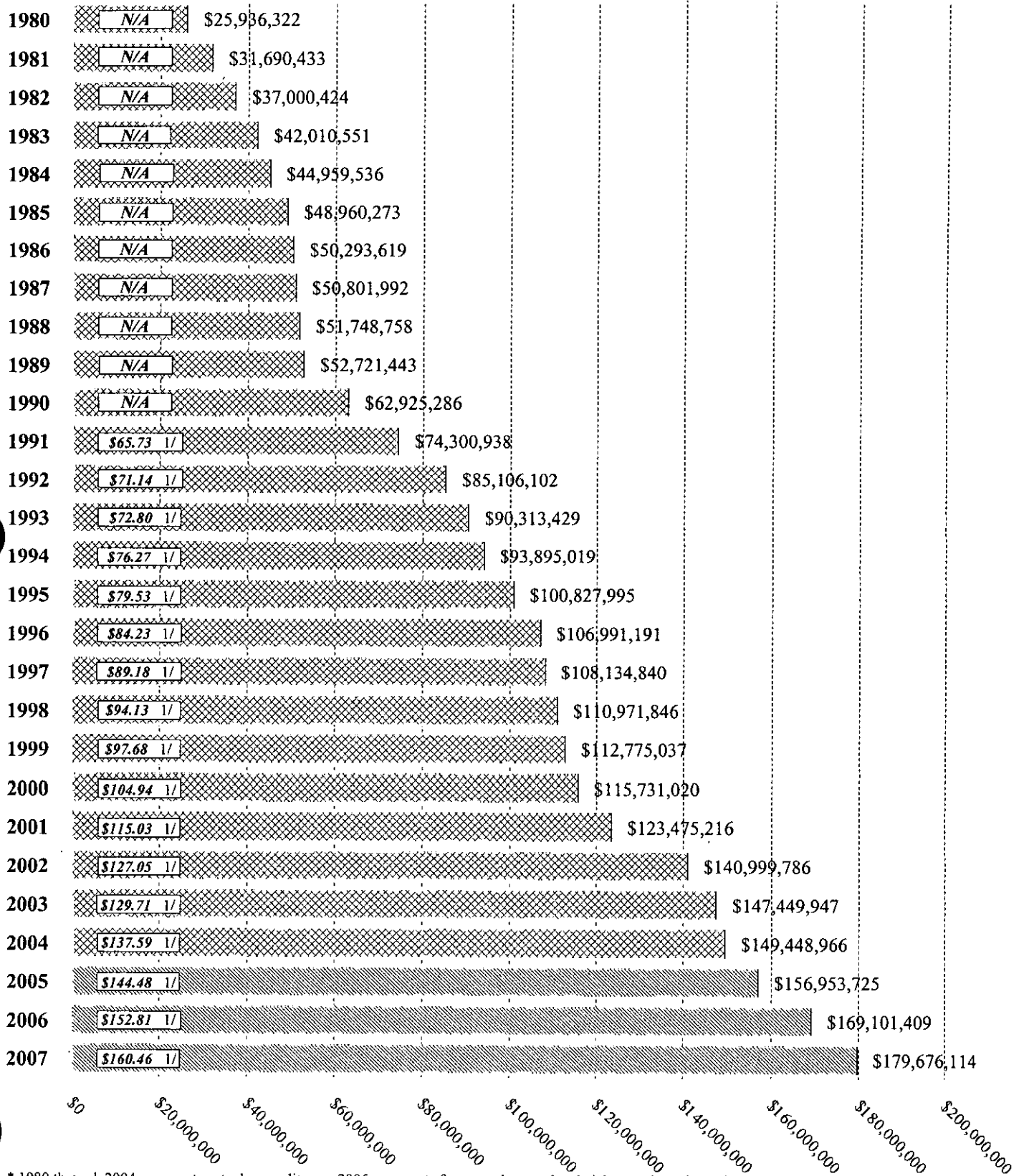
[Attachment A]

Nursing Home Facilities

Fiscal Years 1980 - 2007 *

House Bill 1012

2005 - 2007 Biennium



* 1980 through 2004 represents actual expenditures. 2005 represents four months actual and eight months estimated expenditures.

2006 and 2007 represents estimated expenditures included in the Governor's budget.

1/ Average Daily Nursing Home Rate

FA-1/3/05-cj-hgw\0507legisl\tcx

#1

MAIN SUGGESTIONS FOR HB1252 & HB1012

1. Include DD providers, LTC, & QSP's in one common inflation rate, (2 to 3.92)
2. Appropriate dollars by direction in HB 1252 and by appropriation in HB 1012.
3. Use general fund dollars at the rate of about ½ of what is implied in passage of HB 1252. (4.5 million)
4. Make changes in such a way that entire increase does not go over executive budget for DHS. (stepped in over biennium)
5. Have clear salary increase for DD staff of \$1.05 by 1/1/07 by building on a 10 cent increase noted by House. Provider tax makes this possible.

Amendments and fiscal rationales attached. 2-DHS fiscal, Provider tax

Senator Tim Mathern, April 14, 2005

*Complete
Set of
Attachments
See
Peterson's
1-18-05
Summary*

Testimony on HB 1252
Senate Human Services Committee
March 2, 2005

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on HB 1252. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to testify in support of HB 1252 and to ask you to support an amendment restoring inflation language deleted by the House.

I am going to provide you with a lot of information today. My goal is have you understand the nursing facility payment system as proposed in HB 1252. In my testimony I will address:

- ★ Nursing facility limits and the median plus system of setting limits.
- ★ Why costs vary between nursing facilities and is there a difference in quality.
- ★ Study results on high cost versus lower cost nursing facilities.
- ★ Why inflationary adjustments are critical.
- ★ Equalized rates.
- ★ Explain "rebasings."

All of the changes in the nursing facility payment system as proposed in HB 1252 are a result of a comprehensive study of the nursing facility payment system. The North Dakota 57th Legislative Assembly passed HB 1196 in 2001. Section 29 of this bill authorized a study of the nursing facility payment system and the states equalized rate policy. The study was to include an evaluation of the existing system and any recommendations for change.

The Department of Human Services awarded a contract of around \$80,000 to Myers and Stauffer to conduct the study. Myers and Stauffer, LC is a nationally based accounting firm, who has worked for Medicaid agencies in over twenty-five states. They specialize in providing accounting, auditing, computer database and consulting services to state Medicaid and other governmental agencies. I've supplied one copy of their comprehensive study to your Chairman to share with you. The report is over 150 pages and I would be happy to e-mail it to any of you.

The changes we are proposing to you are based upon the recommendations of the report. Issues that have been studied by the experts, by an independent third party, knowledgeable on rate setting systems.

Nursing Facility Limits and the Median Plus System

The first major change is on page two, lines 14 through 17. It states the Department shall use the June 30, 2003 cost report as the base year. It further states the limits may not fall below the median of the most recent cost report.

To demonstrate what this means please look at Attachment A.

HB 1012 contains the appropriation to convert to the median plus system (\$228,000 general funds) and for rebasing to the 2003 cost report (\$2.9 million general funds).

What is rebasing? Today our limits, the maximum we can get paid is established based upon our June 30, 1999 cost report. 1999 was six years ago. Rebasing means selecting a more current year to base limits on. HB 1252 provides that limits will now be based upon the June 30, 2003 cost report. This legislation also outlines the frequency of rebasing (Page 4). It states rebasing will occur at least every three years. Originally, HB 1252 called for rebasing at least every four years. The House Appropriations Committee amended the bill and changed rebasing to every three years. The independent consultants recommended:

"We do recommend establishing a maximum number of years between rebasing. We suggest that rebasing occur no less frequently than every four years, with the opportunity to rebase more frequently if spending patterns change significantly."

What happens between the years when we don't have rebasing? Today limits are adjusted by the average of CPI and Global Insight (formally DRI). As I shared with you at the beginning of my testimony, the House Appropriations Committee deleted our inflator language. We request that you restore this language. Attached is an amendment for your consideration. See Attachment B for a history on inflationary adjustments.

Inflation Adjustment on Rates:

Rates are adjusted annually for inflation. Inflation is a rise in price levels, generally price levels nursing facilities can't control. As an example, since 1999 Bethany Homes had a 527% increase in their general and professional liability insurance (see attachment C). In 2005, general liability insurance is expected to increase 10%, health insurance is expected to increase 12%, medical supplies 5% to 6%, fuel prices are unpredictable, etc. To attract and retain staff, we need to offer competitive salary and benefit packages. Approximately 75% of a nursing facilities budget is staffing. Staffing is about the only cost you can control and it is directly related to quality care.

The House appropriated a 2% annual inflator adjustment on rates. This means that after you pay all "mandatory" cost increases, you may have enough left over for a 1%, maybe 1.5%, salary increase. Although I indicated salary increases are not mandatory and the one item within our control, we feel powerless. Compensation is being pushed up by professional shortages, out migration in rural areas, health insurance costs, and ever present federal regulations & family expectations. See Attachment D for an outline of December 2003 long term care salaries. In 2001 the North Dakota Legislature passed a wage increase for all nursing facility staff. Prior to the wage increase, CNA turnover was 66%. Today CNA turnover is 35%. We don't want to go backwards on salaries. You made a difference to 10,000 long term care staff. Please help us maintain 35% turnover with adequately inflationary adjustments.

State Budget Actions are Dramatic - Causing "Five" Times the Damage

The \$1.7 million dollar general fund reduction in the inflator by the House translates into a \$8.75 million dollar reduction. This state general fund reduction is dramatic, causing five times the damage. For every dollar taken away from nursing homes rates, the impact is \$5 because of the lost federal match and private pay reduction. A \$1.7 million dollar general fund reduction results in additional losses of \$3.2 million dollars in federal funds and \$3.8 million dollars in private pay. Total impact of \$8.75 million.

See Attachment I of where the \$8.75 million could be going. Doesn't it make economic sense to spend \$1.7 million and have an impact of \$8.75 million throughout all of North Dakota? In the most recent reports regarding the growth in personal income, North Dakota ranked #1. Shouldn't long term care staff have the opportunity of economic growth?

I want to draw your attention to page 6, section 7 - Prohibited Practices. Subsection 1 keeps in place equalization of rates. Nursing facilities are prohibited from charging private paying residents more for similar services. Except for a private room, Medicare and Medicaid determines the rates of all residents. That's why we are so passionate in our lobbying. You, the legislature controls the amount of money available for resident care. Nursing facility revenue is government controlled costs are not. Nursing facilities cannot raise tuition, increase fees, raise prices or increase mill levies. Nursing facility rates are strictly controlled by state government and government is the only entity that can increase revenue for nursing facilities. Nursing facilities are the only provider mandated in North Dakota Statute to have Equalization of Rates. North Dakota is only the second state in the nation to have Equalization of Rates.

The remaining sections of the bill are housekeeping - taking out old language or adjustment in new terminology.

What I'd like to do now is briefly share with you, the bullet points I shared with you at the beginning of my testimony:

- Attachment A - 2003 Cost Report Year - Use for Rebasing
- Attachment B - History of Inflationary Adjustments on Costs
- Attachment C - Bethany Homes Data
- Attachment D - Nursing Facility Average Hourly Wages
- Attachment E - Why Cost Vary Between Nursing Facilities and Does it Make
(Yellow) a Difference?
- Attachment F - Analysis of high cost vs. low cost Nursing Facilities.
(Orange)
- Attachment G - Impact of Nursing Facility Limitations for 2005
- Attachment H - Quality Measures
(Blue)
- Attachment I - Average Length of Stay
- Attachment J - Map of North Dakota Nursing Facilities

This concludes my testimony. I would be happy to answer any questions.

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

ATTACHMENT B

History of Inflationary Adjustment on Costs

Inflaters:	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	EST 2006
	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters	Inflaters
	6/30/1989	6/30/1990	6/30/1991	6/30/1992	6/30/1993	6/30/1994	6/30/1995	6/30/1996	6/30/1997	6/30/1998	6/30/1999	6/30/2000	6/30/2001	6/30/2002	6/30/2003	6/30/2004	6/30/2005
Salaries	11.10%	10.70%	10.80%	2.50%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%
Fringes	7.50%	8.60%	15.10%	18.70%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%
Food	6.50%	6.80%	5.60%	4.30%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%
Utilities	7.10%	15.80%	0.40%	4.70%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%
Drugs/Nurs. Supplies	6.80%	6.30%	5.40%	5.00%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%
Other	8.10%	8.00%	6.40%	5.80%	2.60%	3.00%	2.50%	3.00%	3.60%	2.80%	3.90%	3.78%	3.73%	2.67%	3.34%	4.36%	3.50%

Converted to Yearly Inflatior

DR1*

CPI

Average of DR1*-CPI

*DR1 is now Global Insight, Inc.

History of Inflationary Adjustment on Limits

Year Limits was Adjusted by:

1997	3.00%
1998	2.80%
1999	2.10%
2000	3.10%
2001	2.69%
2002	2.94%
2003	2.26%
2004	2.53%
2005	3.17%

Bethany Homes, Inc. in Fargo, North Dakota

Year	General/Professional Liability Total	Percentage Increase	Umbrella	Percentage Increase
1999-2000	\$12,928		\$4,395	
2000-2001	\$14,549		\$4,815	
2001-2002	\$24,208		\$7,144	
2002-2003	\$49,265		\$13,207	
2003-2004	\$75,019		\$31,680	
2004-2005	\$81,027	527%↑	\$34,494	685%↑

Nursing Facility Average Hourly Wages December 2003

Population	CMA	Certified Nurse Assistant	LPN	RN	Dietary	Cook	Housekeeping	Maintenance
1 to 2,500	\$10.55	\$9.60	\$14.46	\$17.89	\$8.58	\$9.44	\$8.67	\$10.50
2,501 to 10,000	\$10.75	\$9.54	\$15.11	\$19.35	\$8.26	\$9.92	\$8.67	\$10.77
10,000 plus	\$11.58	\$10.32	\$15.00	\$19.84	\$8.99	\$10.70	\$8.67	\$12.54
Hospitals 1 to 5,000	\$10.54	\$9.29	\$13.58	\$18.23	\$7.29	\$9.24	\$7.98	\$10.29
Statewide Averages	\$10.86	\$9.70	\$14.48	\$18.55	\$8.35	\$9.80	\$8.55	\$11.13

Basic Care/Assisted Living Average Hourly Wages December 2003

Population	Nursing Aide	CMA	Certified Nurse Assistant	LPN	RN	Dietary	Cook	Housekeeping	Maintenance
1 to 500	\$7.70	\$9.73	\$9.57	\$14.28	\$17.32	\$8.01	\$8.51	\$8.16	\$13.35
501 to 2,500	\$7.84	\$8.74	\$8.77	\$13.45	\$17.34	\$7.43	\$8.55	\$8.01	\$9.57
2,501 to 10,000	\$8.00	\$9.56	\$8.70	\$13.13	\$17.23	\$7.20	\$9.11	\$7.84	\$8.31
10,000 plus	\$8.66	\$10.25	\$9.98	\$15.08	\$19.55	\$8.24	\$9.92	\$9.04	\$11.21
Statewide Averages	\$8.19	\$9.49	\$9.18	\$14.02	\$18.06	\$7.73	\$9.08	\$8.38	\$10.20

Amendment for Re-Engrossed HB 1252:

Page 1, Lines 22-24, reinstate all of the overstruck language.

Page 2, Lines 18 & 19, reinstate all of the overstruck language.

Page 2, Lines 19-21, delete all of the underlined language.

Page 3, Lines 8-12, reinstate all of the overstruck language.

Page 3, Line 9, delete Data Resources and replace with Global Insight.

Page 4, Line 31, reinstate the overstruck language.

Page 5, Lines 1 & 2, reinstate the overstruck language.

Page 5, Lines 2 & 3, delete all of the underlined language.

**TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE
REGARDING RE-ENGROSSED HB 1252
MARCH 2, 2005**

Chairwoman Lee and members of the committee, I am Barbara Fischer, Manager Long Term Care and Hospital Services with the Department of Human Services. I appear before you to provide information on HB 1252. The Department's position on this bill is neutral.

This bill amends certain ratesetting provisions for nursing facilities and basic care facilities. Chapter 50-24.4 was enacted in 1987 to establish a case-mix rate equalization payment system for nursing facilities. Throughout the years different provisions have been amended while maintaining the case-mix rate equalization concept.

There are only three provisions in this bill that actually effect the nursing facility ratesetting calculations. Other amendments included in the bill are cleanup amendments and have no fiscal impact.

The first provision is in Subsection 4 on page 2. This section changes the minimum, below which limits cannot be set from the 60th percentile facility rate per cost category, to the median rate per cost category, and requires a new base period. The Governor's budget for long term care includes calculating the limits to be applied to the rate year beginning January 1, 2006 at the median plus 20% for Direct, 20% for Other Direct, and 10% for Indirect based on the cost report year ending June 30, 2003. Use of the median plus 20/20/10 was based on the methodology and percentages recommended by Myers and Stauffer in a 2002 study of North Dakota's nursing facility ratesetting processes. Myers and Stauffer also stated "the recommendation also allows for this suggested median plus level to be reduced or raised in proportion to our suggested limit levels to fit within the Medicaid funding limitations."

The second provision impacting ratesetting is section 2 beginning on page 2. The requirement to establish inflation factors for costs and limits using ½ DRI and ½ CPI is eliminated and the inflation factors are now to be established by the legislature. The inflation factor approved in the department's appropriations bill is 2% for each year of the biennium. The fiscal impact to return to using ½ DRI, ½ CPI is \$4.9M in total funds of which \$1.8M is general funds.

The third significant provision is Subsection 7 on page 4. This section provides that rebasing of the limits will occur at least every 3 years. The minimum recommended by Myers and Stauffer in the 2002 study was at least every 4 years. Nursing facility limits were rebased January 1, 1994 using the 1992 cost report; January 1, 2000 using the June 30, 1996 cost report; and January 1, 2002 using the June 30, 1999 cost report. The Governor's budget includes rebasing when determining the median plus using the June 30, 2003 cost report for the rates effective January 1, 2006. The rebasing in 1994 and the Governor's budget were not legislatively initiated in comparison to those in 2000 and 2002, which were a direct result of legislation.

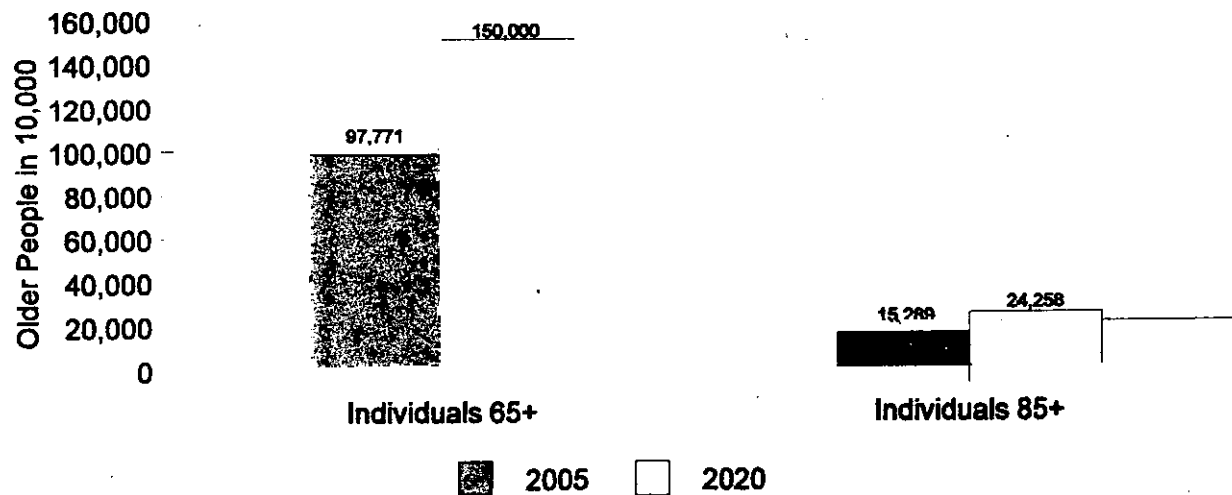
The one provision in the bill impacting Basic Care ratesetting is in Section 9 on page 8. The inflation factor to be used for establishing rates for basic care facilities will be the factor used in the department's appropriation. Currently the factor is based on CPI. The CPI used when HB ¹⁰¹² 1050 was introduced was 1.5% and the CPI for January 2005 has increased to 3%. The Department's appropriation bill after House amendments, includes 2% inflation for each year for basic care.

That concludes my testimony, and I'd be happy to answer any questions you may have.



Facilities are listed by county not geographic location.

Growth in Population in North Dakota



WHO WILL NEED LONG TERM CARE IN NORTH DAKOTA?

- ★ Two out of every five North Dakotans will need long term care sometime in their lives.
- ★ The three top indicators for needing a nursing home are being a women, age 85 or older and living alone. The number one reason a person enters a nursing home is loss of a care giver or breakdown of the informal support system. Family and friends become exhausted and simply cannot continue to deliver or arrange for needed services.
- ★ At age 75, 60% of individuals are living alone.
- ★ North Dakota has 22,406 women over the age of 65 and living alone.
- ★ North Dakota has 5,040 women age 85 and older living alone, this compares with 739 men 85 and older living alone.
- ★ The need for personal assistance with everyday activities increases with age.
- ★ Spouses provide the greatest proportion of long term care to elderly living in the community.
- ★ The majority of the elderly are active, healthy, contributing members of society who want to maintain their independence. All want choices and options should they need long term care.

1252

MEDCENTER ONE CARE CENTER PRODUCT PRICE COMPARISON

PRODUCT NAME	UNITS	PRIOR YEAR PRICE	CURRENT PRICE	DIFFERENCE	CHANGE
MILK-2% REG	1/2 PINTS	\$0.1788	\$0.1860	\$0.0072	4.0268%
MEAT-CHICKEN, DICED 1/2"	10# UNITS	\$28.9100	\$34.4600	\$5.5500	19.1975%
PRODUCE-GREEN PEPPERS	5# UNITS	\$6.7700	\$10.9800	\$4.2100	62.1861%
FRUIT-BANANAS	40# UNITS	\$17.5000	\$21.7400	\$4.2400	24.2286%
HEALTH INSURANCE	SINGLE	\$281.3000	\$312.6000	\$31.3000	11.1269%
WORKER'S COMP INSURANCE	ANNUAL CHARGE	\$82,213.1000	\$85,659.0000	\$3,445.9000	4.1914%
SOUFFLE CUPS 1 OZ	PER CASE	\$24.6100	\$30.3200	\$5.7100	23.2020%
TABLET CRUSHER POUCHES	CASE	\$38.2500	\$39.8000	\$1.5500	4.0523%
HEAT	PER MMBtu	\$5.2391	\$5.8710	\$0.6318	12.0596%
GAS	PER GAL UNLEADED	\$1.5190	\$2.0300	\$0.5110	33.6406%
BEDCHECK SENSORMATS	EACH	\$41.4000	\$46.0000	\$4.6000	11.1111%
HAIRCARE	PER HAIRCUT	\$7.0000	\$10.0000	\$3.0000	42.8571%
GROUND BEEF 85% LEAN	PER POUND	\$1.76	\$1.83	\$0.0700	3.9773%
OAT MEAL 12/48 OZ	CASE	\$11.13	\$18.07	\$6.9400	62.3540%
JUICE 72/4 OZ	CASE	\$8.51	\$9.63	\$1.1200	13.1610%
AVERAGE					22.0915%

Please consider these actual increases in our high volume products used to care for nursing home residents Actual 4.02% inflation to 62.39%.

Please Amend HB1252 to reinstate inflation language DR1/CP1.

WE WERE NOTIFIED THAT OUR GARBAGE SACKS WOULD BE INCREASING 40% NEXT MONTH (Per Supplier.)

OUR Audited Financials show a increase in "non salary" expenses between 2003 and 2004 of 10.7% (Per Eide Bailley)

Wade Peterson, Administrator
Medcenter One Care Center
(701) 400-1151

Amendments Requested by Senator Mathern

50 330.0 308

HB 1252

April 19, 2005

Program & Policy

	Health Care Trust Fund	Other funds	Total Funds
Long Term Care			
<u>Section 4</u>			
Nursing Home inflation @ 2% January 2006 and 3.92% January 2007	656,008	1,110,008	1,766,016
<u>Section 7</u>			
Qualified Service Providers inflation @ 2% July 2005 and 3.92% July 2006	291,149	225,437	516,586
Disability Services Division			
<u>Section 5</u>			
Developmental Disability Service Providers inflation @ 2% July 2005, 2% for 6 months and 3.92% for 6 months for the rate year beginning July 1, 2006.	402,612	676,813	1,079,425
<u>Section 6</u>			
Increase average wage of developmental disability service providers by \$0.47 per hour on January 1, 2006 and \$0.48 per hour on January 1, 2007.	2,770,554	5,036,173	7,806,727
Total of Amendments	4,120,323	7,048,431	11,168,754

Health Care Trust Fund Status

Balance of Health Care Trust Fund *	4,548,322
Cost of Amendments	4,120,323
Ending Balance of Health Care Trust Fund **	427,999

*This is the estimated ending balance of the Health Care Trust Fund, using the assumption that \$8.45 million is transferred to the General Fund on June 1, 2006 and June 1, 2007.

** The ending balance of the Health Care Trust Fund will be approximately \$100,000 less due to the loss of interest on the monies withdrawn from the fund for the amendments.

Prepared by Debra A. McDermott, DHS

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Leading rates**Term: WSJ Prime Rate****What it means:**

The initials stand for the Wall Street Journal, which surveys large banks and publishes the consensus prime rate. The Journal surveys the 30 largest banks, and when three-quarters of them (23) change, the Journal changes its rate, effective on the day the Journal publishes the new rate. It's the most widely quoted measure of the prime rate, which is the rate at which banks will lend money to their most-favored customers. The prime rate will move up or down in lock step with changes by the Federal Reserve Board.

How it's used:

The prime rate is an important index used by banks to set rates on many consumer loan products, such as credit cards or auto loans. If you see that the prime rate has gone up, your variable credit card rate will soon follow. [Back to leading rates page](#)

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The Prime Rate Starting from December of 1947

The current prime rate is posted in our [Current Mortgage Indexes](#) table.

Date of Change	Prime Rate	Date of Change	Prime Rate	Date of Change	Prime Rate	Date of Change	Prime Rate
December 1, 1947	1.75	April 3, 1974	9.50	February 19, 1980	15.75	June 26, 1984	13.00
August 1, 1948	2.00	April 5, 1974	9.75	February 22, 1980	16.38	September 27, 1984	12.75
September 22, 1950	2.25	April 11, 1974	10.00	February 29, 1980	16.75	October 16, 1984	12.50
January 8, 1951	2.50	April 19, 1974	10.25	March 4, 1980	17.25	October 24, 1984	12.00
October 17, 1951	2.75	April 25, 1974	10.50	March 7, 1980	17.75	November 9, 1984	11.75
December 19, 1951	3.00	May 2, 1974	10.75	March 14, 1980	18.50	November 28, 1984	11.25
April 27, 1955	3.25	May 6, 1974	11.00	March 19, 1980	19.00	December 20, 1984	10.75
March 17, 1954	3.00	May 10, 1974	11.25	March 28, 1980	19.50	January 15, 1985	10.50
August 4, 1955	3.25	May 17, 1974	11.50	April 2, 1980	20.00	May 20, 1985	10.00
October 14, 1955	3.50	June 26, 1974	11.75	April 18, 1980	19.50	June 18, 1985	9.50
April 13, 1956	3.75	July 5, 1974	12.00	May 1, 1980	18.75	March 7, 1986	9.00
August 21, 1956	4.00	October 7, 1974	11.75	May 2, 1980	18.50	April 23, 1986	8.50
August 6, 1957	4.50	October 21, 1974	11.50	May 7, 1980	17.50	July 16, 1986	8.00
January 22, 1958	4.00	October 28, 1974	11.25	May 16, 1980	16.50	August 27, 1986	7.50
April 21, 1958	3.50	November 4, 1974	11.00	May 23, 1980	14.50	April 1, 1987	7.75
September 11, 1958	4.00	November 14, 1974	10.75	May 30, 1980	14.00	May 8, 1987	8.00
May 18, 1959	4.50	November 25, 1974	10.50	June 6, 1980	13.00	May 15, 1987	8.25
September 1, 1959	5.00	January 9, 1975	10.25	June 13, 1980	12.25	September 4, 1987	8.75
August 23, 1960	4.50	January 15, 1975	10.00	June 20, 1980	12.00	October 5, 1987	9.25
December 6, 1965	5.00	January 20, 1975	9.75	July 7, 1980	11.50	October 23, 1987	9.00
March 10, 1966	5.50	January 28, 1975	9.50	July 25, 1980	11.00	November 12, 1987	8.75
June 29, 1966	5.75	February 3, 1975	9.25	August 22, 1980	11.25	February 2, 1988	8.50
August 16, 1966	6.00	February 10, 1975	9.00	August 27, 1980	11.50	May 10, 1988	9.00
January 27, 1967	5.75	February 18, 1975	8.75	September 8, 1980	12.00	July 15, 1988	9.50
March 27, 1967	5.50	February 24, 1975	8.50	September 12, 1980	12.25	August 11, 1988	10.00
November 20, 1967	6.00	March 5, 1975	8.25	September 19, 1980	12.50	November 28, 1988	10.50
April 19, 1968	6.50	March 10, 1975	8.00	September 26, 1980	13.00	February 10, 1989	11.00
September 25, 1968	6.25	March 18, 1975	7.75	October 1, 1980	13.50	February 24, 1989	11.50
December 2, 1968	6.50	March 24, 1975	7.50	October 17, 1980	14.00	June 5, 1989	11.00
December 18, 1968	6.75	May 20, 1975	7.25	October 29, 1980	14.50	July 31, 1989	10.50
January 7, 1969	7.00	June 9, 1975	7.00	November 6, 1980	15.50	January 8, 1990	10.00
March 17, 1969	7.50	July 18, 1975	7.25	November 17, 1980	16.25	January 2, 1991	9.50
June 9, 1969	8.50	July 28, 1975	7.50	November 21, 1980	17.00	February 4, 1991	9.00
March 25, 1970	8.00	August 12, 1975	7.75	November 26, 1980	17.75	April 24, 1991	9.00
September 21, 1970	7.50	September 15, 1975	8.00	December 2, 1980	18.50	May 1, 1991	8.50
November 12, 1970	7.25	October 27, 1975	7.75	December 5, 1980	19.00	September 13, 1991	8.00
November 23, 1970	7.00	November 5, 1975	7.50	December 10, 1980	20.00	November 6, 1991	7.50
December 22, 1970	6.75	December 2, 1975	7.25	December 16, 1980	21.00	December 23, 1991	6.50
January 6, 1971	6.50	January 12, 1976	7.00	December 19, 1980	21.50	July 2, 1992	6.00
January 15, 1971	6.25	January 21, 1976	6.75	January 2, 1981	20.50	March 24, 1994	6.25
January 18, 1971	6.00	June 1, 1976	7.00	January 9, 1981	20.00	April 19, 1994	6.75
February 16, 1971	5.75	June 7, 1976	7.25	February 3, 1981	19.50	May 17, 1994	7.25
March 11, 1971	5.38	August 2, 1976	7.00	February 23, 1981	19.00	August 16, 1994	7.75
March 19, 1971	5.25	October 4, 1976	6.75	March 10, 1981	18.00	November 15, 1994	8.50
April 23, 1971	5.38	November 1, 1976	6.50	March 17, 1981	17.50	February 1, 1995	9.00
May 11, 1971	5.50	December 13, 1976	6.25	April 2, 1981	17.00	July 7, 1995	8.75
July 6, 1971	5.75	May 13, 1977	6.50	April 24, 1981	17.50	December 20, 1995	8.50
		May 31, 1977	6.75	April 30, 1981	18.00	February 1, 1996	8.25
		August 22, 1977	7.00				
		September 16, 1977	7.25				
		October 7, 1977	7.50				

July 7, 1971	6.00	October 24, 1977	7.75	May 4, 1981	19.00	March 26, 1997	8.50
October 20, 1971	5.75	January 10, 1978	8.00	May 11, 1981	19.50	September 30, 1998	8.25
November 4, 1971	5.50	May 5, 1978	8.25	May 19, 1981	20.00	October 16, 1998	8.00
December 31, 1971	5.25	May 26, 1978	8.50	May 22, 1981	20.50	November 18, 1998	7.75
January 24, 1972	5.00	June 16, 1978	8.75	June 3, 1981	20.00	July 1, 1999	8.00
January 31, 1972	4.75	June 30, 1978	9.00	July 8, 1981	20.50	August 25, 1999	8.25
April 5, 1972	5.00	August 31, 1978	9.25	September 15, 1981	19.50	November 17, 1999	8.50
June 26, 1972	5.25	September 15, 1978	9.50	October 5, 1981	19.00	February 3, 2000	8.75
August 29, 1972	5.50	September 28, 1978	9.75	October 13, 1981	18.00	March 22, 2000	9.00
October 4, 1972	5.75	October 13, 1978	10.00	November 3, 1981	17.50	May 17, 2000	9.50
December 27, 1972	6.00	October 27, 1978	10.25	November 9, 1981	17.00	January 4, 2001	9.00
February 27, 1973	6.25	November 1, 1978	10.50	November 17, 1981	16.75	February 1, 2001	8.50
March 26, 1973	6.50	November 6, 1978	10.75	November 20, 1981	16.50	March 21, 2001	8.00
April 18, 1973	6.75	November 17, 1978	11.00	November 24, 1981	16.00	April 19, 2001	7.50
May 7, 1973	7.00	November 24, 1978	11.50	December 3, 1981	15.75	May 16, 2001	7.00
May 25, 1973	7.25	December 26, 1978	11.75	February 8, 1982	16.50	June 28, 2001	6.75
June 8, 1973	7.50	June 19, 1979	11.50	February 18, 1982	17.00	August 22, 2001	6.50
June 25, 1973	7.75	July 27, 1979	11.75	February 23, 1982	16.50	September 18, 2001	6.00
July 3, 1973	8.00	August 16, 1979	12.00	July 20, 1982	16.00	October 3, 2001	5.50
July 9, 1973	8.25	August 28, 1979	12.25	July 29, 1982	15.50	November 7, 2001	5.00
July 18, 1973	8.50	September 14, 1979	13.00	August 2, 1982	15.00	December 12, 2001	4.75
July 30, 1973	8.75	September 21, 1979	13.25	August 16, 1982	14.50	November 7, 2002	4.25
August 6, 1973	9.00	September 28, 1979	13.50	August 18, 1982	14.00	June 27, 2003	4.00
August 13, 1973	9.25	October 9, 1979	14.50	September 3, 1982	13.50	July 1, 2004	4.25
August 22, 1973	9.50	October 23, 1979	15.00	October 7, 1982	13.00	August 11, 2004	4.50
August 28, 1973	9.75	November 1, 1979	15.25	October 13, 1982	12.00	September 21, 2004	4.75
September 18, 1973	10.00	November 9, 1979	15.50	November 22, 1982	11.50	November 11, 2004	5.00
October 24, 1973	9.75	November 16, 1979	15.75	January 11, 1983	11.00	December 15, 2004	5.25
January 29, 1974	9.50	November 30, 1979	15.50	February 21, 1983	10.50	February 3, 2005	5.50
February 11, 1974	9.25	December 7, 1979	15.25	August 8, 1983	11.00	March 22, 2005	5.75
February 19, 1974	9.00			March 19, 1984	11.50		
February 25, 1974	8.75			April 5, 1984	12.00		
March 22, 1974	9.00			May 8, 1984	12.50		
March 29, 1974	9.25						