

2009 HOUSE HUMAN SERVICES

HB 1556

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1556

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8571

Committee Clerk Signature



Minutes:

Chairman Weisz called the hearing to order on HB 1556.

Rep. Wieland from District 13 sponsored and introduced the bill: See Testimony #1.

Chairman Weisz: Where does the Medicaid match come from?

Rep. Wieland: Going to refer that question to either Mr. Howell or one of the others that will testify.

Rep. Porter: Do you recall the dollar amounts last session for the hospital rebasing, what we put in the budget that consultant work?

Rep. Wieland: Do not recall that number?

Dan Howell, Chief Executive Officer of Anne Carlsen Center: Testified in support.

See Testimony #2.

Chairman Weisz: Are you aware of where the Medicaid match comes from?

Dan Howell: Maybe someone from department can answer that.

Rep. Porter: What is the department reimbursement per day for a medically fragile child?

Dan Howell: It's \$493 a day.

Rep. Porter: Having a flat based fee for reimbursement the children, when you have a child that requires more medical care, what would you say your cost range is?

Dan Howell: The last child we accepted from SD cost per day was \$900 and some. We did ask for additional enhancements from the staffing standpoint. The department did grant those additional enhancements.

Rep. Frantsvog: On page 4 of your testimony you use a term, increasingly more challenging population, in first paragraph. You just gave some examples that may be what you were talking about here. What happened to these types of clients in the past?

Dan Howell: In the past, organizations like the Anne Carlsen Center will continue to care for these clients. We've come back to ask for additional reimbursement or enhanced funding. Level of staffing required to take care of these young adults, couldn't be met at the local provider side. They weren't being reimbursed.

Rep. Hofsad: What are their options to medically challenged or fragile children in our state?

Dan Howell: A couple of options. The Anne Carlsen Center is (inaudible) most complex medically challenged individuals in ND. There are other providers who can take some, but maybe not to the degree and severity that we can. The State Developmental Center in Grafton and we can keep children in the hospital at great cost. We believe we are the most appropriate setting.

Rep. Conrad: Do you know what the rate of adoption is?

Dan Howell: I don't know.

Cal Rolfson representing the Anne Carlsen Center: Passed out amendments and went over them. **See attachment #3.**

Rep. Frantsvog: What was the change in the title?

Cal Rolfson: I would suggest line 1, the second to the last word, after the word, for, I would add, "public and". Line 7, before the word, private, I would put public.

Barbara Murry, Executive Director of ND Association of Community Providers:

See Testimony #4.

Rep. Conrad: How many reside at Grafton.

Barbara Murry: Twenty-four, give or take a few.

Rep. Conrad: How many people are we talking about (inaudible)?

Barbara Murry: I believe last year 20.

Chairman Weisz: Could someone from the department come up and answer questions?

Barb Fischer, Assistant Director Budget Operations: (Addressed Rep. Conrad's question.)

Don't have the number off hand. It's about \$450 a day.

NO OPPOSITION.

Chairman Weisz closed the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1556

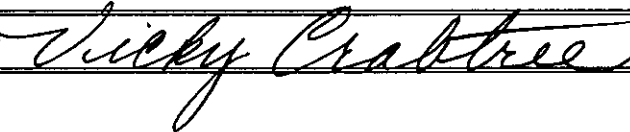
House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: February 4, 2009

Recorder Job Number: 8572

Committee Clerk Signature



Minutes:

Chairman Weisz: Let's take up 1556.

Rep. Porter: Move the amendments proposed by Mr. Rolfson.

Rep. Hofstad: Second.

Voice Vote: 13 yeas, 0 nays, 0 absent.

MOTION CARRIED FOR AMENDMENTS.

Chairman Weisz: We have an amended bill before us.

Rep. Potter: Specifying independent contractor is that a typical request?

Chairman Weisz: Not unusual. Intent to look at the whole picture. When the amendment was passed, it includes a public institution have access to private institution. The language is specific to be independent to make sure there isn't a bias with everybody involved.

Rep. Porter: The bill is really asking is to do is a rebasing of the rates (inaudible). We did that last session with hospitals and dentists and nursing homes, and we looked at a lot of them. We didn't look at this one. Their rates change just like everybody else's.

Chairman Weisz: It goes beyond rebasing. Need a rate structure that reflects the various (inaudible) of needs. There are 34 levels of care.

Rep. Hofstad: Regards to Rep. Potter's question. Is it normal for the department to request the proposal (inaudible).

Chairman Weisz: Yes, that's the proper procedure. They send out an RSP and consultants would bid on project. They don't have to accept necessarily the lowest bid because it is based on qualifications of these bids if they can properly conduct a study.

Rep. Kilichowski: Once survey done does it reset the base as the (inaudible) goes on or do they just do a onetime shot?

Chairman Weisz: One time shot. Up to legislators to decide if we want to incorporate what that study said.

Rep. Holman: Any other institution that may fit under this umbrella?

Chairman Weisz: There's a lot of them, maybe not that complex.

Rep. Conrad: **Motion for a DO PASS AS AMENDED AND REREFERRED TO APPROPRIATION.**

Rep. Kilichowski: **Second.**

Roll Call Vote: 13 yes, 0 no, 0 absent

DO PASS AS AMENDED.

BILL CARRIER: Rep. Hofstad.

VR
2/4/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1556

Page 1, line 1, after the third "for" insert "public and"

Page 1, line 6, replace "a qualified" with "an"

Page 1, line 7, after "reimburse" insert "public and" and after "disability" insert "ICF/MR and home and community-based services"

Page 1, line 8, replace "servicing" with "serving"

Page 1, line 18, replace "July" with "September"

Page 1, line 22, after the comma insert "and from special funds derived from federal funds, the sum of \$100,000, or so much of the sum as may be necessary,"

Renumber accordingly

Date: 2-4-09

Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1556House HUMAN SERVICES

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken



Do Pass



Do Not Pass



Amended

Motion Made By

Rep. Conrad

Seconded By

Rep. Kilichowski

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN	✓	
REP. ROBERT FRANTSVOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total

(Yes)

13

No

0

Absent _____

Bill Carrier

Rep. Hofstad

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

*Be Referred to Appropriations
DO PASS AS Amended*

REPORT OF STANDING COMMITTEE

HB 1556: Human Services Committee (Rep. Weisz, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1556 was placed on the Sixth order on the calendar.

Page 1, line 1, after the third "for" insert "public and"

Page 1, line 6, replace "a qualified" with "an"

Page 1, line 7, after "reimburse" insert "public and" and after "disability" insert "ICF/MR and home and community-based services"

Page 1, line 8, replace "servicing" with "serving"

Page 1, line 18, replace "July" with "September"

Page 1, line 22, after the comma insert "and from special funds derived from federal funds, the sum of \$100,000, or so much of the sum as may be necessary,"

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1556

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1556

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9402

Committee Clerk Signature

R. Mae Kueh

Minutes:

Chairman Svedjan: This bill comes from House Human Services and deals with Private Licensed Developmental Disabilities Providers.

Rep. Weisz explained that HB 1556 is a study brought forward by the Anne Carlson School which handles our most medically complex children. In the past you have done stop gap appropriation funding of approximately \$2 million for the last two bienniums to make up the difference. For example, the Anne Carlson School currently is losing \$1 million this biennium. Their foundation has to subsidize. Are they going to start refusing to take patients? Currently they are taking more complex patients than the State School in Grafton and yet they are being reimbursed at a lower rate than what it costs us to have them in our own facility in Grafton. We decided the study is necessary. There is \$100,000 in here to study this. If they stop taking these extremely difficult cases, we're going to send to Colorado. Then we pay what we are billed.

Rep. Weisz gave an example of a child in Grand Forks who wasn't expected to live, was sent to MN and the cost was \$2000 per day to the state. After six months, the child went to Anne Carlson and the state only had to reimburse \$470 per day. The school is taking a big hit on that. They are asking to look at the rate structure. It doesn't make sense for them to have to come in every session and beg for some additional money.

Rep. Berg: We are asking to go in and look at the different levels of care. We are getting huge commitments by Anne Carlson to offset some of the costs. We aren't talking about more funding but rebalancing how we are treating kids of this nature.

Rep. Berg: I move a Do Pass.

Rep. Klein: Seconded it.

Discussion

Rep. Skarphol: There is \$100,000 in General Funds appropriated, \$50,000 federal. Is that the typical match on a study?

Rep. Weisz: That money was available from the federal end so that is how much they could access. There is a specific grant available from the feds to help study this. So that's why it's not a percentage. They can pull \$50,000 and then up to \$100,000 of the state money to complete the study.

Rep. Skarphol: But it's \$100 and \$100, that's \$200,000 total.

Rep. Weisz: Potentially it could be up to that. It would be as much as necessary. They would be able to access the totality of the federal funding first.

Rep. Skarphol: They could access the federal money first?

Rep. Weisz: That is my understanding.

Rep. Berg: I think the \$100,000 federal money has to be matched from the state.

Chm. Svedjan: Where is the 50 you are talking about? We just did a rebasing study for healthcare, too, and that was studied and there was recommendation made and we're not making that whole either.

Rep. Weisz: The problem will lead to extreme costs if we don't do this. This money is extremely important from the standpoint that if we don't get a handle on it, the state will pay.

Rep. Delzer: Did you ask what the foundation's fund level is?

Rep. Weisz: About \$20 million is in the fund to be used for expansion, improvements, etc. The board has stated the foundation isn't for the purpose to subsidize the state care. They have been, but that limits their ability to expand services. Their question is, why are you paying us less than the state at the State School of Grafton where we are handling a higher level of medically complex children.

Rep. Delzer: Is the foundation growing or shrinking?

Rep. Weisz: It is decreasing since they are being asked to pay more.

Rep. Berg: The issue is that everyone is getting a flat fee. There are many people providing services and there are different people with different level needs. This study would show how to allocate the funds. I think that is important to come from a third party.

A Roll Call vote was taken on Do Pass. **Yes:** 17, **No:** 5, **Absent:** 3, (Representatives Wieland, Onstad, Kerzman).

Representative Hofstad will carry the bill.

Date: 2/12/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1556

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Berg Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich	✓				
Rep. Skarphol		✓	Rep. Kroeber	✓	
Rep. Wald		✓	Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 17 No 5

Absent 3

Floor Assignment Rep. Hufstad

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

REPORT OF STANDING COMMITTEE (410)
February 13, 2009 6:37 p.m.

Module No: HR-28-2807
Carrier: Hofstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1556, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends **DO PASS** (17 YEAS, 5 NAYS, 3 ABSENT AND NOT VOTING).
Engrossed HB 1556 was placed on the Eleventh order on the calendar.

2009 SENATE HUMAN SERVICES

HB 1556

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1556

Senate Human Services Committee

☐ Check here for Conference Committee

Hearing Date: 03/09/2009

Recorder Job Number: 10473, 10513

Committee Clerk Signature

Mary K. Monson

Minutes:

Chairman J. Lee Opened the hearing on HB 1556.

Brief discussion about a bill heard previously by the committee

Representative Alon Wieland District #13. Introduced HB 1556. See attachment #1.

Chairman J. Lee Senator Heckaman was reminding us of SB 2423 which came about as a result of an issue in New Rockford. Maybe you should take a peek at 2423 in case there is any reason we should harmonize these two bills.

Dan Howell Chief Executive Officer of the Anne Carlsen Center (ACC). Spoke in support of 1556. See attachment #2.

Senator Heckaman I see you have addressed mostly staffing reimbursement issues in this bill. 2423 addresses the 95% occupancy rate and non reimbursable issues. Are those issues something that pertain to this bill as well?

Howell I am not as familiar with the SB as I need to be but I would think that we could probably address a lot of issues related to that bill.

Senator Heckaman Another issue we dealt with was timely audits, is that an issue for you as well?

Howell We have had audits on a timely basis for the ACC.

Chairman J. Lee I think they will be fine as this bill blends with 2423. Spoke about the foundation.

Senator Heckaman Can you speak about any differences between the amended version and the original?

Howell I will defer to Cal Rolfson for that.

Barbara Murry Executive Director of the ND Association of Community Providers. Spoke in support of 1556. See attachment #3.

Chairman J. Lee I do remember attending a meeting where the concern was for individuals not fitting in a place due to their developmental issues.

Cal Rolfson Representing the ACC for children. In response to some previous questions: the amendments were mostly style changes. He walked the committee through the changes. He also addressed the votes in the house which were in favor of the bill. It was recommended to him that this should be an independent study. In regards to 2423 he liked it but still believes in the value of an independent study. His suggestion is to keep the bills separate or at least keep the salient parts of 1556 in the bill.

Senator Lee If we were to blend this into 2423 or vice versa, I would like to see this study in relationship to the issues in 2423.

Rolfson The issue for ACC and others is that this is the most costly form of taking care of these fragile individuals. Spoke about the 95% occupancy rule and its effect on the ACC. Also detailed the various costs involved and hypothetical scenarios relating to the care of these individuals. They would like to study the cost issues so that the ACC does not need to come before the legislature every two years to request more money.

There was no opposition or neutral testimony given.

Chairman J. Lee Closed the hearing on HB 1556.

Job # 10513

Chairman J. Lee Opened the discussion on HB 1556.

Senator Dever I move **Do Pass and Rerefer to Appropriations**

Senator Heckaman Second

The Clerk called the role on the motion to **Do Pass and Rerefer to Appropriations. Yes: 5,**

No: 0, Absent: 1 (Senator Marcellais).

Senator Dever will carry the bill.

Date: 3/9/09

Roll Call Vote #: _____

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HB 1556

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Rerefer to Appropriations
☐ Adopt Amendment ☐ Reconsider

Motion Made By Sen. Dever Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais		
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 5 No 0

Absent 1

Floor Assignment Senator Dever

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

REPORT OF STANDING COMMITTEE

HB 1556, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends DO PASS and BE REREFERRED to the Appropriations Committee
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1556 was
rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

HB 1556

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1556

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 17, 2009

Recorder Job Number: 11080

Committee Clerk Signature

Rose Laning

Minutes:

Chairman Holmberg called the committee hearing to order on HB 1556 which is for a study of rates for public and private licensed developmental disability providers.

Alon Wieland: Representative District 13 introduced and testified in support of HB 1556. (See attached testimony # 1)

Calvin N. Rolfson: Anne Carlsen Center testified in favor of HB 1556. (See attached testimony # 2)

The last interim session required study of rates of private DD centers. All funded through (5:56) House Approp. Do pass and committees passed the bill.

Legislative Council by September. CEO of center was unable to be here.

Chairman Holmberg: Is that date an appropriate date to have this study completed by? Does this fit in where departments have already turned in budget?

Calvin N. Rolfson: We worked with department in creating this bill. They would make sure whatever the study was would be the rates. September is fine with them and they could submit earlier if they wished.

Senator Krauter The rates have changed almost every session. This methodology is not new to ND, but do you foresee us looking at what others states are doing this?

Calvin N. Rolfson: The problem we face is that these are straight rates. There is limited staffing. The experts would look at other states and see what is out there. They establish rates based on severity. We can't in good business continue to subsidize the state. It's a poor business model and we don't have money. Take highly DD children and not getting the staff to take care of them.

Senator Krauter: Wouldn't the federal or Medicaid dollars be eligible for 100% funding for this study?

JoAnne Hoesel: Division Director, Department of Human Services

To answer Senator Krauter's question: this would be an administrative activity expense and would cover 50%.

Senator Warner: Could you give me some idea of the number of companies or consultants that want to look at the process?

JoAnne Hoesel: There are centers that do this kind of work. We are having discussion with CMS with portability of funds. Anne Carlson is requesting us to look at retrospective because legislature has allowed us to look at in the last couple sessions. There are states that have done these studies and we can learn from them. We have a problem having enough consultants to choose from.

Senator Warner: What is the mailing list of advertising?

JoAnne Hoesel: We'd use a number of areas. There is a national organization for developmental disabilities and they have been a very good resource in the past with identifying other consultants that were needed to look at. With regards to the Centers for Medicare and Medicaid, with their funding formulas, they have individuals who have resources and would need a number of resources to reach people.

Senator Warner: Whatever amount is put in the bill is what the study is going to cost. How do we get the parameters?

JoAnne Hoesel: One of the ways that I am familiar with is to put the outcomes you request, the experience one would have to trust their recording, and you request letters of support based upon their past work. You don't PUT a number in there and ask what they would require and do. You can negotiate.

Senator Krauter: What if you didn't put a dollar amount in there. What is the scenario if you don't put dollar amount in?

Chairman Holmberg: Could they spend money unless they were authorized to spend money?

Sheila Sandness: Legislative Council:

Chairman Holmberg: Out of operations

Senator Krauter: Want to get a good return on your RFP Request for Proposal.

JoAnne Hoesel: You are correct that we need spending authority in order to spend any type of money, whether it is state, federal, or other. Since the other dollars are accounted for, that could be problematic. One possible way would be to have this specific appropriation and then based on the spend amounts on the grants, if there is some move ability to allow the department to spend the authority within that source.

Chairman Holmberg: There are those who say you should be able to absorb that.

V. Chair Bowman: Was there a contractual agreement between the Department and Anne Carlsen when it opened up. Are we obligated to support them and for how much?

JoAnne Hoesel: That is why this bill is coming forward to you. We do not have a contract. We have providers that are willing to come forward and The Carlsen Center has stepped forward and they tend to take a higher number of individuals who are medically fragile and behavioral challenged. They know what we'll pay for these services, but they need more. It was agreed

upon with the DD providers that they didn't want to make a change. The medical gains are able to save the lives of babies who they might not have been able to sustain life. These patients often come with severe medical issues.

Calvin N. Rolfson: To point out the value received by our lawmakers for the work that is done by these 2 dozen providers. We have 4 alternatives: 1) your at the Anne Carlsen Center, 2) you're out of state, 3) You're in a step-down unit such as an I.C.U Unit in a hospital which is perhaps 2x the bill costs, or 4) at Grafton Care Center. These are all the options and alternatives in the state and all these facilities are asking is that it be fair and equitable, which it is not. This bill is the way for that to happen.

Chairman Holmberg: closed the hearing on HB 1556.

Subcommittee on human services will look at this bill.

Senator Fischer: If we take the money out of here and put it in the budget.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1556

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 2, 2009

Recorder Job Number: 11650

Committee Clerk Signature

Minutes:

Chairman Holmberg opened discussion on HB 1556.

Senator Fischer gave overview of the bill which related to the developmental disability providers.

Senator Fischer moved Do Pass on HB 1556.

Senator Mathern seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

The bill goes back to Human Services and Senator Dever will carry the bill.

Date: 4-2-09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1556

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Fischer Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Chairman	✓		Sen. Aaron Krauter	✓	
Sen. Bill Bowman, VCh	✓		Sen. Elroy N. Lindaas	✓	
Sen. Tony S. Grindberg, VCh	✓		Sen. Tim Mathern	✓	
Sen. Randel Christmann A			Sen. Larry J. Robinson	✓	
Sen. Tom Fischer	✓		Sen. Tom Seymour	✓	
Sen. Ralph Kilzer	✓		Sen. John Warner	✓	
Sen. Karen K. Krebsbach	✓				
Sen. Rich Wardner	✓				

Total Yes 13 No 0

Absent 1

Floor Assignment Human Services

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

REPORT OF STANDING COMMITTEE

HB 1556, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1556 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HB 1556

HB 1556

*Same given to Senate
Approps and to Senate
Human Services #1*

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

FOR THE RECORD, MY NAME IS ALON WIELAND, REPRESENTATIVE FROM DISTRICT 13 IN WEST FARGO.

I AM HERE TO INTRODUCE HB 1556, AND WOULD LIKE TO EXPLAIN WHY I BELIEVE THIS BILL IS IMPORTANT. OTHER WILL FOLLOW WITH GREATER DETAIL, BUT I SUPPORT THE BILL AND THIS IS WHY.

THE ANNE CARLSEN CENTER IS THE STATE'S PREMIER FACILITY SERVING ICF/MR RESIDENTS THAT ARE HIGHLY MEDICALLY FRAGILE AND BEHAVIORALLY CHALLENGED. THE ANNE CARLSEN CENTER NEEDS TO COME TO THE LEGISLATURE EACH SESSION BECAUSE THE RATES THAT THEY RECEIVE, AND THAT ARE SET BY THE DEPARTMENT OF HUMAN SERVICES, SO OFTEN DON'T ADEQUATELY PAY FOR THE CARE THAT THEY ARE REQUIRED TO GIVE TO THEIR CHALLENGING POPULATIONS.

I BELIEVE THAT HB 1556, IF PASSED, WOULD CREATE A SYSTEMATIC CHANGE TO THE DHS REIMBURSES THE CENTER AND ALL OTHER FACILITIES THAT ALSO CARE FOR THESE VULNERABLE POPULATIONS.

UNDER THE BILL, THE STUDY WOULD ADDRESS COMPLEX DEVELOPEMENTAL DISABILITY CLIENTS AS WELL AS RESIDENTIAL AND IN HOME AND COMMUNITY BASED SERVICES.

THE STUDY WOULD BE DONE THROUGH THE DEPARTMENT, BUT WOULD BE CONDUCTED BY AN INDEPENDENT CONSULTANT WITH SPECIAL EXPERTISE IN THE COMPLEX RATE-SETTING ARENA.

THEREFORE, THERE IS AN APPROPRIATION REQUEST IN THE BILL, THAT, IF APPROVED, COULD BE MATCHED BY FEDERAL DOLLARS UNDER MEDICAID. OF COURSE, IF YOU APPROVE THE BILL, WHICH I HOPE YOU DO, IT WOULD BE REFERRED TO THE APPROPRIATION COMMITTEE FOR ANOTHER HEARING.

DAN HOWELL, THE CEO OF THE ANNE CARLSEN, AND OTHERS WILL GIVE YOU FURTHER DETAILS, AND I HOPE YOU FIND THAT THE BILL HAS MERIT. I WILL ATTEMPT TO ANSWER ANY QUESTIONS.

THANK YOU MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.

#2

TESTIMONY
HOUSE BILL 1556 – DEPARTMENT OF HUMAN SERVICES
HOUSE APPROPRIATIONS – HUMAN RESOURCE DIVISION
REPRESENTATIVE WEISZ, CHAIRMAN
February 4, 2009

Chairman Weisz, members of the Committee, my name is Dan Howell and for the past 9 years, I have had the privilege and honor to be the Chief Executive Officer of the Anne Carlsen Center (ACC) located in Jamestown, North Dakota. I continue to serve in the shadows of our namesake, Dr. Anne Carlsen. Dr. Anne Carlsen is one of only 36 individuals who have received the prestigious Teddy Roosevelt Roughrider Award. She has been the driving force and inspiration for over 67 years as the ACC has taken on the challenge of caring for the State of North Dakota's most challenging children and now adults with special needs.

I am here today to testify in support of HB 1556. HB 1556 requires the Department of Human Services (DHS) to contract with a qualified and independent contractor to study the methodology and calculations for the rate setting structure which is used by the Department to reimburse private, licensed developmental disability providers who serve both medically fragile and behaviorally challenged individuals in a residential or home and community based setting.

The genesis of HB 1556 goes back to June of 2003. In June of 2003, the DHS sent a memo to providers, which in essence discontinued the use of staffing enhancements based on client's acuity and severity. This policy statement issued in 2003 continues today.

What this policy essentially does is shift the cost burden to care for these special and highly complex children and adults from the Department to the DD provider. In some cases causing DD providers to no longer care for these clients. Thus, the need to study this issue.

During the last two (2) legislative sessions, the ACC as well as other providers in the State of North Dakota have benefited from additional funding that was allocated by the North Dakota Legislature. In 2005 that dollar amount was approximately \$300,000 to serve medically fragile and behaviorally challenged children. In 2007 that dollar amount was approximately \$2.1 million.

During this session, there is a proposed amendment to HB 1012 which will address critical needs staffing enhancements to meet the needs for this severally challenged population. While I am grateful for the efforts that each of you have made to help reduce the funding gap for critical needs staffing in the past, it is apparent that systemic change is necessary to address this issue

beyond this legislative session. HB 1556, in my estimation, would begin that process.

The ACC serves 55 children on its campus in Jamestown. In addition, we serve 21 clients both children and adults in our home and community based programs in the Grand Forks region. Of these individuals, 63.7% are classified as the highest or most severe level in a behavioral scoring matrix. Over the past decade, we have seen an increase of 159% of children on behavioral support plans. Since the policy created by the Department in June of 2003, our approved fulltime equivalents (FTEs) for reimbursement purposes have increased by 4.5%. However, we have seen an increase of 42% in the severity and acuity of clients. This has resulted in a funding gap for the ACC specifically of \$713,000 in 2008 just for these behaviorally challenged clients.

The same can be said for the medically fragile clients that we serve. Our average scores for acuity and complexity have increased 35% since 2005, but the allocation for FTEs for which we are reimbursed by the Department has only increased approximately 10%. This gap equated to an investment by our Foundation in 2008 alone of approximately \$473,000.

It is interesting to note that other states such as South Dakota, Illinois, Florida and Alabama, utilize acuity and severity models for their reimbursement methodologies for medically fragile and

behaviorally challenged clients. Once again, this illustrates the importance of the study set forth in this Bill.

Although I cannot speak for my colleagues around the State of North Dakota, many providers are limited in the types of clients that they can receive because they are not granted additional staffing enhancements to meet the acuity and severity of increasingly more challenging population of developmental disability clients. Many of these clients may become residents of the Developmental Center in Grafton, if local providers cannot receive enhancements.

A colleague of mine once said, "When there is an elephant in the room, it is best to introduce it." The elephant in the room for the ACC is our Foundation. The Center has been blessed and privileged over the past many years to receive generous one time gifts as well as many end of life gifts towards the care of children at the Center. This has put our organization in a unique position. We feel we have a responsibility towards accepting children and young adults with great medical and behavioral complexities regardless of the present reimbursement structure.

For providers around the State of North Dakota to adequately serve the growing complexity with respect to the clients that we are being asked to serve, we feel it is imperative that the study that is being proposed in HB 1556 is put in place.

Mr. Chairman and members of the Committee, my hope is that HB 1556 begin to address the systemic change that needs to occur so that the ACC and other providers will find it no longer necessary to continue to come to the North Dakota Legislature asking for additional funding for the medically fragile and behaviorally challenged populations. Our hope is that the DHS, with the help of the study, recognizes the increased complexity in these fragile populations in North Dakota, creates a reimbursement methodology, as well as provides appropriate funding.

Following my testimony, Cal Rolfson will share with you a few suggested amendments to the Bill that have been worked out with DHS and with other provider members of NDACF.

Mr. Chairman, and members of the Committee, I would be more than happy to answer any questions that you may have at the present time.

Dan Howell, ACC CEO

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1556

Page 1, line 6, replace "a qualified" with "an" - *eliminated*

Page 1, line 7, after "disability" insert "ICF/MR and home and community based services"

Page 1, line 8, replace "servicing" with "serving"

Page 1, line 18, replace "July" with "September"

Page 1, line 22, after the comma insert "and from special funds derived from federal funds, the sum of \$100,000, or so much of the sum as may be necessary,"

Renumber accordingly

TESTIMONY
HOUSE BILL 1556 – Study of Rates for Private Licensed DD Providers
Representative Weisz, Chairman
February 4, 2009

Chairman Weisz, members of the Human Services Committee, I am Barbara Murry, Executive Director of the North Dakota Association of Community Providers. I am here today to testify on HB 1556.

The North Dakota Association of Community Providers is made up of 26 organizations across the state. We represent approximately 4,500 staff, 3,900 of whom are Direct Support Professionals, or DSP's. We serve approximately 4,800 individuals with developmental disabilities. Services are most often, lifelong.

Some testimony to serve

Ninety-nine percent of the typical provider funding comes through the Department of Human Services. Rates are set by the DD Division and are not subject to provider control as market conditions change. The DD Division also has established staffing ratios in ICF/MR and Home and Community Based group homes and day programs, and reviews hourly needs for the individually contracted service programs under the waiver. The Division has had the capacity to meet the service needs for those individuals coming out of the Development Center or the public schools, but has not had the capacity to consider increased staffing based on the critical

needs of those individuals already served in the community. Many individuals have severe behaviors issues or increased medical needs as they age. Each year, individuals who have never been at the Development Center are institutionalized, because the community is unable to meet their needs. DHS and community providers conducted a survey of critical community needs and determined that an additional 84 positions were needed. DHS developed an OAR to respond to this need, but it was not included in the Governor's budget. I am concerned that the community programs will continue to return more people than necessary to the Developmental Center, if staffing is not available to meet their critical needs, based on severe behavioral needs and medical fragility.

Chairman Weisz, this concludes my testimony. I would be happy to answer any questions.

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**TESTIMONY
HOUSE BILL 1556
SENATE HUMAN SERVICES – HUMAN RESOURCE DIVISION
SENATOR JUDY LEE, CHAIR
March 9, 2009**

Madame Chair, members of the Committee, my name is Dan Howell and for the past 9 years, I have had the privilege and honor to be the Chief Executive Officer of the Anne Carlsen Center (ACC) located in Jamestown, North Dakota.

I am here today to testify in support of HB 1556. HB 1556 requires the Department of Human Services (DHS) to contract with a qualified and independent contractor to study the methodology and calculations for the rate setting structure which is used by the Department to reimburse private, licensed developmental disability providers who serve both medically fragile and behaviorally challenged individuals in a residential or home and community based setting.

The genesis of HB 1556 goes back to June of 2003. In June of 2003, the DHS sent a memo to providers in essence discontinuing the Department from reimbursing for staffing enhancements based on client's acuity and severity. This policy statement issued in 2003 continues today.

What this policy essentially does is shift the cost burden to care for these special and highly complex children and adults from

the Department to the DD provider. In some cases causing DD providers to no longer have the ability financially to care for these clients. Thus, the need to study this issue.

During the last two (2) legislative sessions, the ACC as well as other providers in the State of North Dakota have benefited from additional funding that was allocated by the North Dakota Legislature. In 2005 that dollar amount was approximately \$300,000 to serve medically fragile and behaviorally challenged children. In 2007 that dollar amount was approximately \$2.1 million.

During this session, there is a proposed amendment to HB 1012 which will address critical needs staffing enhancements to meet the needs for this severally challenged population. While I am grateful for the efforts that each of you have made to help reduce the funding gap for critical needs staffing in the past, it is apparent that systemic change is necessary to address this issue beyond this legislative session. HB 1556, in my estimation, would begin that process.

The ACC serves ⁵⁶~~55~~ children on its campus in Jamestown. In addition, we serve 21 clients both children and adults in our home and community based programs in the Grand Forks region. Of these individuals, 63.7% are classified as the highest or most severe level in a behavioral scoring matrix. Since 2003, the ACC has seen an increase of 42% in behavioral severity of children on behavioral

support plans. With the policy created by the Department in June of 2003, our reimbursed and approved fulltime equivalents (FTEs) have increased by 4.5%. We are reimbursed for 88.64 FTEs while we staff 114 FTEs to meet the needs of these clients. This has resulted in a funding gap for the ACC specifically of \$713,000 in 2008 just for these behaviorally challenged clients.

The same can be said for the medically fragile clients that we serve. Our average scores for acuity and complexity have increased 35% since 2005, but the allocation for FTEs for which we are reimbursed by the Department has only increased approximately 10%. We staff to meet these needs at 28.4 FTEs, but are reimbursed at 21.3 FTEs. This gap equated to an investment by our Foundation in 2008 alone of approximately \$473,000.

It is interesting to note that other states such as South Dakota, Illinois, Florida and Alabama, utilize acuity and severity models for their reimbursement methodologies for medically fragile and behaviorally challenged clients. Once again, this illustrates the importance of the study set forth in this Bill.

Although I cannot speak for my colleagues around the State of North Dakota, many providers are limited in the types of clients that they can receive because they are not granted additional staffing enhancements to meet the acuity and severity of increasingly more challenging population of developmental

disability clients. Many of these clients may become residents of the Developmental Center in Grafton, if local providers cannot receive enhancements.

A colleague of mine once said, "When there is an elephant in the room, it is best to introduce it." The elephant in the room for the ACC is our Foundation. The Center has been blessed and privileged over the past many years to receive generous one time gifts as well as many end of life gifts towards the care of children at the Center. This has put our organization in a unique position. We feel we have a responsibility towards accepting children and young adults with great medical and behavioral complexities regardless of the present reimbursement structure.

For providers around the State of North Dakota to adequately serve the growing complexity with respect to the clients that we are being asked to serve, we feel it is imperative that the study that is being proposed in HB 1556 is put in place.

Madame Chair and members of the Committee, my hope is that HB 1556 begin to address the systemic change that needs to occur so that the ACC and other providers will find it no longer necessary to continue to come to the North Dakota Legislature asking for additional funding for the medically fragile and behaviorally challenged populations. Our hope is that the DHS, with the help of the study, recognizes the increased complexity in

these fragile populations in North Dakota, creates a reimbursement methodology, as well as provides appropriate funding.

Your colleagues in the House have seen fit to pass HB 1556 by a margin of 93-0. I would respectfully ask that this Committee give HB 1556 the same consideration.

Madame Chair, and members of the Committee, I would be more than happy to answer any questions that you may have at the present time.

Dan Howell, ACC CEO

EXPLANATION OF HB 1556

HB 1556 would require the Department of Human Services (DHS) to seek bids through an RFP and contract with a qualified and independent contractor to study the methodology and calculations for the rate-setting structure used by DHS to reimburse private, licensed DD providers that serve medically fragile and behaviorally challenged children and adults in residential and home and community based settings. There are about two dozen or so of these facilities throughout the state. The Anne Carlsen Center has the largest single group of these folks (about 40%), with most of the remaining facilities having 2 or 3 clients in each of their facilities. Here's the issue this Bill addresses.

Last Interim DHS studied and rebased all medical providers that serve Medicaid recipients throughout the State. That included physicians, chiropractors, dentists, and the like. Their rates had not been looked at and adjusted for many years. No witnesses could recall at the hearing in the House Human Services Committee hearing if the rates for our State's private DD facilities has EVER been studied.

These facilities care for our most vulnerable citizens. They have basically flat rates for the broad array of complex individuals they serve. For example, the Anne Carlsen Center testified that they lose

over \$1.1 million each year caring for their fragile and complex kids, all funded through Medicaid state and federal dollars. Yet, it is the State's duty to adequately and appropriately fund their care, so the Anne Center basically donates or contributes this amount annually to the State by subsidizing the State's obligation. Other private DD facilities do the same, though to a lesser amount.

Since this issue has not been studied, House Committee on Human Services believed unanimously, by a "do pass" vote of 13 – 0, that this issue needed to be independently studied - out of fairness to the facilities we ask to care for these folks, and out of fairness to DHS that could use the guidance of an independent study. The study would be put out for bid through an RFP by DHS, but it would be independently conducted by analytical experts in this field.

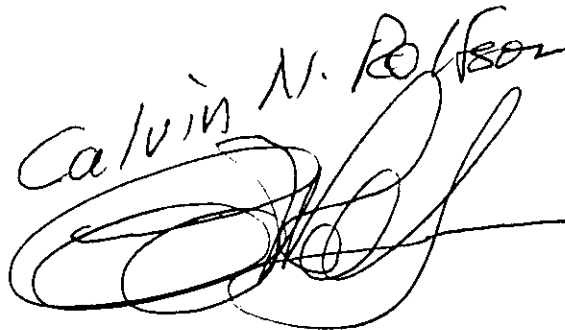
There are up to \$100,000 in general fund dollars in the Bill, to be matched by up to the same amount in federal dollars under the F-MAP. Of course, if the lowest and best proposal is lower than that total balance of the dollars authorized, that excess would not be spent. The report on the study would go to the Legislative Council by September, 2010, so that the next budget would be more accurately created by DHS using the study results. The funding level was selected to attract

competent competitive bidders rather than to have it too low and exclude recognized quality bidders.

In the House, the Bill was re-referred to Appropriations, where that Committee also recommended a "do pass" by a vote of 17-5. It passed the House by a vote of 97-0.

I urge you to follow the solid recommendations of all the previous Committees and vote "Yes" on this Bill. Thank you.

Calvin N. Ruffen

A handwritten signature in black ink, appearing to read "Calvin N. Ruffen". The signature is stylized with large, overlapping loops and a long horizontal stroke at the end.