

2021 HOUSE HUMAN SERVICES

HB 1090

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1090
1/13/2021

Relating to nursing home rates

Chairman Weisz called the hearing to order at 9:44 a.m.

Representatives	Roll Call
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Pricing reimbursement model
- Property reimbursement model
- Fair Rental Value System (FRVS)

Dr. Caprice Knapp, Director of Medical Services Division Department of Human Services (9:44) testified in favor and submitted testimony #668 and #669.

Joseph Lubarsky, President Eljay LLC (10:14) testified in favor and submitted testimony #461.

Shelly Peterson, President North Dakota Long Term Care Association (10:36) testified in favor and submitted testimony #715.

Additional written testimony: #462

Chairman Weisz adjourned at 10:59 a.m.

Tamara Krause, Committee Clerk

Photo credit: Heather Steffl

HOUSE BILL 1090 NURSING HOME PAYMENT REFORM

Caprice Knapp, PhD
Medical Services Director
January 13, 2020

AGENDA

- How did we get here?
- What does House Bill 1090 propose?
 - Department of Human Services staff, members of the North Dakota Long Term Care Association (NDLTCA), along with a consultant hired by NDLTCA met nine times since 2019.
 - Meetings resulted in a joint endorsement of a new:
 - pricing reimbursement model for care (including direct, indirect, and other care) and
 - property reimbursement model.

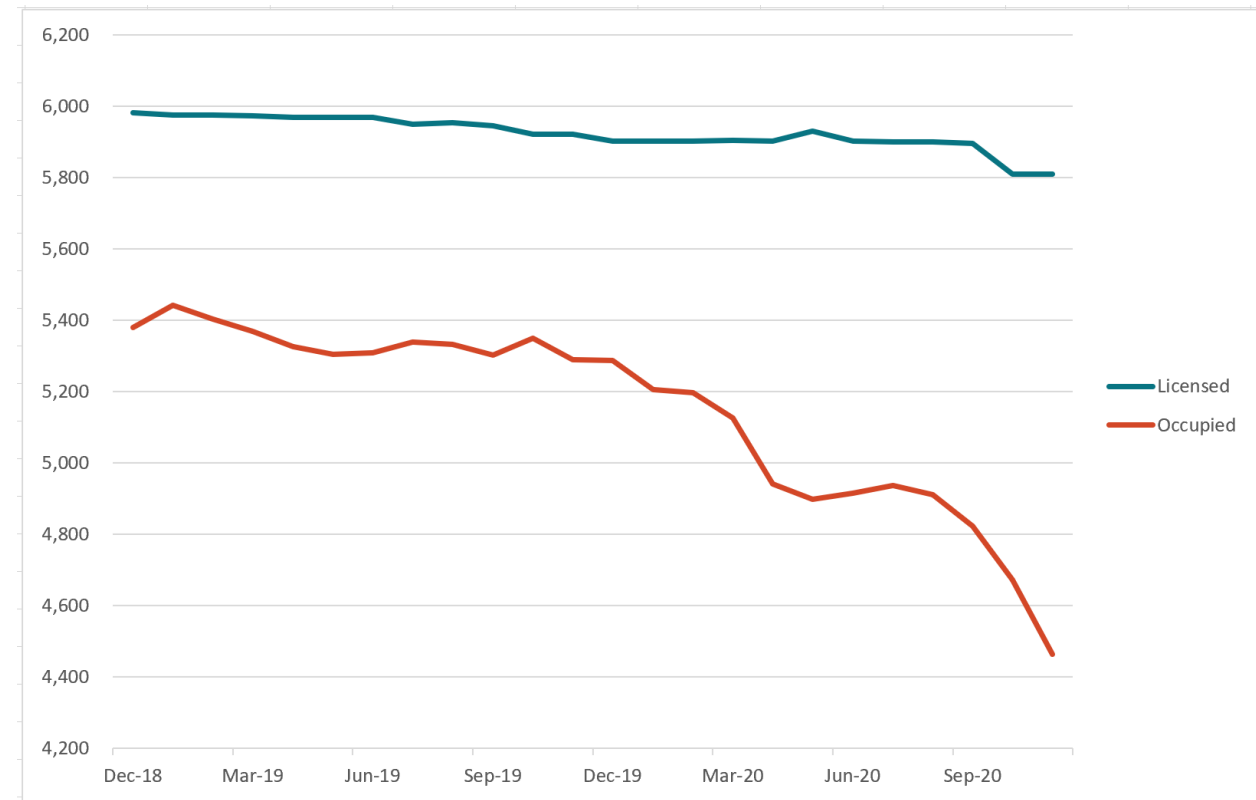
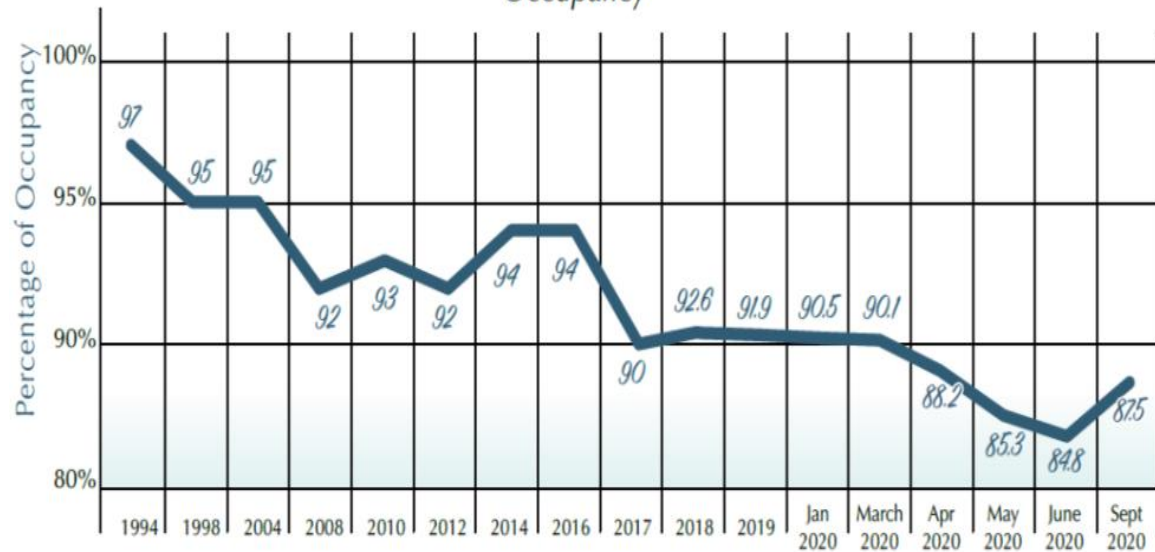
History



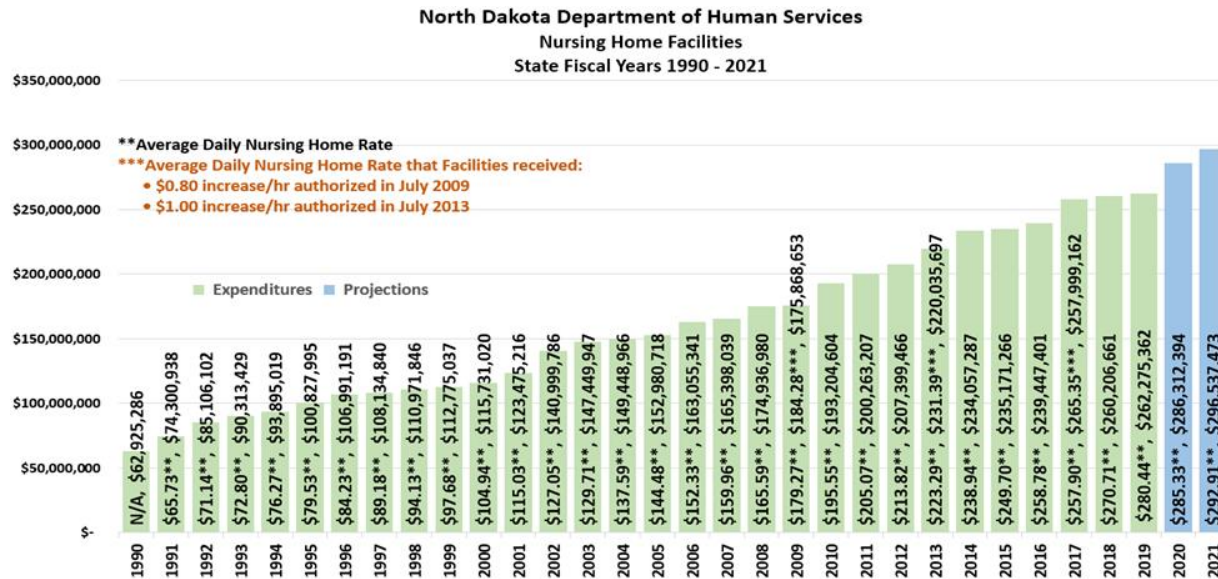
Photo credit: ND Tourism

OCCUPANCY RATES AND BEDS

Nursing Facilities
Occupancy



EXPENDITURE HISTORY

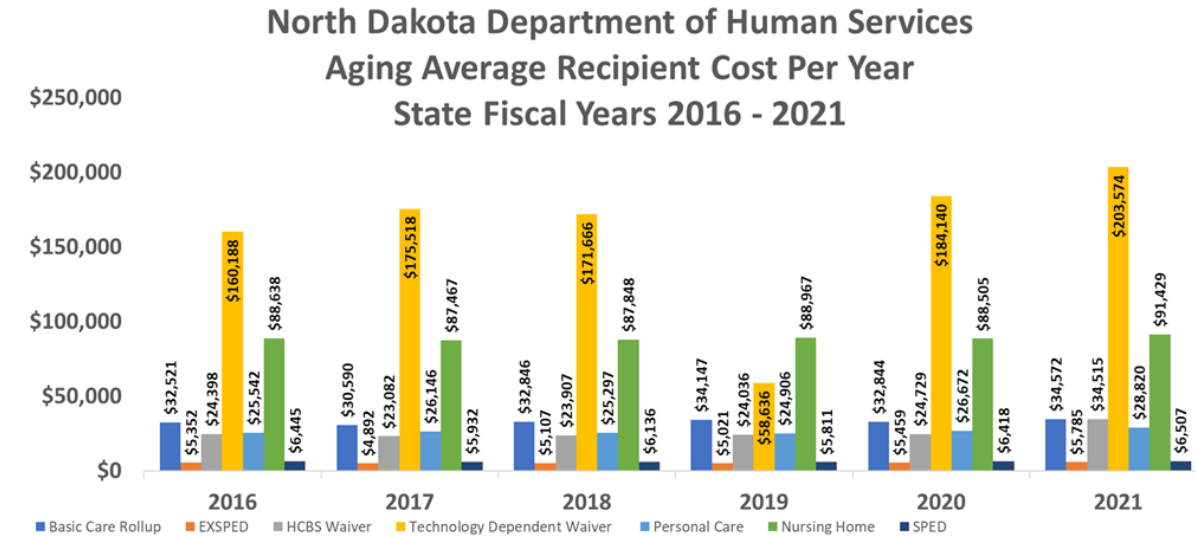


Data is based on paid date

*1990 - 2017 represents actual expenditures

2018 and 2019 represents estimated expenditures in the Executive Budget

The average daily nursing home rate is effective January 1 of each year unless otherwise indicated



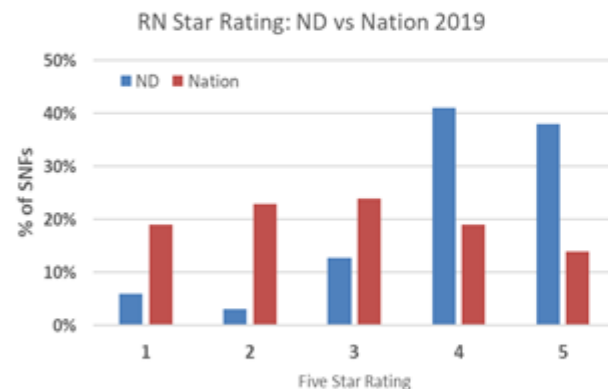
Data is based on paid date

2020-2021 based on estimated expenditures, remaining years are based on actual paid claims

HCBS does not include room and board

STAFF IS THE LARGEST COST DRIVER

ND vs Nation: Staffing Star Rating 2019



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PRICING MODEL REFORM



Photo credit: ND Tourism

The goals of the pricing model reform were to develop an overall *budget neutral* payment methodology that would:

 Reduce variation among facilities

 Dampen the growth in nursing home spending over time

 Encourage efficiency across the system

NEW PRICING MODEL FEATURES

Current Cost Method

No incentive to reduce cost

Rates are not predictable

Price Method

Incentive to reduce cost

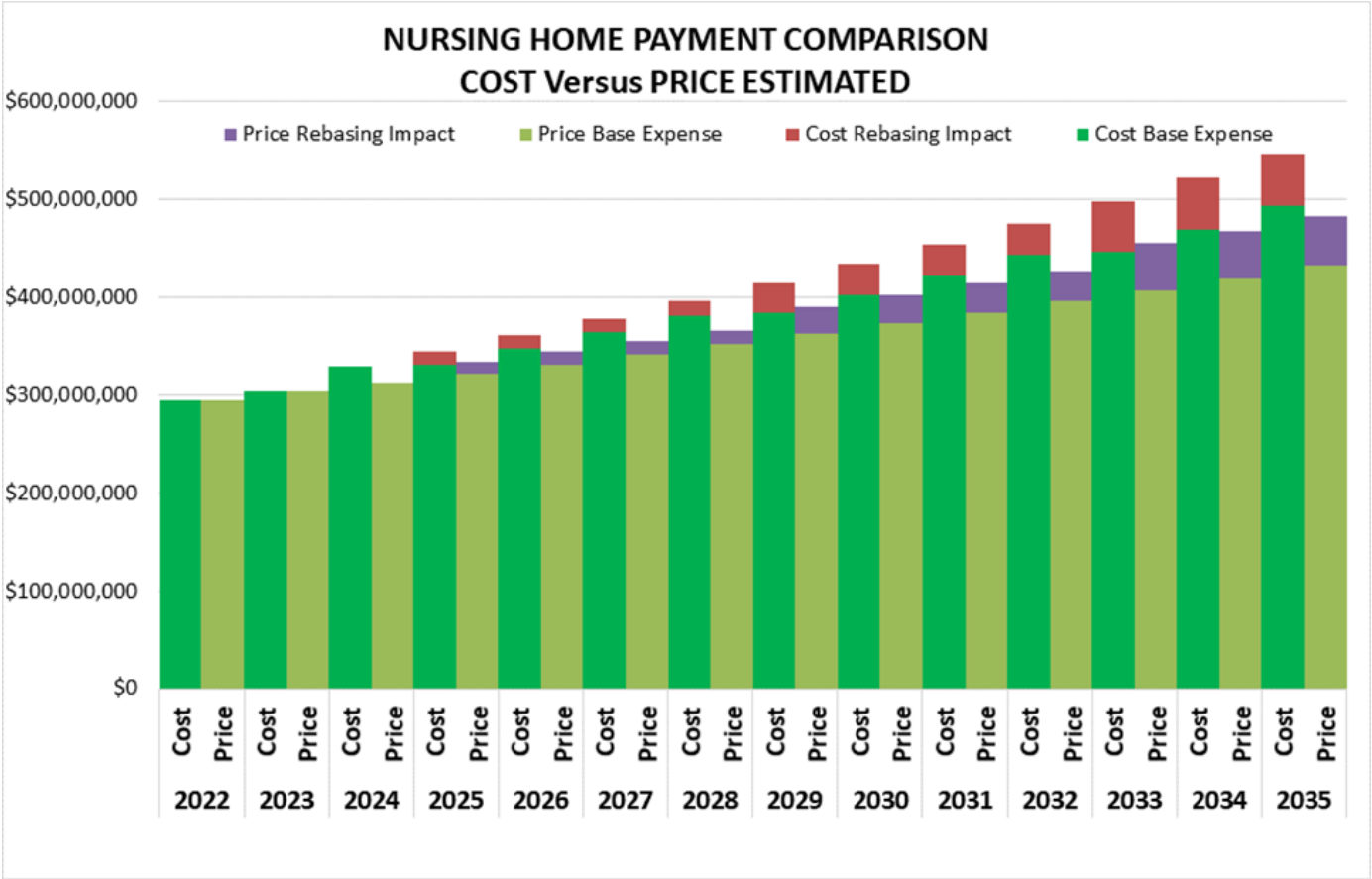
Rates are predictable

NEW PRICING MODEL FEATURES

- Although the new system is budget neutral overall, there will be some facilities that fall above and below the pricing levels
- Those that have lower costs than the pricing level will “gain” in the new system
- Those that have higher costs than the pricing level will “lose” in the new system. To combat this loss, it is recommended that a hold harmless provision be used to supplement these losses.

This is also true in the current system: 20 > direct care limit, 26> indirect limit, 21> other direct limit

ESTIMATED PRICING EXPENSES





PROPERTY MODEL REFORM

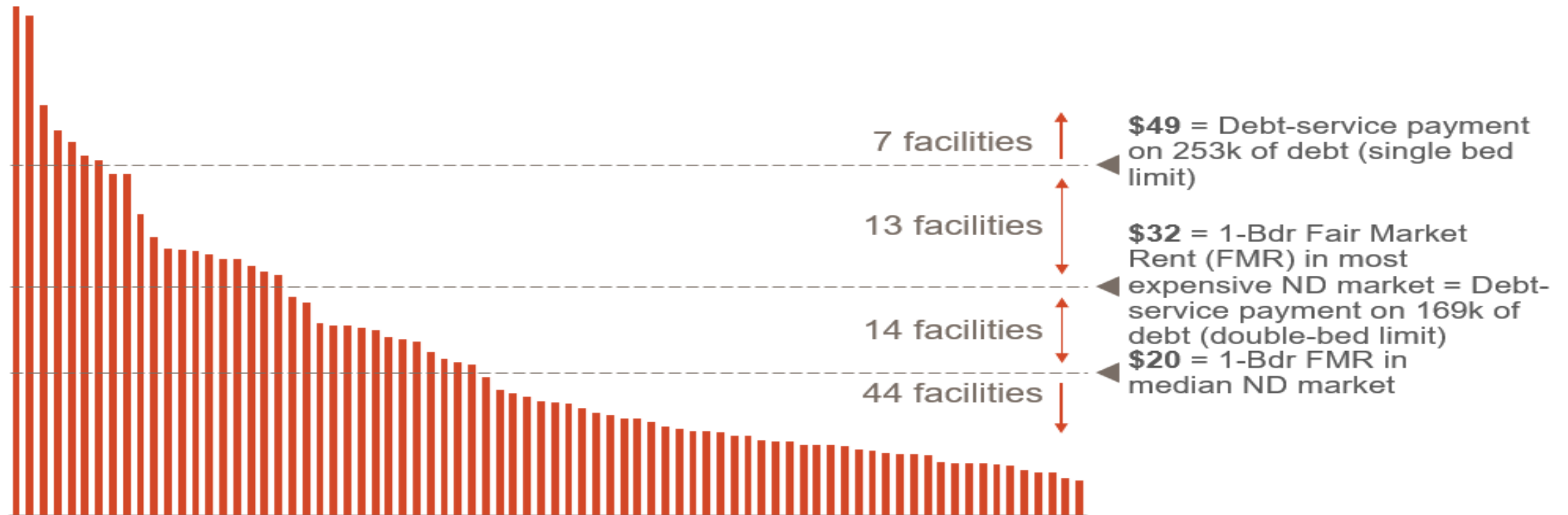
CURRENT PROPERTY MODEL

- Calculated annually based on historical cost
- Per bed cost limitation on new construction and renovation
 - July 1, 2020 limits are \$253,550 for single and \$169,033 for double
- No inflation factor
- 2019 rates range from \$4.85 - \$82.67 per day

CURRENT PROPERTY MODEL

Property Rate Payment by Facility

\$ per occupied per bed-day for "Property" cost category (includes pass-throughs¹)



1 Pass-throughs are typically very small (~\$2-5) compared to depreciation and interest expense
Source: Nursing facility cost reports

NEW PROPERTY MODEL FEATURES

- Called Fair Rental Value System (FRVS)
- Price for use of space irrespective of actual accounting cost
 - Economic value vs. financial accounting value
- Price = Facility value which increases over time based on replacement cost and proper upkeep times a rental rate
- Value based upon professional standards
 - Professional market appraisal
 - Proxy appraisal – Simulated appraisal value using commercial valuation systems such as Marshall Swift/Boeckh or RS Means
- Does not eliminate the need for minimum occupancy thresholds

WHY FRVS?

A well-designed fair rental value system will:

- Differentiate reimbursement based upon age/condition
- Provide incentives to generate capital resources for renovation, improvement and replacement
- Encourage investment in physical plant upgrades and renovations
- Impact the physical environment that can result in improvement of resident quality of life
- Simplify administration and allow the State to exert reasonable budget predictability and control

COMBINED PRICE AND PROPERTY RECOMMENDATIONS

	Recommendation
Total new Medicaid dollars for pricing and property models for the biennium (2 years)	\$4.1 million for pricing and \$3.1 million for property= \$7.2 million for the biennium
Funding Split of \$7.2 million Request	\$3,348,000 General Funds; \$3,852,000 Federal Funds



Photo credit: Heather Steffl

QUESTIONS

Testimony
House Bill 1090 – Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
January 13, 2021

Chairman Weisz, members of the Senate Human Services Committee, I am Dr. Caprice Knapp, Director of the Medical Services Division, for the Department of Human Services (Department). I am here today in support of House Bill 1090, which was introduced at the request of the Department.

This Department sponsored bill is a product of work that was directed by the Legislature in the previous legislative session. At that time, this committee was keenly interested in ways that the current nursing facility payment system could be reformed. During the 66th Assembly Senate Bill 2012 directed the Department to investigate and propose new methodologies for paying nursing facilities. Throughout 2019 and 2020, the Department worked with the North Dakota Long Term Care Association (NDLTCA) to study and develop new payment models for the care of residents and property. The resulting new payment models demonstrate a commitment to incentivize efficiency and promote property renovation, which improves the quality of life for residents, while simultaneously safeguarding taxpayer dollars. House Bill 1090 proposes changes to North Dakota Century Code 50-24.4-01 that reflect the agreed upon new models of payment. The Department especially thanks the NDLTCA for their resources and time committed to this process. This was genuinely a collaborative effort.

Through my testimony today I aim to accomplish three things: 1) review a handout with the committee members that describes the current and proposed payment systems, 2) explain House Bill 1090's proposed changes to North Dakota Century Code 50-24.4-01, and 3) describe work that has been accomplished to date between the Department and NDLTCA on an amendment that is forthcoming on House Bill 1090.

First, I ask the Chair's permission to review a handout that accompanies this testimony. The handout provides an overview of how care and property are paid for in the current system and how they will be paid under the proposed new system.

Second, I would like to describe changes to North Dakota Century Code 50-24.4-01 that were included in House Bill 1090. This section of Century Code details the definitions and reimbursement of nursing facilities for care and property.

Section 1 adds two definitions for components within the new payment models.

Section 2 of HB 1090 removes the timeframe for the Department to set rates from century code. The Department will be proposing updates to this timeframe in administrative code for the new payment models.

Section 3 describes how operating costs are assessed and reimbursed. Proposed language is added to clarify that

- starting in 2022, the Department will establish price limits for the cost categories for care;

- Information technology costs are still allowed as a pass through; and,
- Costs will be rebased for the 2024 rates using 2023 data.

Section 4 of describes how property related costs are assessed and reimbursed. Language is added to clarify that the Department will use a fair rental value system to set rates for property.

The change in Section 5 removes outdated language and is unrelated to the new payment models.

Third, I would like to describe for the committee members work that has occurred to date on a forthcoming amendment to House Bill 1090. Since House Bill 1090 was filed in December 2020, NDLTCA and the Department have been meeting to review the language to ensure that both parties agree that the language is representative of what was agreed upon during the discussions of the past year. Both parties acknowledge that the rulemaking process will also be used to implement the new payment models. However, the goal of these meetings is to try and reach consensus on what language is more appropriate for statute versus rulemaking. Below is a summary of areas of consensus that have been met and those we are still working toward:

- Agreed upon- defining inflation index as skilled market basket, how price limits will be established for the 2022 rate year, and that the differential property payment from the fair rental value system must be used for property related expenses only.
- Still working on- definitions of fair rental value and margin cap.

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

Joseph M. Lubarsky, President

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Louisville, KY 40223

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Consultant for Shelly Peterson, North Dakota Long Term Care
Association on HB 1090

Testimony on HB 1090
House Human Services Committee
January 13, 2021

Good morning Chairman Weisz and members of the House Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 assisted living, basic care, and skilled nursing facilities in North Dakota. All seventy-nine skilled nursing facilities are members of the Association. I am here in support of HB 1090 and ask that you support it.

This study of the payment system was a long grueling process and it challenged us to think differently. The study was mandated in the 2019 legislative session and you directed a revised payment methodology be developed. Not a tweaking of the old system but the creation of a new methodology. That took us awhile to grasp. I believe for the first five meetings, someone in the group would ask, "Are you sure this is necessary? Wouldn't it be better to change our current system and improve it to incentivize efficiency?" Then we would go back, read the legislative language you approved and said no, we need to change the entire payment methodology and thus we did! Many times, during our months of meetings I did not think we would arrive at consensus, but we stuck with the process and in the end at our September 2020 membership meeting, approved the new payment system by a vote of 99-1. At the end we did not get everything we advocated for and neither did the state, but we believe this system can achieve better efficiency of state resources and a quality service that delivers on our promise of assuring the elderly get quality care at the end of their life.

We could never have completed this study without the knowledge and expertise of two payment experts. Joe Lubarsky, President of Eljay, LLC and Brad DeJong, Senior Partner with Eide Bailly. Brad is an expert in North Dakota's nursing facility payment system and Joe is a national expert in the development and modification of nursing facility payment systems. He has assisted in the design of payment systems in 30 states and in the last 10 years was actively involved in redesigns or major modifications in Maryland, Virginia, Mississippi, Florida, Tennessee, Washington, South Carolina, Nebraska, The District of Columbia and of course, now North Dakota. Without their expert knowledge this project would have never been successful. They are both online today to assist with any questions you may have.

We are still working out the fine details of the system. The details are important, and they are entwined to the total success of the payment system. We know you have final approval, you determine policy. I'm hoping you see the value and can support all changes we are bringing to you. To trust the state and national experts who know the details on complex payment systems. There are key components that are vital to the implementation and success of the new system. I encourage you to ask many questions. The experts, Joe and Brad, can explain everything about the proposed new system.

Key Features of the New Pricing Model

1. Moves to a hybrid pricing model versus our current cost-based system with limits.
2. Set price levels as a percentage of median, with direct care and other direct care at 120% of median and indirect at 110% of median.

3. The indirect price will be established separately for small nursing facilities, 55 beds and under, and large facilities, greater than 55 beds. Small nursing facilities will have a higher price of approximately \$4 dollars in the indirect cost category.
4. The margin cap in all cost centers will be 3.46% of the price. Please do not confuse this with an operating margin under our current system. In our current system, everyone gets an operating margin, that will not be true in our new system. Every facility will have the opportunity to receive a margin, but it will be based on where they are operating relative to the Price Point.
 - Facilities that are 3.46% or more under the Price Point will receive the facility specific allowed ~~rate~~ cost plus the margin.
 - Facilities that are within 3.46% of the Price Point will receive the Price.
 - Facilities that are at or over the Price Point will only receive the Price, no margin.
5. The new system would implement on 1-1-22 and the 6-30-21 cost report will be used to set the initial prices.
6. We are proposing a hold harmless provision for two years on the operating side. For the initial year starting 1-1-22 nursing facilities will be able to select to operate under the existing cost based methodology or the new pricing model. All nursing facilities will receive two sets of rates and they will decide and select the one they want. This two year hold harmless is very important and will help those who may experience rate decreases under the new pricing model to transition more slowly into the new payment model.

7. In the second year of implementation, 2023, the hold harmless provision continues. A nursing facility can continue to stay under the existing cost based system or convert to the new payment system. In year three, all must convert to the new pricing model.
8. Rebasing will occur every two years for the first four years and will be examined after that period.
9. The Medicare Skilled Nursing Facility Market Basket will be utilized to increase rates in the non-rebasing years.
10. A process has been developed to address atypical cost increases in a non-rebasing year. (i.e., pandemic – national minimum wage) and that will be outlined through the rule promulgation process.
11. Equalization of Rates continues.
12. When the two year transitional hold harmless ends, we would like to see the development of a new quality incentives payment. This is not part of the legislation before you today but something I would like to bring back in 2023 for implementation in 2024.

Based upon a statistical analysis of costs there is one driver of why it costs more in some North Dakota nursing facilities and that is the number of staff they have. Lower cost facilities have less staff, high cost facilities have more. Under this new system some high staff facilities may need to reduce staffing to be successful under this model. An analysis of cost and quality data in North Dakota shows those with higher costs, (higher staffing), have better overall quality

outcomes. We would like to see a system that rewards quality and allows all nursing facilities to earn back dollars in the form of a quality payment to help support the cost of their higher staffing. Today we need the two year hold harmless transition payment, but in the future, we would love to see this as a quality payment. (See three charts on quality)

13. Implement a Fair Rental Value System as the property component on 1-1-23. Implementing this component of the new system is going to take time because to establish your Fair Rental Value the state will need to collect square footage and cost of additions and renovations made on all nursing facilities over their lifetime. This also needs a hold harmless provision, and this provision will be needed for a much longer period of time. The hold harmless provision is to help those that have recently undertaken a major construction project or to help those that are in planning or construction phase for a major project, if the financing of the project was in place by 12-31-21.

As Caprice mentioned in her testimony, we are still working on amendments to the bill and attempting to decide what might be best left to rules and the North Dakota Administrative Code. The details are very important, a word change can unknowingly have unintended consequences. We are working closely with DHS to have language that is clear and concise and most importantly meets the intent of the items negotiated this past year. We are continuing to work on amendments and language and anticipate further changes throughout the session.

This concludes my testimony your support and endorsement of this new payment system is requested. I would be happy to answer any questions you may have.

Shelly Peterson, President

North Dakota Long Term Care Association

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Bismarck, ND 58501

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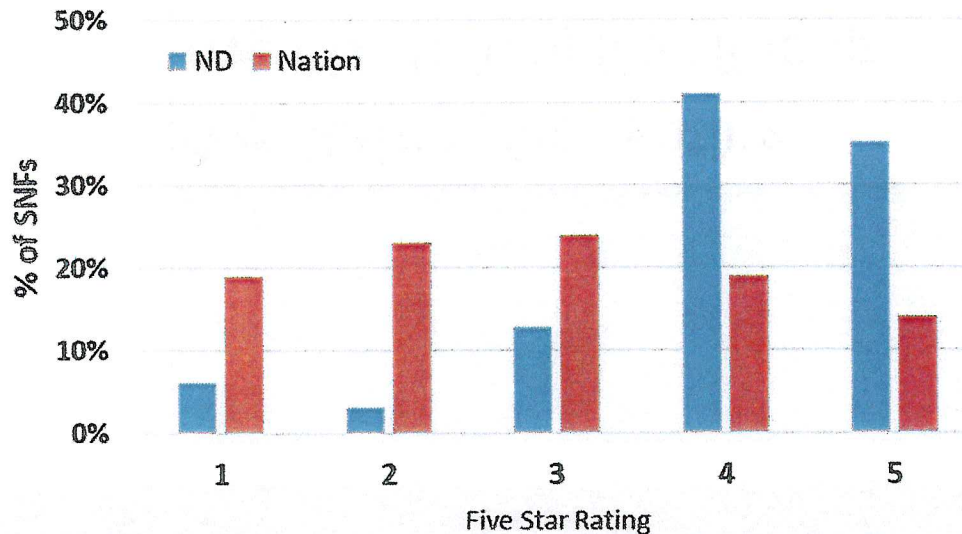
ND vs Nation on Staffing

	2019-Q1	
	Nation	North Dakota
	N =15,140	N = 80
Avg Staffing Star Rating	2.9	4.0
Avg RN Staffing Star Rating	2.9	4.0
Total Nursing Adjusted HPRD	3.9	4.8
RN Adjusted HPRD	0.7	1.1

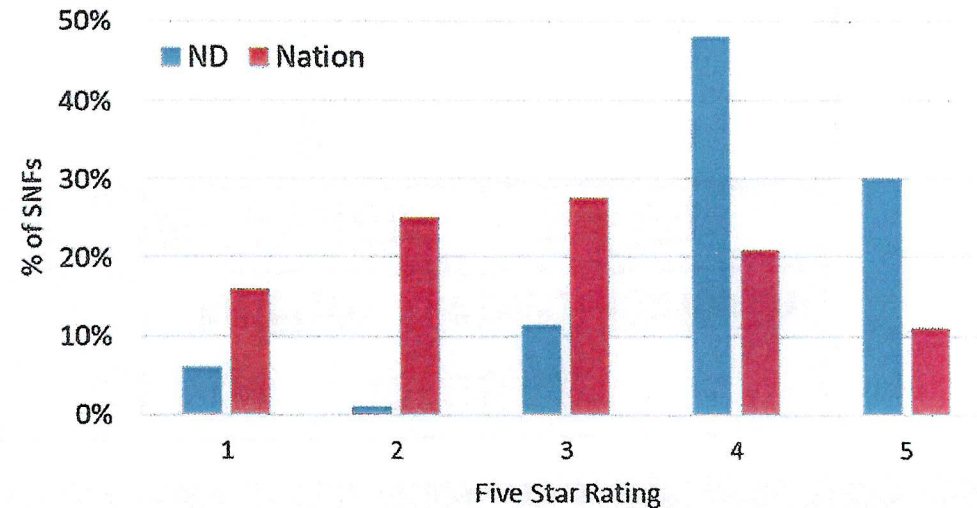
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ND vs Nation: Staffing Star Rating 2019

RN Star Rating: ND vs Nation 2019



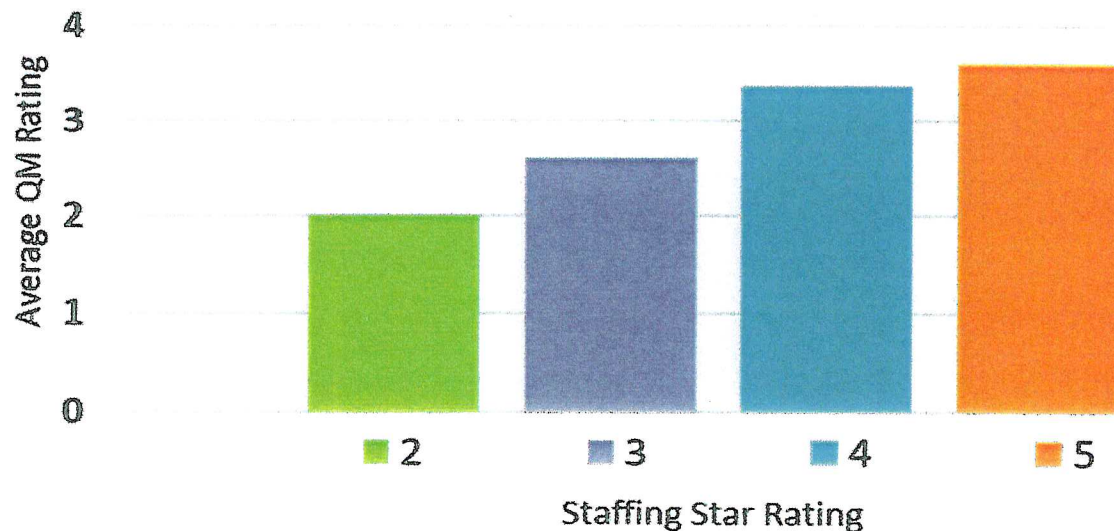
Direct Care Staffing Rating: ND vs Nation 2019



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Staffing Association with Quality ND Facilities 2019

Avg Long Stay Quality vs Staffing Ratings



FINDING: As staffing Star Rating increases so does the average Quality Measure Star Rating

Note: 1 star facilities (n=5) were assigned 1 star by CMS due to staffing data errors; not because of low staffing levels; and were excluded

Brad DeJong, CPA

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Consultant for Shelly Peterson, North Dakota Long Term Care
Association on HB 1090

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1090
2/08/2021 327 PM

Relating to nursing home rates

Chairman Weisz opened the committee meeting at 3:27 p.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	A
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Fair Rental Value
- Margin cap
- Base period establishment

Rep. Robin Weisz (3:28) presented proposed amendment (no amendment number) and components of price model #6858.

Rep. Todd Porter (3:37) to approve the amendment with changes of p.6 line 30 after second December 31, 2021 add and construction must begin prior to September 30, 2022.

Rep. Gretchen Dobervich (3:37) second.

Shelly Peterson, North Dakota Long Term Care Association (3:39) commented on amendment. She was in agreement with the amendment but with change in date. She suggested language stating you have to start your project by 2023.

Rep. Todd Porter (3:46) withdrew his motion.

Rep. Gretchen Dobervich (3:46) removed her second.

Rep. Bill Devlin (3:48) made motion for amendment adding p.1 after line 4 #5 after location, add annual depreciation, and an annual replacement cost inflation factor.

Rep. Kathy Skroch (3:48) second.

Voice Vote – Motion Carried.

Rep. Todd Porter (3:49) made motion amending amendment with add annual depreciation, and an annual replacement cost inflation factor and with second December 31 being changed to 2022.

Rep. Matthew Ruby (3:49) second

Voice Vote – Motion Carried.

Rep. Todd Porter (3:50) moved **Do Pass As Amended Rerefer to Appropriations.**

Rep. Kathy Skroch (3:50) second.

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y
Representative Greg Westlind	Y

Motion Carried Do Pass As Amended Rerefer to Appropriations 14-0-0

Bill Carrier: Rep. Robin Weisz

Chairman Weisz adjourned at 3:52 p.m.

HB 1090 was reconsidered at 5:28 p.m. on 2/08/2021

Tamara Krause, Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1090

Page 1, after line 14, insert:

“5. “Fair rental value” means the depreciated replacement value of the building, fixed equipment, moveable equipment, and land based on the facility’s effective age. The calculation of the fair rental value of the building and fixed equipment must include a location factor.

6. “Fair rental value rate” means the per diem rate calculated using the fair rental value and rental rate”

Page 1, line 15, replace “5.” with “7.”

Page 1, line 17, replace “6.” with “8.”

Page 1, line 20, replace “7.” with “9.”

Page 2, line 8, replace “8.” with “10.”

Page 2, line 14, replace “9.” with “11.”

Page 2, line 17, replace “10.” with “12.”

Page 2, after line 18, insert:

“13. “Margin cap” means a percentage of the price limit, that represents the maximum per diem amount that a nursing facility may receive if the facility has historical operating costs below the price limit.”

Page 2, line 19, replace “11.” with “14.”

Page 2, line 22, replace “12.” with “15.”

Page 2, line 24, replace “13.” with “16.”

Page 2, line 26, replace “14.” with “17.”

Page 2, line 27, replace “15.” with “18.”

Page 2, line 30, replace “16.” with “19.”

Page 3, line 5, replace “17.” with “20.”

Page 3, line 9, replace “18.” with “21.”

Page 3, line 12, replace “19.” with “22.”

Page 4, line 5, after “diems” insert “, increased by the market basket for skilled nursing facility before productivity assessment,”

Page 4, line 11, overstrike “may not fall below” and insert immediately thereafter “must be established using the same percentage of”

Page 4, line 11, overstrike “of the most recent cost report” and insert immediately thereafter “used to establish the limits for the June 30, 2020, base period”

Page 5, after line 24, insert:

- "7. The margin cap used for the rate year beginning 2022 price limits must be no less than three and forty-six hundredths percent.
8. The market basket for skilled nursing facility before productivity adjustment is the preferred index to adjust historical operating costs when a new base period is established and to adjust the price rate in subsequent years until a new base rate period is established.
9. For the rate years beginning 2022 and 2023, the department shall inform the nursing home of the operating rate using historical operating costs and the operating rate using price limits. The nursing home shall inform the department if they want to accept the operating rate using historical operating costs as the established rate."

Page 6, line 16, after "Establish" insert a period.

Page 6, line 30, after "2005" insert:

"The per bed property cost limitation must apply to construction or renovation projects currently in process or that have approved financing in place on or before December 31, 2021. The nursing home shall notify the department within thirty days of receiving financial approval for any construction or renovation projects that financing is in place on or before December 31, 2021"

Page 6, line 30, remove the overstrike over the period

Page 7, line 1, remove the overstrike over "3."

Page 7, line 4, after "2008" insert:

"The maximum allowable movable equipment replacement value per licensed bed must be fifteen thousand dollars when calculating the fair rental value"

Page 7, line 4, remove the overstrike over the period

Page 7, line 5, remove the overstrike over "4."

Page 7, line 7, after "passthrough" insert:

"The maximum allowable square footage per licensed bed must be nine hundred fifty square feet [88.26 square meters] when calculating the fair rental value.

5. The maximum allowable rental rate must be eight percent when calculating the fair rental value rate.
6. Effective with the 2023 rate year, the property rate component of the payment rate, exclusive of start-up and passthrough costs, must be the greater of the rate calculated using allowable property-related costs or the fair rental value rate. If the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be phased in over a four-year period.

7. Effective with the 2023 rate year, if the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be reserved for renovation or replacements that enhance the fair rental value. The increase must be reserved until a major renovation or construction is placed in service.
8. Effective with the 2023 and subsequent rate years, if the fair rental value rate is less than the rate calculated using allowable property-related costs, the department shall inform the nursing home of the property rate using allowable property-related costs and the fair rental value. Prior to the start of each rate year, the nursing home shall inform the department if they want to accept the property rate using allowable property-related costs as the established rate. The allowable property-related costs must be calculated using only the allowable depreciation on capital assets and interest on debt as of June 30, 2022, for all rate years. Once the fair rental value rate is equal to or greater than the rate calculated using allowable property-related costs, or the nursing home does not inform the department they want to accept the property rate using allowable property-related costs, the department no longer shall inform the nursing home of the property rate using allowable property-related costs and the rate must be calculated using the fair rental value methodology”

Page 7, line 7, remove the overstrike over the period

Renumber accordingly

Components of Price Model	Value	Included
Rebasing Frequency	2022 rates and 2024 rates	Yes, in HB 1090
Inflation Index	Skilled Market Basket	Yes, in amendment
Inflation Reduced for Facilities that Keep Cost-Based Operating Rate	Inflation would be reduced 0.5%	No
Margin Cap	No less than 3.46% for 2022 & 2023	Yes, in amendment
Price	120/120/110 of median	Yes, in amendment
Separate Price for Indirect Cost Category for Large and Small Facilities	Small is 55 beds or less	No
Education, Bad Debt, and Technology Pass Throughs	Not subject to limits	Currently in statute
Occupancy Limitation	90% occupancy	Currently in statute
Hold Harmless	Keep current cost-based operating rate for 2022 and 2023	Yes, in amendment

Components of FRV Model	Value	Included
Replacement Cost per Square Foot	RS Means Construction Cost Data Book	No
Location Factor	Minneapolis	Yes, in amendment (referenced in FRV definition)
Land Value	10% of Building Replacement Cost	No
Equipment	\$15,000 per bed	Yes, in amendment
Maximum square foot	950 sq. ft.	Yes, in amendment
Depreciation	2% annually	Yes, in amendment (referenced in FRV definition)
Replacement Cost Inflation Factor	2% annually	Yes, in amendment (referenced in FRV definition)
Maximum Effective Age	35 years	No
Rental Rate	8%	Yes, in amendment
Phase-in for Increase of FRV Rate greater than Current Property Rate	4 year phase-in	Yes, in amendment
Hold Harmless for Current Property Rate	Keep current cost-based property rate, identify crossover	Yes, in amendment
Hold Harmless for Future Renovation or Construction	Get cost-based property rate if approved financing by 12/31/21	Yes, in amendment
Length of Hold Harmless	Recommend 10 years with an exception policy	No
Property Increase must be used for Property-Related Costs	If FRV > Cost-based Rate	Yes, in amendment

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1090
2/08/2021 528 PM

Relating to nursing home rates

Chairman Weisz opened the committee meeting at 5:28 p.m.

Representatives	Attendance
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Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Committee Action

Rep. Todd Porter (5:29) made motion to reconsider HB 1090 to state on p.6 line 30 further the nursing facility must have agency approval of the project by December 31, 2022. Once they have their financing it does give them a year to get approval from the health department.

Rep. Matthew Ruby (5:29) second.

Voice Vote – Motion Carried.

Rep. Todd Porter (5:32) made motion **Do Pass As Amended Rerefer to Appropriations**

Rep. Mary Schneider (5:32) second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y

Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	Y
Representative Greg Westlind	Y

Motion Carried Do Pass As Amended Rerefer to Appropriations 14-0-0

Bill Carrier: Rep. Robin Weisz

Chairman Weisz adjourned at 5:32

Tamara Krause, Committee Clerk

February 8, 2021

95
2/8/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1090

Page 1, after line 14, insert:

- "5. "Fair rental value" means the depreciated replacement value of the building, fixed equipment, moveable equipment, and land based on the facility's effective age. The calculation of the fair rental value of the building and fixed equipment must include a location factor, annual depreciation, and an annual replacement cost inflation factor.
6. "Fair rental value rate" means the per diem rate calculated using the fair rental value and rental rate."

Page 1, line 15, replace "5." with "7."

Page 1, line 17, replace "6." with "8."

Page 1, line 20, replace "7." with "9."

Page 2, line 8, replace "8." with "10."

Page 2, line 14, replace "9." with "11."

Page 2, line 17, replace "10." with "12."

Page 2, after line 18, insert:

- "13. "Margin cap" means a percentage of the price limit which represents the maximum per diem amount a nursing home may receive if the facility has historical operating costs below the price limit."

Page 2, line 19, replace "11." with "14."

Page 2, line 22, replace "12." with "15."

Page 2, line 24, replace "13." with "16."

Page 2, line 26, replace "14." with "17."

Page 2, line 27, replace "15." with "18."

Page 2, line 30, replace "16." with "19."

Page 3, line 5, replace "17." with "20."

Page 3, line 9, replace "18." with "21."

Page 3, line 12, replace "19." with "22."

Page 4, line 5, after "diems" insert ", increased by the market basket for skilled nursing facility before productivity assessment."

Page 4, line 11, overstrike "may not fall below" and insert immediately thereafter "must be established using the same percentage of"

Page 4, line 11, overstrike "of the most recent cost report." and insert immediately thereafter "used to establish the limits for the June 30, 2020, base period."

JP
9/18/21

Page 5, after line 24, insert:

- "7. The margin cap used for the rate year beginning 2022 price limits must be no less than three and forty-six hundredths percent.
8. The market basket for skilled nursing facility before productivity adjustment is the preferred index to adjust historical operating costs when a new base period is established and to adjust the price rate in subsequent years until a new base rate period is established.
9. For the rate years beginning 2022 and 2023, the department shall inform the nursing home of the operating rate using historical operating costs and the operating rate using price limits. The nursing home shall inform the department if the nursing home wants to accept the operating rate using historical operating costs as the established rate."

Page 6, line 16, after "Establish" insert an underscored period

Page 6, line 30, after the overstruck period, insert "The per bed property cost limitation must apply to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. The nursing home must have agency approval of the project by December 31, 2022. The nursing home shall notify the department within thirty days of receiving financial approval for any construction or renovation projects that financing is in place on or before December 31, 2022."

Page 7, line 1, remove the overstrike over "3."

Page 7, line 4, after the overstruck period insert "The maximum allowable movable equipment replacement value per licensed bed must be fifteen thousand dollars when calculating the fair rental value."

Page 7, line 5, remove the overstrike over "4."

Page 7, line 7, after the second overstruck period insert "The maximum allowable square footage per licensed bed must be nine hundred fifty square feet [88.26 square meters] when calculating the fair rental value."

5. The maximum allowable rental rate must be eight percent when calculating the fair rental value rate.
6. Effective with the 2023 rate year, the property rate component of the payment rate, exclusive of startup and passthrough costs, must be the greater of the rate calculated using allowable property-related costs or the fair rental value rate. If the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be phased in over a four-year period.
7. Effective with the 2023 rate year, if the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be reserved until a major renovation or construction is placed in service.

- 05
2/8/21
8. Effective with the 2023 rate year and subsequent rate years, if the fair rental value rate is less than the rate calculated using allowable property-related costs, the department shall inform the nursing home of the property rate using allowable property-related costs and the fair rental value. Before the start of each rate year, the nursing home shall inform the department if the nursing home wants to accept the property rate using allowable property-related costs as the established rate. The allowable property-related costs must be calculated using only the allowable depreciation on capital assets and interest on debt as of June 30, 2022, for all rate years. Once the fair rental value rate is equal to or greater than the rate calculated using allowable property-related costs, or the nursing home does not inform the department the nursing home wants to accept the property rate using allowable property-related costs, the department no longer need inform the nursing home of the property rate using allowable property-related costs and the rate must be calculated using the fair rental value methodology."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1090: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1090 was placed on the Sixth order on the calendar.

Page 1, after line 14, insert:

- "5. "Fair rental value" means the depreciated replacement value of the building, fixed equipment, moveable equipment, and land based on the facility's effective age. The calculation of the fair rental value of the building and fixed equipment must include a location factor, annual depreciation, and an annual replacement cost inflation factor.
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Page 5, after line 24, insert:

- "7. The margin cap used for the rate year beginning 2022 price limits must be no less than three and forty-six hundredths percent.
8. The market basket for skilled nursing facility before productivity adjustment is the preferred index to adjust historical operating costs when a new base period is established and to adjust the price rate in subsequent years until a new base rate period is established.
9. For the rate years beginning 2022 and 2023, the department shall inform the nursing home of the operating rate using historical operating costs and the operating rate using price limits. The nursing home shall inform the department if the nursing home wants to accept the operating rate using historical operating costs as the established rate."

Page 6, line 16, after "Establish" insert an underscored period

Page 6, line 30, after the overstruck period, insert "The per bed property cost limitation must apply to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. The nursing home must have agency approval of the project by December 31, 2022. The nursing home shall notify the department within thirty days of receiving financial approval for any construction or renovation projects that financing is in place on or before December 31, 2022."

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Page 7, line 4, after the overstruck period insert "The maximum allowable movable equipment replacement value per licensed bed must be fifteen thousand dollars when calculating the fair rental value."

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Page 7, line 7, after the second overstruck period insert "The maximum allowable square footage per licensed bed must be nine hundred fifty square feet [88.26 square meters] when calculating the fair rental value."

5. The maximum allowable rental rate must be eight percent when calculating the fair rental value rate.
6. Effective with the 2023 rate year, the property rate component of the payment rate, exclusive of startup and passthrough costs, must be the greater of the rate calculated using allowable property-related costs or the fair rental value rate. If the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be phased in over a four-year period.
7. Effective with the 2023 rate year, if the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be reserved until a major renovation or construction is placed in service.
8. Effective with the 2023 rate year and subsequent rate years, if the fair rental value rate is less than the rate calculated using allowable property-related costs, the department shall inform the nursing home of the property rate using allowable property-related costs and the fair rental value. Before the start of each rate year, the nursing home shall inform

the department if the nursing home wants to accept the property rate using allowable property-related costs as the established rate. The allowable property-related costs must be calculated using only the allowable depreciation on capital assets and interest on debt as of June 30, 2022, for all rate years. Once the fair rental value rate is equal to or greater than the rate calculated using allowable property-related costs, or the nursing home does not inform the department the nursing home wants to accept the property rate using allowable property-related costs, the department no longer need inform the nursing home of the property rate using allowable property-related costs and the rate must be calculated using the fair rental value methodology."

Renumber accordingly

2021 HOUSE APPROPRIATIONS

HB 1090

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1090
2/12/2021

Relating to nursing home rates

9:52 Chairman Delzer- Opens the meeting for HB 1090;

Representatives	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	A
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	A
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

Discussion Topics:

- Long term care
- Formula Changes

9:53 Representative Weisz- Introduces HB 1090 and testifies in favor

Additional written testimony: No written testimony

10:07 Chairman Delzer- Closes the meeting for HB 1090

Risa Berube, House Appropriations Committee Clerk

2021 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

HB 1090
2/18/2021

A BILL for an Act relating to nursing home rates.

10:22 Chairman Delzer- Opened the meeting for HB 1090

Attendance	P/A
Representative Jeff Delzer	P
Representative Keith Kempenich	A
Representative Bert Anderson	P
Representative Larry Bellew	P
Representative Tracy Boe	P
Representative Mike Brandenburg	P
Representative Michael Howe	P
Representative Gary Kreidt	P
Representative Bob Martinson	P
Representative Lisa Meier	P
Representative Alisa Mitskog	P
Representative Corey Mock	P
Representative David Monson	P
Representative Mike Nathe	P
Representative Jon O. Nelson	P
Representative Mark Sanford	P
Representative Mike Schatz	P
Representative Jim Schmidt	P
Representative Randy A. Schobinger	P
Representative Michelle Strinden	P
Representative Don Vigesaa	P

Discussion Topics:

- Payment schedule for long term care
- Property costs

10:23 Chairman Delzer- Reviews the bill

10:25 Representative Kreidt- Makes a motion for a Do Pass

Representative Mitskog Second

Further discussion

10:27 Roll call vote was taken;

Representatives	Vote
Representative Jeff Delzer	Y
Representative Keith Kempenich	A
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Tracy Boe	Y
Representative Mike Brandenburg	Y
Representative Michael Howe	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Jim Schmidt	Y
Representative Randy A. Schobinger	Y
Representative Michelle Strinden	Y
Representative Don Vigesaa	Y

Motion Carries 20-0-1 Representative Weisz will be the carrier for that bill

Additional written testimony: No Written testimony

10:28 Chairman Delzer- Closes the meeting for HB 1090

Risa Berube,

House Appropriations Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1090, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)
recommends **DO PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1090 was placed on the Eleventh order on the calendar.

2021 SENATE HUMAN SERVICES

HB 1090

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Sakakawea Room, State Capitol

HB 1090
3/9/2021

A BILL for an Act to amend and reenact sections 50-24.4-01, 50-24.4-08, 50-24.4-10, 50-24.4-15, and 50-24.4-19 of the North Dakota Century Code, relating to nursing home rates.

Madam Chair Lee opened the hearing on HB 1090 at 9:59 a.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Occupational limitations
- Bed layaway
- Staffing levels/rebasing
- Acuity

[10:00] LeeAnn Thiel, Assistant Director, Medical Services Division, DHS. Introduced HB 1090 and Provided testimony #8121 and #8260 in favor.

[10:14] Shelly Peterson, President, ND Long Term Care Association. Provided testimony #8264 in favor.

[10:38] Bradley DeJong, Senior Partner/Director, Senior Living Services, Eide Bailly. Provided testimony #8275 in favor.

Additional written testimony: N/A

Madam Chair Lee closed the hearing on HB 1090 at 10:57 a.m.

Justin Velez, Committee Clerk

Testimony
Engrossed House Bill 1090 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
March 9, 2021

Chairman Lee, members of the Senate Human Services Committee, I am LeeAnn Thiel, Assistant Director of the Medical Services Division, for the Department of Human Services (Department). I am here today in support of Engrossed House Bill 1090, which was introduced at the request of the Department.

This bill is a product of work that was directed by the Legislature in the previous legislative session. At that time, this committee was keenly interested in ways that the current nursing facility payment system could be reformed. During the 66th Assembly Senate Bill 2012 directed the Department to investigate and propose new methodologies for paying nursing facilities. Throughout 2019 and 2020, the Department worked with the North Dakota Long Term Care Association (NDLTCA) to study and develop new payment models for the care of residents and property. The resulting new payment models demonstrate a commitment to incentivize efficiency and promote property renovation, which improves the quality of life for residents, while simultaneously safeguarding taxpayer dollars. Engrossed House Bill 1090 proposes changes to North Dakota Century Code chapter 50-24.4 that reflect the agreed upon new models of payment. The Department especially thanks the NDLTCA for their resources and time committed to this process. This was genuinely a collaborative effort.

Through my testimony today I aim to accomplish two things: 1) review two handouts with the committee members that describe the proposed payment systems, and 2) explain Engrossed House Bill 1090's proposed changes to North Dakota Century Code chapter 50-24.4.

First, I ask the Chair's permission to review two short handouts that accompany this testimony. The handouts provide an overview of how care and property are paid for in the current system and how they will be paid under the proposed new system.

Second, I would like to describe changes to North Dakota Century Code chapter 50-24.4 that were included in Engrossed House Bill 1090. This chapter of North Dakota Century Code details the definitions and reimbursement of nursing facilities for care and property.

Section 1 adds three definitions for components within the new payment models and removes two definitions.

Section 2 removes the timeframe for the Department to set rates. The Department will be proposing updates to this timeframe in administrative code for the new payment models.

Section 3 describes how operating costs are assessed and reimbursed. The language outlines that:

- starting in 2022, the Department will establish price limits for the cost categories for care;
- the limits will be set consistent with the 2021 limits;
- future inflation will be based on the Skilled Market Basket;

- providers will be able to choose between the “old rate” and the “new rate” for 2022 and 2023;
- costs will be rebased for the 2024 rates using 2023 data; and
- Information technology costs are still allowed as a pass through.

Section 4 describes how property related costs are assessed and reimbursed. The language outlines that:

- a fair rental value system will be used to set rates for property;
- new construction or renovation projects must have agency approval by December 31, 2021;
- the differential property payment must be used for property related expenses; and
- providers can choose between the “old property-based rate” and the “fair rental value rate” until their “new rate” is more than their old rate.

The change in Section 5 removes outdated language and is unrelated to the new payment models.

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

Nursing Home Payment Reform

October 2020

NORTH
Dakota
Be Legendary.™

Human Services

Background: During the 2019 legislative session, the Department of Human Services was asked to conduct a study that would investigate alternative ways to pay nursing homes in North Dakota Medicaid. North Dakota has rate equalization so private pay and Medicaid have the same rate. There are 79 nursing facilities in the State where approximately 2,600 Medicaid enrollees reside. Nursing facility residents constitute about 3.4% of the Medicaid population and account for about 21% of the overall expenditures.

What are the benefits and costs of the new model?

CARE COSTS

- **What:** Each fall, nursing facilities submit their direct (e.g., nursing), other direct (e.g., laundry, food), and indirect costs for the prior state fiscal year. In rebasing years, a rate is set for each facility, adjusting for resident acuity.
- **Benefits:** There are maximum allowable prices set by the State for each cost category. Facilities with costs less than the price can retain 100% of the difference, not to exceed a margin of 3.46% of the price. Facilities will be rebased every 2 years (until year 4) and in the non-rebasing years will receive inflation.
- **Costs:** All aspects of the price-based model are budget neutral. However, funds to assist high cost facilities who likely will be above the set prices are available for 2 years.

Greater efficiency= Greater operating margin

PROPERTY COSTS

- **What:** Property rates are based on several factors; the main factors being effective age, rental rate, location, and square footage.
- **Benefits:** The new model incentivizes renovation, as opposed to new construction, which will extend the life of buildings and reduce the State's financial liability. Property rates are based on facility value not an accounting value which does not reward improvements and long-term ownership
- **Costs:** Property rates will increase for those facilities whose current rate is less than the fair market value. Also, high cost facilities will receive time limited funds to assist them in the transition to the new model as it is likely their property costs will be above the limit.

Improves resident quality of life

The new nursing home payment reform models: 1) incentivize operating efficiency, 2) promote building improvements, 3) reduce variation in rates, and 4) decrease the State's financial liability in the future.

Recommendation

The Department of Human Services and the Long Term Care association recommend the Legislature enact these new payment models in the 2021 session. The new care payment will start in 2022 and the new property payment will start in 2023.

Nursing Home Payment Reform

October 2020

What are the parameters and new dollars requested for the recommended models?

NEW CARE MODEL

Parameter	Recommendation
Start date	January 1, 2022 (facility option to choose old rate). If facilities choose old rate in 2022, they get inflation of 1.8% in 2023 and facilities choose new rate they get 2.3%.
Rebase in starting year (2022) using June 30, 2021 cost reports	Agree
Rebasing frequency	2, 2 year rebasing periods (for a total of 4 years). Reassess in 2025
Inflation between rebasing years	Yes
Inflation index	Skilled market basket (2019 was estimated at 2.6%)
Margin Cap	3.46%
Hold Harmless for pricing model	Yes, until the first rebasing
Length of hold harmless	Should end after 2023 rate year
Different Price for Indirect Cost Category for small and large facilities	Agree
Total new Medicaid dollars	\$2.5 million in year 1; \$1.6 million in year 2. = ~\$4.1 million for biennium

NEW PROPERTY MODEL

Parameter	Recommendation
Start Date	January 1, 2023 but all projects considered for hold harmless must have been approved for financing by 12/31/2021
Occupancy Limitation	Yes
RS Means	Yes
Location Factor	Minneapolis
Land	10%
Equipment	\$15,000 per bed
Maximum square foot	950 sq. ft.
Depreciation	2% annually
Replacement Cost Inflation Factor	2% annually
Rental Rate	8%
FRV average rate per day with phase-in for hold harmless	\$24.77
Total new Medicaid dollars	\$0 in year 1; \$3.1 million in year 2= ~\$3.1 million for biennium

Total new Medicaid dollars requested for the biennium \$7.2 million

Testimony on HB 1090
Senate Human Services Committee
March 9, 2021

Good morning Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 assisted living, basic care, and skilled nursing facilities in North Dakota. All seventy-nine skilled nursing facilities are members of the Association. I am here in support of HB 1090 and ask that you support it.

This study of the payment system was a long grueling process and it challenged us to think differently. The study was mandated in the 2019 legislative session and you directed a revised payment methodology be developed. Not a tweaking of the old system but the creation of a new methodology. That took us awhile to grasp. I believe for the first five meetings, someone in the group would ask, "Are you sure this is necessary? Wouldn't it be better to change our current system and improve it to incentivize efficiency?" Then we would go back, read the legislative language you approved and said no, we need to change the entire payment methodology and thus we did! Many times, during our months of meetings I did not think we would arrive at consensus, but we stuck with the process and in the end at our September 2020 membership meeting, approved the new payment system by a vote of 99-1. At the end we did not get everything we advocated for and neither did the state, but we believe this system can achieve better efficiency of state resources and a quality service that delivers on our promise of assuring the elderly get quality care at the end of their life.

We could never had completed this study without the knowledge and expertise of two payment experts. Joe Lubarsky, President of Eljay, LLC

and Brad DeJong, Senior Partner with Eide Bailly. Brad is an expert in North Dakota's nursing facility payment system and Joe is a national expert in the development and modification of nursing facility payment systems. Without their expert knowledge this project would never have been successful. Brad is here today and he will address the Fair Rental component of the payment system.

We have worked out the fine details of the system. The details are important, and they are entwined to the total success of the payment system. We know you have final approval, you determine policy. I am hoping you see the value and can support all changes we are bringing to you. To trust the state and national experts who know the details on complex payment systems. There are key components that are vital to the implementation and success of the new system. I encourage you to ask many questions.

Key Features of the New Pricing Model

1. Moves to a hybrid pricing model verses our current cost-based system with limits.
2. Set price levels as a percentage of median, with direct care and other direct care at 120% of median and indirect at 110% of median.
3. The indirect price will be established separately for small nursing facilities, 55 beds and under, and large facilities, greater than 55 beds. Small nursing facilities will have a higher price of approximately \$6 dollars in the indirect cost category.
4. The margin cap in all cost centers will be 3.46% of the price. Don't confuse this with an operating margin under our current system. In our current system, everyone gets an operating margin, that will not be true in our new system. Every facility will have the opportunity

to receive a margin, but it will be based on where they are operating relative to the Price Point.

- Facilities that are 3.46% or more under the Price Point will receive the facility specific allowed cost plus the margin.
 - Facilities that are within 3.46% of the Price Point will receive the Price.
 - Facilities that are at or over the Price Point will only receive the Price, no margin.
5. The new system would implement on 1-1-22 and the 6-30-21 cost report will be used to set the initial prices.
 6. We are proposing a hold harmless provision for two years on the operating side. For the initial year starting 1-1-22 nursing facilities will be able to select to operate under the existing cost based methodology or the new pricing model. All nursing facilities will receive two sets of rates and they will decide and select the one they want. This two year hold harmless is very important and will help those who may experience rate decreases under the new pricing model to transition more slowly into the new payment model. The House took further action to assist the high cost/high staffed facilities in transition. For the rate years 2022 and 2023, they directed \$2.1 million to enhance the operating margin before they transition into the hybrid pricing model.
 7. In the second year of implementation, 2023, the hold harmless provision continues. A nursing facility can continue to stay under the existing cost based system or convert to the new payment system. In year three, all must convert to the new pricing model.
 8. Rebasing will occur every two years for the first four years and will be examined after that period.

9. The Medicare Skilled Nursing Facility Market Basket will be utilized to increase rates in the non-rebasing years.
10. A process has been developed to address atypical cost increases in a non-rebasing year. (i.e., pandemic – national minimum wage) and that will be outlined through the rule promulgation process.
11. Equalization of Rates continues.
12. When the two year transitional hold harmless ends, we would like to see the development of a new quality incentives payment. This is not part of the legislation before you today but something I would like to bring back in 2023 for implementation in 2024.

Based upon a statistical analysis of costs there is one driver of why it costs more in some North Dakota nursing facilities and that is the number of staff they have. Lower cost facilities have less staff, high cost facilities have more. Under this new system some high staff facilities may need to reduce staffing to be successful under this model. An analysis of cost and quality data in North Dakota shows those with higher costs, (higher staffing), have better overall quality outcomes. We would like to see a system that rewards quality and allows all nursing facilities to earn back dollars in the form of a quality payment to help support the cost of their higher staffing. Today we need the two year hold harmless transition payment, but in the future, we would love to see this as a quality payment. (See three charts on quality)

13. Implement a Fair Rental Value System as the property component on 1-1-23. Implementing this component of the new system is going to take time because to establish your Fair Rental Value the state will

need to collect square footage and cost of additions and renovations made on all nursing facilities over their lifetime. This also needs a hold harmless provision, and this provision will be needed for a longer period of time. The hold harmless provision is to help those that have recently undertaken a major construction project or to help those that are in planning or construction phase for a major project, if the financing of the project was in place by 12-31-21.

The per bed property cost limitation will continue to be applied to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. Further, the nursing home must have agency approval of the project by December 31, 2022.

This concludes my testimony, your support and endorsement of this new payment system is requested. I would be happy to answer any questions you may have. After all questions, I would like to introduce Brad DeJong to address the Fair Rental System.

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

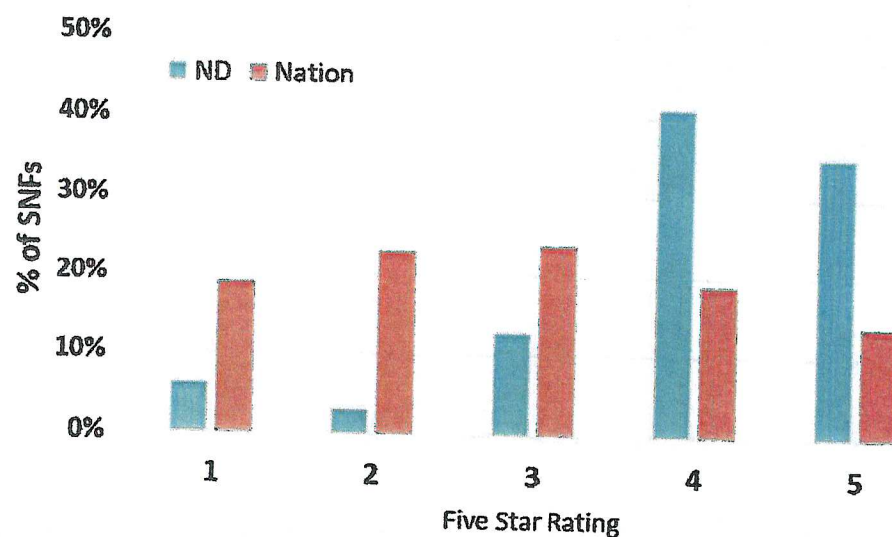
ND vs Nation on Staffing

	2019-Q1	
	Nation	North Dakota
	N =15,140	N = 80
Avg Staffing Star Rating	2.9	4.0
Avg RN Staffing Star Rating	2.9	4.0
Total Nursing Adjusted HPRD	3.9	4.8
RN Adjusted HPRD	0.7	1.1

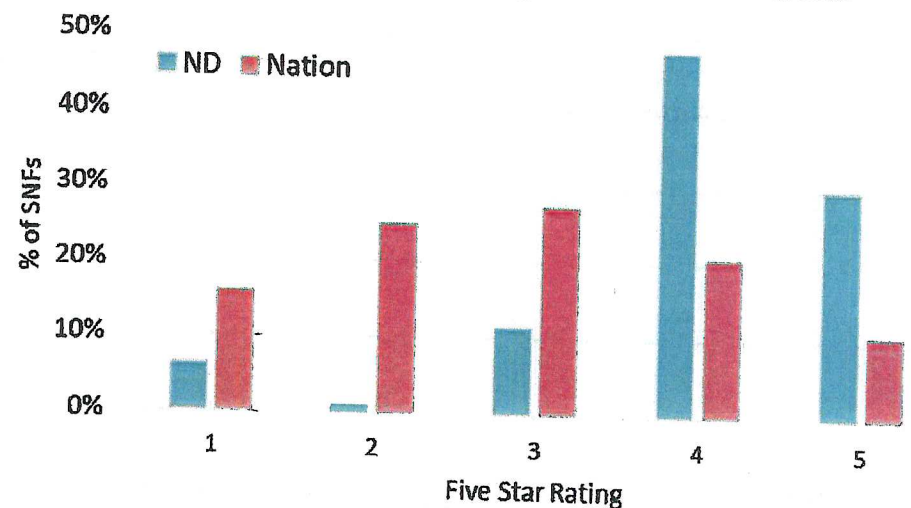
Improving Lives *by* Delivering Solutions for Quality Care

ND vs Nation: Staffing Star Rating 2019

RN Star Rating: ND vs Nation 2019



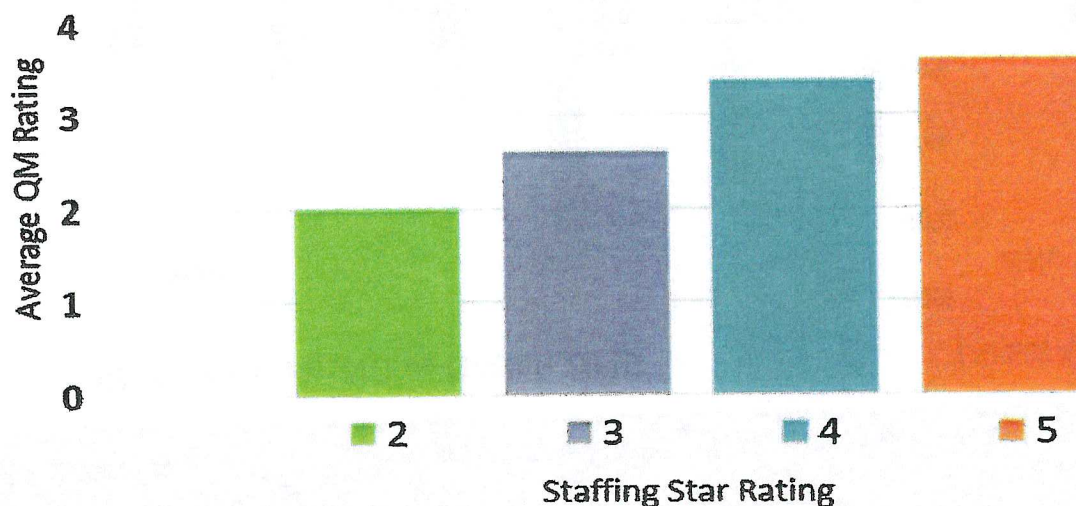
Direct Care Staffing Rating: ND vs Nation 2019



Improving Lives by Delivering Solutions for Quality Care

Staffing Association with Quality ND Facilities 2019

Avg Long Stay Quality vs Staffing Ratings



FINDING: As staffing
Star Rating increases
so does the average
Quality Measure Star
Rating

Note: 1 star facilities (n=5) were assigned 1 star by CMS due to staffing data errors; not because of low staffing levels; and were excluded

#8275



CPAs & BUSINESS ADVISORS

SENATE HUMAN SERVICES COMMITTEE

House Bill 1090, Fair Rental Value

HISTORICAL PROPERTY RATE SETTING

- Current property rates are set based on accounting standards reporting of depreciation on allowable capital assets and interest on related debt financing
- Building and fixed equipment capital assets are subject to a per bed maximum allowable cost which limits what a facility can invest
- Depreciation on capital assets is calculated based on a straight-line method over an estimated useful life set based on AHA guidelines
- Interest expense is based on the payment terms of the allowable debt and includes the amortization of debt financing costs
- The allowable depreciation and interest are divided by actual cost report year resident days or 90% occupancy days, whichever is higher, to get to the rate per day
- $(\$500,000 \text{ of depreciation} + \$400,000 \text{ of interest expense}) \div 25,000 \text{ days} = \36 rate per day

HISTORICAL PROPERTY RATE SETTING

- Current system provides for high rates in the earlier years after a major project, and decreasing rates as it ages due to short lives of some assets
- Current system only repays facilities for cost of capital projects over future years which discourages renovations as it will always require debt
- Current system does not provide funding to build reserves for future projects which leads to large projects having to be funded with debt which increases overall cost

PROPOSED FAIR RENTAL VALUE (FRV)

- Property rate would be based on a % return of the fair value of all allowable capital assets to determine the Fair Rent
- Capital asset Fair Value will still be subject to a per bed limit that is based on RS Means cost per square foot multiplied by an allowable square footage per bed license (entire facility space)
- Equipment is limited to \$15,000 per bed license and land and land improvements are limited to 10% of the building limits
- FRV is adjusted annually for depreciation, changes in the effective age and an inflation factor
- Effective age increases annually, but can be decreased by capital renovations made which encourages ongoing maintenance
- The Fair Rent is then divided by actual cost report year days or 90% occupancy days, whichever is higher, to get to the rate per day

PROPOSED FAIR RENTAL VALUE (FRV)

- FRV will provide a more stable property rate
 - Early year rates will not be as high as current system, estimated cap is \$62.14 vs \$86 currently the high rate
 - Rate will remain stable over time as long as the facility maintains the buildings
- FRV will provide revenue streams that will help facilities reserve for future projects and encourages renovations over time without having to utilize debt to fund the entire project
- See Attachment 3 for calculation examples of new projects

FRV FOUR YEAR PHASE IN

- 71 facilities are estimated to see an increase in their property rates due to the transition from historical property rate setting to FRV
- These 71 facilities will see an average estimated impact of \$7 per day increase in total on their rates that will increase the estimated Medicaid spending by \$8,619,000
- FRV proposed rate setting will phase this increase in over 4 years at an estimated cost of \$2,155,000 in each of the fiscal years 2023-2026
- Information is included as Attachment 1

FRV HOLD HARMLESS

- 8 existing facilities are estimated to have property rates as set under the current property rate rules that will exceed the 1/1/23 FRV rates based on 2020 rate data
- The Medicaid cost for these facilities is already included in the current DHS budget, there is no new money needed to keep them under the current property rate system
- If these 8 facilities were forced to move their rates down to FRV on 1/1/23, it would reduce revenues to them by an estimated \$1,500,000 based on the estimated FRV vs current 2021 property rates, this could lead to debt obligation issues
- Of these 8, 3 are estimate to transition to FRV in year 1 with all but 1 transitioning by year 8
- Missouri Slope will be new in 2021 and is not expected to transition to FRV as the interest rate on the debt is too high
- See information provided in Attachment 2 and 3

QUESTIONS?

Thank you for the opportunity to share this information with you.

Bradley W DeJong, CPA
Partner, Director of Senior Living Services
Eide Bailly LLP
Fargo, ND



Attachement 1

Facility Name	2019 Licensed Beds Per Survey or Otherwise 2018 Beds per State	2020 Census	Lower Of Actual or Maximum Sq Feet Per Bed	FRV/PPD adjusted for 90% occupancy (fair rent/patient days)	Current Property Rate per Day	Difference per Day		Increase Rate change Medicaid Impact	Property Rate Increases Capped at 25%	Annual Impact
Aneta Parkview Health Center	39	12,604	600.00	\$ 30.59	\$ 25.88	\$ 4.71	\$	51,739	\$ 1.18	\$ 12,935
Ashley Medical Center	40	10,884	421.13	\$ 16.58	\$ 10.44	\$ 6.14	\$	45,558	\$ 1.54	\$ 11,390
Augusta Place - a Prospera Commur	48	17,332	848.19	\$ 48.05	\$ 44.95	\$ 3.10	\$	31,714	\$ 0.78	\$ 7,929
Ave Maria Village	100	35,494	588.85	\$ 27.83	\$ 22.68	\$ 5.15	\$	100,360	\$ 1.29	\$ 25,090
Baptist Health Care Center	140	50,517	950.00	\$ 50.51	\$ 38.88	\$ 11.63	\$	324,039	\$ 2.91	\$ 81,010
Benedictine Living Center of Garriso	52	18,262	388.65	\$ 16.91	\$ 16.34	\$ 0.57	\$	5,246	\$ 0.14	\$ 1,311
Bethany on 42nd	116	42,053	950.00	\$ 55.89	\$ 46.52	\$ 9.37	\$	209,355	\$ 2.34	\$ 52,339
Bethany on University	172	60,599	891.84	\$ 51.62	\$ 41.32	\$ 10.30	\$	238,460	\$ 2.58	\$ 59,615
Bethel Lutheran Nursing & Rehabilit	150	42,625	600.00	\$ 22.85	\$ 10.58	\$ 12.27	\$	281,841	\$ 3.07	\$ 70,460
Dunseith Community Nursing Home	30	9,218	730.53	\$ 22.79	\$ 8.46	\$ 14.33	\$	126,587	\$ 3.58	\$ 31,647
Elim Care Center	136	40,873	600.00	\$ 22.85	\$ 11.07	\$ 11.78	\$	201,302	\$ 2.94	\$ 50,325
Elm Crest Manor	68	24,543	950.00	\$ 43.47	\$ 21.09	\$ 22.38	\$	296,482	\$ 5.60	\$ 74,121
Eventide Heartland	82	28,561	600.00	\$ 33.25	\$ 29.67	\$ 3.58	\$	62,096	\$ 0.90	\$ 15,524
Eventide Jamestown	115	35,832	600.00	\$ 30.59	\$ 22.41	\$ 8.18	\$	177,334	\$ 2.04	\$ 44,334
Fargo Nursing and Rehab Center, LL	110	23,989	700.00	\$ 34.46	\$ 33.59	\$ 0.87	\$	12,147	\$ 0.22	\$ 3,037
Four Seasons Health Care Center	37	12,421	690.51	\$ 29.77	\$ 19.77	\$ 10.00	\$	62,830	\$ 2.50	\$ 15,707
Garrison Memorial Hospital Nursing	28	8,064	291.96	\$ 12.06	\$ 10.86	\$ 1.20	\$	5,953	\$ 0.30	\$ 1,488
Golden Acres Manor	64	21,959	502.25	\$ 15.44	\$ 8.17	\$ 7.27	\$	88,342	\$ 1.82	\$ 22,086
Good Samaritan Society Bottineau	52	15,037	826.69	\$ 30.79	\$ 13.43	\$ 17.36	\$	136,549	\$ 4.34	\$ 34,137
Eventide Devils Lake Care Center	48	16,573	600.00	\$ 14.38	\$ 6.64	\$ 7.74	\$	88,146	\$ 1.93	\$ 22,037
Good Samaritan Society Lakota	38	11,959	812.32	\$ 30.29	\$ 14.73	\$ 15.56	\$	123,747	\$ 3.89	\$ 30,937
Good Samaritan Society Larimore	42	13,310	667.07	\$ 29.46	\$ 17.24	\$ 12.22	\$	67,782	\$ 3.05	\$ 16,946
Good Samaritan Society Mohall	57	16,703	597.12	\$ 26.60	\$ 17.14	\$ 9.46	\$	88,009	\$ 2.37	\$ 22,002
Good Samaritan Society Mott	42	13,543	654.50	\$ 24.76	\$ 14.26	\$ 10.50	\$	78,455	\$ 2.62	\$ 19,614
Good Samaritan Society Oakes	59	19,173	716.51	\$ 26.93	\$ 12.52	\$ 14.41	\$	151,489	\$ 3.60	\$ 37,872
Good Samaritan Society Park River	54	17,272	522.91	\$ 20.15	\$ 14.77	\$ 5.38	\$	45,066	\$ 1.34	\$ 11,266
Griggs County Care Center	44	13,390	600.00	\$ 30.59	\$ 26.22	\$ 4.37	\$	35,150	\$ 1.09	\$ 8,787
Heart of America Care Center	55	16,943	600.00	\$ 26.72	\$ 19.71	\$ 7.01	\$	67,297	\$ 1.75	\$ 16,824
Hill Top Home of Comfort	58	20,474	559.91	\$ 23.34	\$ 19.09	\$ 4.25	\$	48,724	\$ 1.06	\$ 12,181
Knife River Care Center	86	30,888	702.29	\$ 32.35	\$ 29.68	\$ 2.67	\$	52,549	\$ 0.67	\$ 13,137
Luther Memorial Home	99	30,694	600.00	\$ 18.98	\$ 7.85	\$ 11.13	\$	153,425	\$ 2.78	\$ 38,356
Lutheran Home of the Good Shephe	75	20,152	533.33	\$ 27.47	\$ 25.19	\$ 2.28	\$	22,090	\$ 0.57	\$ 5,523
Lutheran Sunset Home	91	31,344	614.45	\$ 22.27	\$ 11.25	\$ 11.02	\$	178,033	\$ 2.76	\$ 44,508

Maple Manor Care Center	63	16,102	800.00	\$	44.16	\$	41.53	\$	2.63	\$	20,028	\$	0.66	\$	5,007
Marian Manor Healthcare Center	72	23,307	822.83	\$	25.49	\$	9.59	\$	15.90	\$	205,823	\$	3.97	\$	51,456
Maryhill Manor	48	15,672	676.29	\$	34.15	\$	23.41	\$	10.74	\$	109,634	\$	2.69	\$	27,408
Missouri Slope Lutheran Care Center	250	84,253	675.94	\$	33.27	\$	20.98	\$	12.29	\$	585,208	\$	3.07	\$	146,302
Mountrail Bethel Home	48	10,681	600.00	\$	30.59	\$	22.36	\$	8.23	\$	29,527	\$	2.06	\$	7,382
Napoleon Care Center	36	11,249	641.72	\$	32.54	\$	29.04	\$	3.50	\$	20,019	\$	0.87	\$	5,005
Nelson County Health System Care Center	39	13,388	513.21	\$	15.74	\$	8.36	\$	7.38	\$	60,399	\$	1.84	\$	15,100
North Dakota Veterans Home	52	17,540	700.00	\$	33.56	\$	31.64	\$	1.92	\$	14,495	\$	0.48	\$	3,624
Northwood Deaconess Health Center	45	13,566	600.00	\$	30.59	\$	22.55	\$	8.04	\$	62,110	\$	2.01	\$	15,527
Parkside Lutheran Home	38	12,742	881.34	\$	42.84	\$	21.24	\$	21.60	\$	148,747	\$	5.40	\$	37,187
Prince of Peace Care Center	53	12,910	457.36	\$	11.78	\$	6.50	\$	5.28	\$	44,613	\$	1.32	\$	11,153
Rolette Community Care Center	40	14,092	800.00	\$	46.63	\$	43.39	\$	3.24	\$	39,843	\$	0.81	\$	9,961
Rosewood on Broadway	125	43,152	786.24	\$	42.10	\$	37.88	\$	4.22	\$	92,978	\$	1.06	\$	23,245
Sanford Hillsboro	30	10,915	691.47	\$	39.43	\$	39.00	\$	0.43	\$	3,258	\$	0.11	\$	814
Sheyenne Care Center	170	48,628	807.52	\$	40.28	\$	27.76	\$	12.52	\$	400,220	\$	3.13	\$	100,055
Sheyenne Crossings Care Center/TC	64	22,510	700.00	\$	37.09	\$	36.47	\$	0.62	\$	4,355	\$	0.16	\$	1,089
Souris Valley Care Center	50	14,377	417.28	\$	16.45	\$	10.41	\$	6.04	\$	47,818	\$	1.51	\$	11,955
Southwest Healthcare Services	40	12,962	600.00	\$	30.59	\$	20.34	\$	10.25	\$	72,651	\$	2.56	\$	18,163
St Vincent's - a Prospera Community	101	36,141	762.68	\$	30.63	\$	16.89	\$	13.74	\$	287,690	\$	3.44	\$	71,923
St. Aloisius Medical Center	80	25,038	786.11	\$	44.24	\$	38.94	\$	5.30	\$	85,351	\$	1.32	\$	21,338
St. Benedict's Health Center	124	40,005	529.27	\$	20.37	\$	10.49	\$	9.88	\$	209,721	\$	2.47	\$	52,430
St. Catherine's Living Center	52	16,565	766.77	\$	38.38	\$	20.43	\$	17.95	\$	161,477	\$	4.49	\$	40,369
St. Gerard's Nursing Home	35	11,172	950.00	\$	36.86	\$	10.43	\$	26.43	\$	139,888	\$	6.61	\$	34,972
St. Luke's Home	88	30,805	950.00	\$	57.88	\$	47.29	\$	10.59	\$	162,301	\$	2.65	\$	40,575
St. Luke's Sunrise Care Center	40	11,435	600.00	\$	26.72	\$	15.06	\$	11.66	\$	50,526	\$	2.91	\$	12,631
St. Rose Care Center	44	13,758	410.84	\$	10.69	\$	6.43	\$	4.26	\$	28,337	\$	1.07	\$	7,084
Strasburg Nursing Home	55	17,924	754.00	\$	23.48	\$	7.37	\$	16.11	\$	191,537	\$	4.03	\$	47,884
Sunset Drive - a Prospera Community	128	44,785	633.05	\$	30.17	\$	25.20	\$	4.97	\$	144,758	\$	1.24	\$	36,189
Tioga Medical Center LTC	30	9,380	417.03	\$	22.04	\$	22.03	\$	0.01	\$	132	\$	0.00	\$	33
Towner County LivingCenter	30	9,837	600.00	\$	30.59	\$	24.35	\$	6.24	\$	21,848	\$	1.56	\$	5,462
Tri-County Retirement and Nursing	39	12,991	950.00	\$	48.07	\$	21.05	\$	27.02	\$	184,594	\$	6.76	\$	46,148
Trinity Homes	230	69,416	811.07	\$	30.24	\$	12.23	\$	18.01	\$	800,091	\$	4.50	\$	200,023
Villa Maria Health Care	120	43,701	632.32	\$	25.62	\$	15.92	\$	9.70	\$	228,689	\$	2.43	\$	57,172
Wedgewood Manor	50	13,619	600.00	\$	22.85	\$	12.31	\$	10.54	\$	70,421	\$	2.63	\$	17,605
Western Horizons Care Center	45	14,732	592.38	\$	22.58	\$	10.45	\$	12.13	\$	112,389	\$	3.03	\$	28,097
Wishek Living Center	60	18,784	600.00	\$	18.98	\$	7.72	\$	11.26	\$	99,019	\$	2.81	\$	24,755
Woodside Village	138	48,887	674.29	\$	35.57	\$	34.61	\$	0.96	\$	21,549	\$	0.24	\$	5,387

5,891	1,897,153	\$	33.08	\$	25.64	\$	7.44	\$	8,619,942	\$	2,154,985
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Attachment 2

Facility Name	2019 Licensed Beds Per Survey or Otherwise 2018 Beds per State	2020 Census	Lower Of Actual or Maximum Sq Feet Per Bed	FRV/PPD adjusted for 90% occupancy (fair rent/patient days)	Current Property Rate per Day	Difference per Day	Annual Hold Harmless Medicaid Impact (difference/day times medicaid days)
Eventide Fargo	98	34,282	950.00	\$ 61.42	\$ 67.60	\$ (6.18)	\$ (90,775)
McKenzie County Healthcare System	47	13,887	782.55	\$ 51.95	\$ 80.00	\$ (28.05)	\$ (169,360)
Miller Pointe - a Prospera Community	120	42,592	841.49	\$ 48.52	\$ 54.25	\$ (5.73)	\$ (159,141)
Minot Health and Rehab LLC	114	21,904	377.72	\$ 20.20	\$ 27.09	\$ (6.89)	\$ (69,891)
Pembilier Nursing Center	37	12,996	600.97	\$ 32.27	\$ 37.97	\$ (5.70)	\$ (30,087)
Richardton Health Center Inc	28	9,590	584.46	\$ 38.06	\$ 65.54	\$ (27.48)	\$ (182,092)
St. Gabriel's Community	72	25,544	800.00	\$ 46.30	\$ 49.05	\$ (2.75)	\$ (34,972)
Valley Eldercare Center	196	66,052	661.89	\$ 36.76	\$ 38.33	\$ (1.57)	\$ (62,870)
	<u>5,891</u>	<u>1,897,153</u>					<u>\$ (799,188)</u>

Estimated New Project with Full Replacement of a 100 Bed Facility

2.5% Project Loan at 100% of Cost			5% Project Loan at 100% of Cost			6.5% Project Loan at 100% of Cost		
Year	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate		Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate	
1	\$ 54.21	\$ 62.14	\$ 75.94	\$ 62.14		\$ 89.03	\$ 62.14	
2	53.71	62.20	75.29	62.20		88.38	62.20	
3	53.20	62.23	74.59	62.23		87.68	62.23	
4	52.05	62.24	73.24	62.24		86.31	62.24	
5	51.51	62.23	72.48	62.23		85.52	62.23	
6	48.32	62.19	69.04	62.19		82.04	62.19	
7	47.76	62.13	68.20	62.13		81.14	62.13	
8	47.18	62.03	67.31	62.03		80.17	62.03	
9	46.58	61.91	66.37	61.91		79.15	61.91	
10	45.97	61.76	65.39	61.76		78.05	61.76	
11	39.47	61.58	58.49	61.58		71.01	61.58	
12	38.83	61.36	57.41	61.36		69.76	61.36	
13	38.17	61.12	56.27	61.12		68.43	61.12	
14	37.50	60.84	55.07	60.84		67.01	60.84	
15	36.81	60.52	53.81	60.52		65.49	60.52	

2.5% Project Loan at 95% of Cost			5% Project Loan at 95% of Cost			6.5% Project Loan at 95% of Cost		
Year	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate		Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate	
1	\$ 53.13	\$ 62.14	\$ 73.78	\$ 62.14		\$ 86.21	\$ 62.14	
2	52.66	62.20	73.15	62.20		85.59	62.20	
3	52.17	62.23	72.50	62.23		84.93	62.23	
4	51.05	62.24	71.18	62.24		83.60	62.24	
5	50.53	62.23	70.45	62.23		82.84	62.23	
6	47.38	62.19	67.06	62.19		79.41	62.19	
7	46.84	62.13	66.25	62.13		78.55	62.13	
8	46.29	62.03	65.41	62.03		77.63	62.03	
9	45.72	61.91	64.52	61.91		76.66	61.91	
10	45.14	61.76	63.59	61.76		75.62	61.76	
11	38.67	61.58	56.74	61.58		68.63	61.58	
12	38.06	61.36	55.71	61.36		67.45	61.36	
13	37.44	61.12	54.63	61.12		66.18	61.12	
14	36.80	60.84	53.49	60.84		64.83	60.84	
15	36.14	60.52	52.29	60.52		63.39	60.52	

Specific Facility Holdharmless Estimates

- assumes zero new capital expenditure for both sides of the calculation

Missouri Slope, 6.625% Int Rate

Year	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
1	\$ 109.42	\$ 62.43
2	109.28	62.49
3	108.67	62.54
4	107.12	62.55
5	106.43	62.54
6	101.93	62.51
7	101.14	62.45
8	100.30	62.37
9	99.40	62.25
10	98.43	62.11
11	89.72	61.93
12	88.62	61.73
13	87.45	61.49
14	86.20	61.21
15	84.87	60.90

Richardton, 3.5% Int Rate

Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
\$ 61.71	\$ 36.04
60.77	36.00
60.04	35.95
59.29	35.88
58.17	35.79
37.93	35.69
37.09	35.57
35.31	35.42
34.53	35.26
33.79	35.08
29.83	34.88
29.07	34.65
28.26	34.40
27.44	34.13
26.60	33.83

Miller Point, 3.0% Int Rate

Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
\$ 50.01	\$ 50.53
40.76	50.48
39.51	50.41
39.01	50.32
38.40	50.20
37.71	50.06
33.86	49.89
33.07	49.69
32.55	49.47
32.07	49.22
25.23	48.94
24.16	48.63
23.66	48.28
23.15	47.90
22.62	47.49

St Gabriel's,

Year	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
1	\$ 47.26	\$ 40.36
2	46.13	40.24
3	44.53	40.11
4	42.62	39.95
5	41.42	39.77
6	38.72	39.57
7	37.23	39.34
8	31.29	39.09
9	29.75	38.81
10	27.49	38.50
11	25.68	38.17
12	24.21	37.81
13	22.66	37.42
14	21.04	37.00
15	19.33	36.54

Eventide

Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
\$ 55.81	\$ 56.62
54.16	56.57
52.98	56.49
50.95	56.38
46.01	56.25
44.75	56.09
43.27	55.91
42.05	55.69
39.90	55.44
35.06	55.16
33.72	54.85
32.28	54.50
30.78	54.11
29.11	53.69
26.90	53.23

McKenzie County

Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
\$ 86.10	47.60
85.59	47.57
79.56	47.53
79.02	47.46
78.41	47.37
76.12	47.26
75.55	47.12
62.59	46.96
61.99	46.78
59.35	46.57
58.72	46.33
58.08	46.07
49.48	45.77
48.81	45.45
48.13	45.09

Valley Senior

Year	Historical Rate Calculation Estimate	Fair Rental Value Rate Calculation Estimate
1	\$ 33.89	\$ 39.55
2	29.70	39.49
3	24.02	39.42
4	21.44	39.32
5	19.36	39.21
6	16.81	39.07
7	15.47	38.92
8	13.96	38.74
9	12.48	38.55
10	9.89	38.32
11	8.37	38.08
12	7.68	37.80
13	6.56	37.51
14	4.98	37.18
15	3.36	36.83

2021 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Sakakawea Room, State Capitol

HB 1090
3/16/2021

A BILL for an Act to amend and reenact sections 50-24.4-01, 50-24.4-08, 50-24.4-10, 50-24.4-15, and 50-24.4-19 of the North Dakota Century Code, relating to nursing home rates.

Madam Chair Lee opened the discussion on HB 1090 at 2:05 p.m. Members present: Lee, K. Roers, Hogan, Anderson, Clemens, O. Larsen.

Discussion Topics:

- Fiscal impact
- Bill action

[2:11] Leann Thiel, Medical Services, DHS. Advised the committee of in favor position on HB 1090 language and provided clarification on the fiscal note.

Senator K. Roers moves **DO PASS** and **REREFER TO APPROPRIATIONS**.

Senator Clemens seconded.

Senators	Vote
Senator Judy Lee	Y
Senator Kristin Roers	Y
Senator Howard C. Anderson, Jr.	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Oley Larsen	Y

The motion passed 6-0-0

Senator Hogan will carry HB 1090.

Additional written testimony: N/A

Madam Chair Lee closed the discussion on HB 1090 at 2:14 p.m.

Justin Velez, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1090, as engrossed: **Human Services Committee** (Sen. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1090 was rereferred to the **Appropriations Committee**.

2021 SENATE APPROPRIATIONS

HB 1090

2021 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

HB 1090
3/23/2021
Senate Appropriations Committee

Relating to nursing home rates.

Senator Holmberg opened the hearing at 8:29 AM.

Senators present: **Holmberg, Krebsbach, Wanzek, Bekkedahl, Poolman, Erbele, Dever, Oehlke, Rust, Davison, Hogue, Sorvaag, Mathern, and Heckaman.** **Senator Bekkedahl** was absent.

Discussion Topics:

- Fiscal impact in upcoming biennium

Caprice Knapp, Director, Medical Services, Department of Human Services – testified in favor.

Shelly Peterson, Executive Director, Long Term Care Association – testified in favor and submitted testimony #10498.

Brady Larson, Legislative Council – testified neutrally.

Senator Dever moved Do Pass on HB 1090.

Senator Oehlke second.

Senators		Senators	
Senator Holmberg	Y	Senator Hogue	Y
Senator Krebsbach	Y	Senator Oehlke	Y
Senator Wanzek	Y	Senator Poolman	Y
Senator Bekkedahl	A	Senator Rust	Y
Senator Davison	Y	Senator Sorvaag	Y
Senator Dever	Y	Senator Heckaman	Y
Senator Erbele	Y	Senator Mathern	Y

Roll Call vote – 13-0-1. Motion passed.

Senator Holmberg closed the hearing at 8:45 AM.

Rose Laning, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1090, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1090 was placed on the Fourteenth order on the calendar.

Testimony on HB 1090
Senate Appropriations Committee
March 23, 2021

Good morning Chairman Holmberg and members of the Senate Appropriations Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 211 assisted living, basic care, and skilled nursing facilities in North Dakota. All seventy-nine skilled nursing facilities are members of the Association. I am here in support of HB 1090 and ask that you support it.

The study was mandated in the 2019 legislative session and you directed a revised payment methodology be developed. Not a tweaking of the old system but the creation of a new methodology. Many times, during our months of meetings I did not think we would arrive at consensus, but we stuck with the process and in the end at our September 2020 membership meeting, approved the new payment system by a vote of 99-1. At the end we did not get everything we advocated for and neither did the state, but we believe this system can achieve better efficiency of state resources and a quality service that delivers on our promise of assuring the elderly get quality care at the end of their life. The Department of Human Services, first Lukas Gamer and then Caprice Knapp, lead us in the study process and we appreciate their leadership in this important endeavor.

We could never had completed this study without the knowledge and expertise of two payment experts. Joe Lubarsky, President of Eljay, LLC and Brad DeJong, Senior Partner with Eide Bailly. Brad is an expert in North Dakota's nursing facility payment system and Joe is a national expert in the development and modification of nursing facility payment systems. Without their expert knowledge this project would never have been successful.

We have worked out the fine details of the system. Both policy committees in the House and Senate supported all of the changes, and the bill passed in the House 94-0. The details are important, and they are entwined to the total success of the payment system. Your support is very important to us. HB 1090 contains the policy changes and HB 1012 contains the appropriations.

Below are 13 policy changes in the new payment system. I would like to address only a couple of them.

Key Features of the New Pricing Model

1. Moves to a hybrid pricing model verses our current cost-based system with limits.
2. Set price levels as a percentage of median, with direct care and other direct care at 120% of median and indirect at 110% of median.
3. The indirect price will be established separately for small nursing facilities, 55 beds and under, and large facilities, greater than 55 beds. Small nursing facilities will have a higher price of approximately \$6 dollars in the indirect cost category.
4. The margin cap in all cost centers will be 3.46% of the price. Don't confuse this with an operating margin under our current system. In our current system, everyone gets an operating margin, that will not be true in our new system. Every facility will have the opportunity to receive a margin, but it will be based on where they are operating relative to the Price Point.
 - Facilities that are 3.46% or more under the Price Point will receive the facility specific allowed cost plus the margin.
 - Facilities that are within 3.46% of the Price Point will receive the Price.

- Facilities that are at or over the Price Point will only receive the Price, no margin.
5. The new system would implement on 1-1-22 and the 6-30-21 cost report will be used to set the initial prices.
 6. We are proposing a hold harmless provision for two years on the operating side. For the initial year starting 1-1-22 nursing facilities will be able to select to operate under the existing cost based methodology or the new pricing model. All nursing facilities will receive two sets of rates and they will decide and select the one they want. This two year hold harmless is very important and will help those who may experience rate decreases under the new pricing model to transition more slowly into the new payment model. The House took further action to assist the high cost/high staffed facilities in transition. For the rate years 2022 and 2023, they directed \$2.1 million to enhance the operating margin before they transition into the hybrid pricing model.
 7. In the second year of implementation, 2023, the hold harmless provision continues. A nursing facility can continue to stay under the existing cost based system or convert to the new payment system. In year three, all must convert to the new pricing model.
 8. Rebasing will occur every two years for the first four years and will be examined after that period.
 9. The Medicare Skilled Nursing Facility Market Basket will be utilized to increase rates in the non-rebasing years.

10. A process has been developed to address atypical cost increases in a non-rebasing year. (i.e., pandemic – national minimum wage) and that will be outlined through the rule promulgation process.
11. Equalization of Rates continues.
12. When the two year transitional hold harmless ends, we would like to see the development of a new quality incentives payment. This is not part of the legislation before you today but something I would like to bring back in 2023 for implementation in 2024.

Based upon a statistical analysis of costs there is one driver of why it costs more in some North Dakota nursing facilities and that is the number of staff they have. Lower cost facilities have less staff, high cost facilities have more. Under this new system some high staff facilities may need to reduce staffing to be successful under this model. An analysis of cost and quality data in North Dakota shows those with higher costs, (higher staffing), have better overall quality outcomes. We would like to see a system that rewards quality and allows all nursing facilities to earn back dollars in the form of a quality payment to help support the cost of their higher staffing. Today we need the two year hold harmless transition payment, but in the future, we would love to see this as a quality payment. (See three charts on quality)

13. Implement a Fair Rental Value System as the property component on 1-1-23. Implementing this component of the new system is going to take time because to establish your Fair Rental Value the state will need to collect square footage and cost of additions and renovations made on all nursing facilities over their lifetime. This also needs a hold harmless provision, and this provision will be needed for a longer period of time. The hold harmless provision is to help those

that have recently undertaken a major construction project or to help those that are in planning or construction phase for a major project, if the financing of the project was in place by 12-31-21.

The per bed property cost limitation will continue to be applied to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. Further, the nursing home must have agency approval of the project by December 31, 2022.

This concludes my testimony, your support and endorsement of this new payment system is requested. I would be happy to answer any questions you may have.

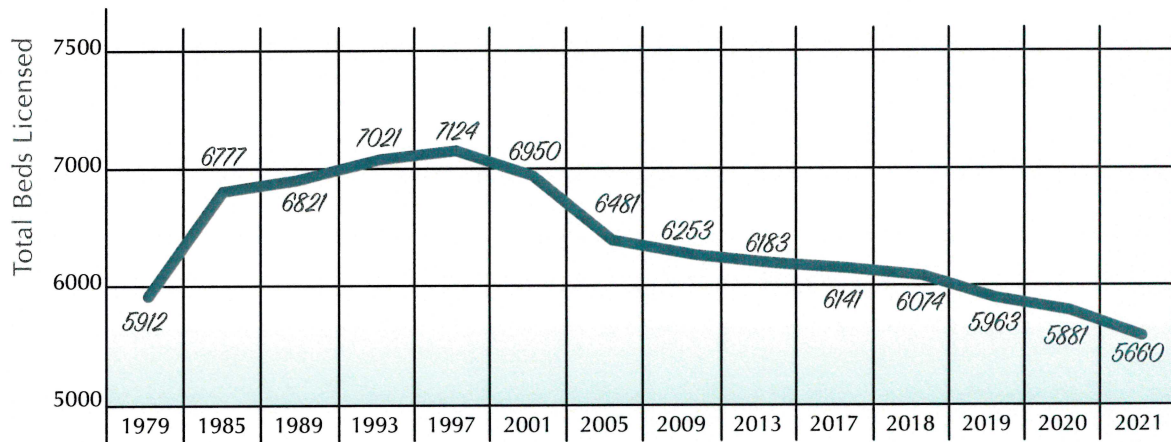
Shelly Peterson, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660

Nursing Facilities

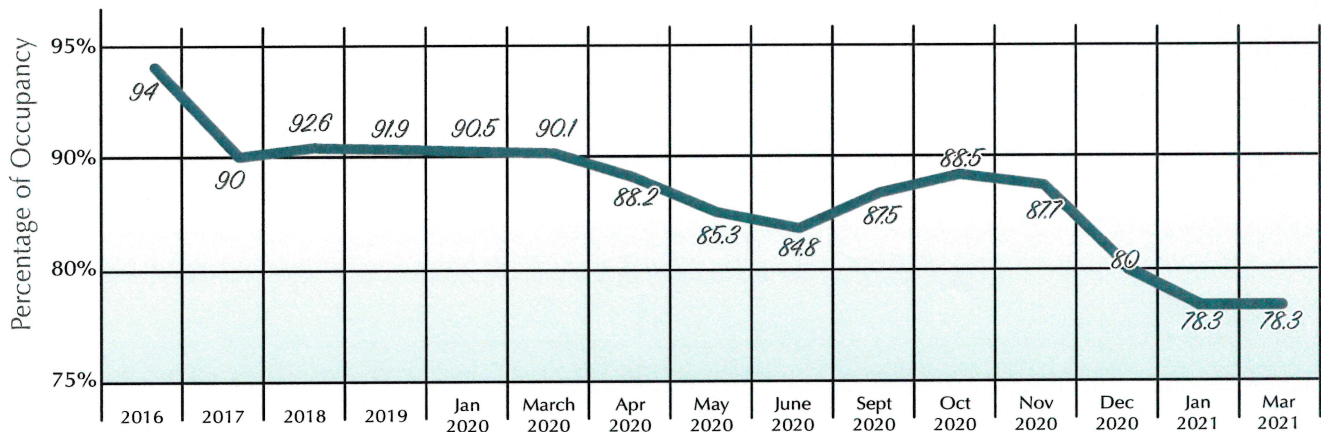
Number of Facilities



Licensed Beds



Occupancy



September 2020 Based on HC Standard Report on September 10, 2020

October 2020 Based on HC Standard Report on October 2, 2020

November 2020 Based on HC Standard Report on November 2, 2020

December 2020 Based on HC Standard Report on November 30, 2020

January 2021 Based on HC Standard Report on January 11, 2021

March 2021 Based on HC Standard Report on March 4, 2021