

2023 SENATE HUMAN SERVICES

SB 2283

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2283
1/24/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

10:46 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- ND basic care
- Medicare basic care
- Rate methodology
- Long term facilities operating loss

10:46 AM **Senator Lee, District #13**, introduced SB 2283 and verbally testified in favor.

10:47 AM **Shelly Peterson, President of the North Dakota Long Term Care Association**, testified in favor. #16269

11:11 AM **Kiera Tuchscherer, Good Samaritan Society Fargo, ND**, verbally testified in favor.

Additional Testimony:

Shawn Stuhauug, President & CEO, Bethany Retirement Living, in favor. #16822, #16823.

11:14 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2283
1/24/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

3:00 PM **Madam Chair Lee** called the committee to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion topic:

- In depth structure study for basic care
- In depth study assisted living care

3:10 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2283
2/1/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

9:10 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** were present.

Discussion Topics:

- Basic care study
- One time funding
- Amendments
- Licensure

9:12 AM **Shelly Peterson, Long Term Care Association**, provided verbal information.

9:14 AM **Chris Jones, Director, North Dakota Department of Health and Human Services**, provided verbal information.

9:23 AM **Shelly Peterson**, provided additional information verbally.

9:34 AM **Madam Chair Lee** closed the meeting.

Patricia Lahr, *Committee Clerk*

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2283
02/01/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

2:31 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Regulations
- Study basic care and assisted living
- Calculation annual inflation index

Senator Lee asks for discussion

2:33 PM **Shelly Peterson, President of the North Dakota Long Term Care Association** provides additional information verbal

2:34 PM **Madam Chair Lee** closed the hearing.

Patricia Lahr, *Committee Clerk*

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2283
02/01/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

3:22 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics:

- Regulations
- Study basic care and assisted living
- Licensure
- Calculation annual inflation index

Senator Lee asks for discussion

3:29 PM **Jonathon Alm, attorney North Dakota Health and Human Services** provided changes to the amendment verbal

3:29 PM **Shelly Peterson, President of the North Dakota Long Term Care Association** provided additional information testimony verbal

3:30 PM **Krista Fremming, Medical Services Director ND Department of Health and Human Services** provided additional information verbal

Senator K. Roers moved to **adopt the amendment #23.0973.01001 #18683.**

Senator Hogan seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

The motion passed 6-0-0.

Senator K. Roers moved **DO PASS** as **AMENDED** and **REREFER** to **APPROPRATIONS**.

Senator Hogan seconded the motion.

3:37 PM **Shelly Peterson, President North Dakota Long Term Care Association** provided additional comments

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	N
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

The motion passed 5-1-0.

Senator Lee will carry SB 2283.

3:40 pm **Madam Chair Lee** closed the meeting.

Patricia Lahr, *Committee Clerk*

February 1, 2023

AK
2-1-23
(1-1)

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 2, after line 11, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$19,118,386, or so much of the sum as may be necessary, and the sum of \$7,984,183 from special funds, to the department of health and human services for the basic care payment system, for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, line 13, replace "**PAYMENT SYSTEM**" with "**AND ASSISTED LIVING FACILITY LICENSURE AND REGULATION**"

Page 2, line 14, replace "\$500,000" with "\$600,000"

Page 2, line 16, after "system" insert "and the licensure and regulation of basic care and assisted living facilities"

Page 2, line 22, after "5." insert "The calculation of annual inflation;

6."

Page 2, line 23, remove "and"

Page 2, line 24, replace "6." with "7."

Page 2, line 25, replace the period with "; and

8. The licensure and regulation of basic care and assisted living facilities."

Re-number accordingly

REPORT OF STANDING COMMITTEE

SB 2283: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2283 was placed on the Sixth order on the calendar. This bill affects workforce development.

Page 2, after line 11, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$19,118,386, or so much of the sum as may be necessary, and the sum of \$7,984,183 from special funds, to the department of health and human services for the basic care payment system, for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, line 13, replace **"PAYMENT SYSTEM"** with **"AND ASSISTED LIVING FACILITY LICENSURE AND REGULATION"**

Page 2, line 14, replace "\$500,000" with "\$600,000"

Page 2, line 16, after "system" insert "and the licensure and regulation of basic care and assisted living facilities"

Page 2, line 22, after "5." insert "The calculation of annual inflation;

6."

Page 2, line 23, remove "and"

Page 2, line 24, replace "6." with "7."

Page 2, line 25, replace the period with "; and

8. The licensure and regulation of basic care and assisted living facilities."

Re-number accordingly

2023 SENATE APPROPRIATIONS

SB 2283

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2283
2/13/2023

A BILL for an Act relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

4:28 PM Chairman Bekkedahl opened the hearing on SB 2283.

Members present : Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.

Discussion Topics:

- Basic Care

4:29 PM Shelly Peterson, North Dakota Long Term Care, introduced the bill, testimony # 20687

4:43 PM Chris Jones, Commissioner North Dakota Health and Human Resources, testified in favor, no written testimony

4:50 PM Chairman Bekkedahl closed the hearing.

Kathleen Hall, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2283
2/17/2023

A BILL for an Act relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

8:12 AM Chairman Bekkedahl opened the hearing on SB 2283.

Senators present: Chairman Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.

Discussion Topics:

- Basic care
- Established rates
- Funding
- Committee action

8:16 AM Senator Dever moved to adopt amendment #LC 23.0973.02001 (#21063).
Senator Roers seconded motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 16-0-0.

8:22 AM Senator Dever moved DO PASS AS AMENDED.
Senator Roers seconded motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 16-0-0.

Senator Mathern will carry the bill.

8:26 AM Chairman Bekkedahl adjourned hearing.

Kathleen Hall, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2283
2/17/2023

A BILL for an Act relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

9:07 AM Chairman Bekkedahl opened the hearing on SB 2283.

Senators present: Chairman Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.

Discussion Topics:

- Basic care
- Established rates
- Funding
- Committee action
- Reconsideration of prior vote

9:08 AM Senator Mathern moved to RECONSIDER prior motion to Do Pass as Amended.
Senator Krebsbach seconded motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	A
Senator Dick Dever	A
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 14-0-2.

The bill is back in committee.

9:09 AM Senator Rust moved to remove Amendment LC 23.0973.02001.
Senator Mathern seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	A
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

Motion passed 15-0-1.

The bill is back in committee with no amendment.

9:10 AM Senator Mathern moved DO PASS.
Senator Krebsbach seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y

The motion passed 16-0-0.

Senator Mathern will carry the bill.

9:15 AM Chairman Bekkedahl adjourned hearing.

Kathleen Hall, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2283, as engrossed: Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **DO PASS** (16 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2283 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

2023 HOUSE HUMAN SERVICES

SB 2283

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2283
3/8/2023

Relating to basic care payment rates.

Chairman Weisz called the meeting to order at 10:20 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Vice Chairman Matthew Ruby not present.

Discussion Topics:

- Long-term care
- Basic care facilities
- Lower income individuals
- Care contracts

Sen. Lee, spoke in support.

Shelly Pederson, President of the North Dakota Long Term Care Association, supportive testimony (#22979).

Melanie Gaebe, Director of Public Policy for the Alzheimer's Association in North Dakota, supportive testimony (#22795).

Kiara Tuchscherer, Administrator for the Good Samaritan Society in Fargo, North Dakota, supportive testimony (#22768).

Chairman Weisz adjourned the meeting at 10:47 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

SB 2283
3/28/2023

Relating to basic care payment rates.

Chairman Weisz called the meeting to order at 3:03 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Reps. Clayton Fegley and Todd Porter not present.

Discussion Topics:

- Committee work

Chairman Weisz explained the fiscal appropriations for SB 2283 and called for a discussion.

Chairman Weisz adjourned the meeting at 3:19 PM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2283
3/29/2023

Relating to basic care payment rates.

Chairman Weisz called the meeting to order at 3:34 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis present. Reps. Clayton Fegley and Gretchen Dobervich not present.

Discussion Topics:

- Committee work
- Amendments

Chairman Weisz explained the fiscal appropriations for SB 2283 and called for a discussion.

Rep. Prichard adopt amendment to SB 2283. as follows:

Page 2, line 2, replace “six” with “two”

Page 2, line 3, replace “four” with “two”

Page 2, line 8, after “facility” insert “provide a rate”

Page 2, line 8, remove “rates”

Page 2, line 9, replace “July 1, 2024” with “ending June 30, 2025, after which the increase is not effective”

Page 2, line 11, overstrike “one hundred eighty” and insert immediately thereafter “three hundred sixty five”

Page 2, line 12, after “**Appropriation**” insert”- “**Department of Health and Human Services – Basic Care Payment System**”

Page 3, after line 3, insert;

“Section 4. Appropriation – Department of Health and Human Services – Basic Care Bad Debt. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of implementing subsection 5 of section 50-24.5-02.3”

Renumber accordingly

Seconded by Rep. Anderson.

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	N
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	AB
Representative Clayton Fegley	AB
Representative Kathy Frelich	N
Representative Dawson Holle	N
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 8-4-2.

Rep. Prichard moved to adopt amendment as follows:

Page 2, line 8, "ten" with "five"

Seconded by Rep. Frelich.

Motion carries by voice vote.

Rep. Prichard moved a do pass as amended and rerefer to the Appropriations Committee on SB 2283.

Seconded by Rep. Frelich.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	AB
Representative Clayton Fegley	AB
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y

Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 11-1-2.

Carried by Rep. Prichard.

Chairman Weisz adjourned the meeting at 3:46 PM.

Phillip Jacobs, Committee Clerk

March 29, 2023

24
3-29-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 2, line 2, replace "six" with "two"

Page 2, line 3, replace "four" with "two"

Page 2, line 8, after "facility" insert "provide a rate"

Page 2, line 8, remove "rates"

Page 2, line 8, replace "ten" with "five"

Page 2, line 9, replace "July 1, 2024" with "ending June 30, 2025, after which the increase is not effective"

Page 2, line 11, overstrike "one hundred eighty" and insert immediately thereafter "three hundred sixty-five"

Page 2, line 12, after "**APPROPRIATION**" insert "**- DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE PAYMENT SYSTEM**"

Page 3, after line 3, insert:

"SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE BAD DEBT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of implementing subsection 5 of section 50-24.5-02.3"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2283, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed SB 2283 was placed on the Sixth order on the calendar.

Page 2, line 2, replace "six" with "two"

Page 2, line 3, replace "four" with "two"

Page 2, line 8, after "facility" insert "provide a rate"

Page 2, line 8, remove "rates"

Page 2, line 8, replace "ten" with "five"

Page 2, line 9, replace "July 1, 2024" with "ending June 30, 2025, after which the increase is not effective"

Page 2, line 12, after "**APPROPRIATION**" insert "**- DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE PAYMENT SYSTEM**"

Page 3, after line 3, insert:

"SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE BAD DEBT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of paying bad debt for charges incurred by basic care facilities during calendar year 2022, for the period beginning on the effective date of this Act and ending June 30, 2025."

ReNUMBER accordingly

2023 HOUSE APPROPRIATIONS

SB 2283

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Brynhild Haugland Room, State Capitol

SB 2283
4/5/2023

Relating to basic care payment rates; to provide for a study

11:46 AM Chairman Vigesaa Called the meeting to order and roll call was taken-

Members present; Chairman Vigesaa, Representative Kempenich, Representative B. Anderson, Representative Bellew, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Mitskog, Representative Meier, Representative Nathe, Representative J. Nelson, Representative O'Brien, Representative Pyle, Representative Richter, Representative Sanford, Representative Schatz, Representative Schobinger, Representative Strinden, Representative G. Stemen and Representative Swiontek.

Members not Present- Representative Monson

Discussion Topics:

- Basic Care Re-basing
- Daily Increase Rate
- Inflation Increase Rate

Chairman Vigesaa- Opens committee discussion.

Representative J. Nelson- Explains the bill and how it is added into the HS budget.

Representative J. Nelson- Move for a Do Not Pass

Representative Kreidt Seconds the motion.

Committee Discussion- Roll call vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Larry Bellew	Y
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y

Representative Corey Mock	Y
Representative David Monson	A
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	Y
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	Y
Representative Steve Swiontek	Y

Motion Carries 22-0-1 Representative J. Nelson will carry the bill.

11:48 AM Chairman Vigesaa Closed the meeting for SB 2283

Risa Berube, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2283, as engrossed and amended: Appropriations Committee (Rep. Vigesaa, Chairman) recommends **DO NOT PASS** (22 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2283, as amended, was placed on the Fourteenth order on the calendar.

2023 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2283
4/10/2023

Relating to basic care payment rates; to provide for a study; to provide an appropriation; and to declare an emergency.

11:34 AM Chairman J. Nelson opened the meeting.

Roll call taken.

Chairman J. Nelson, Vice Chairman Stemen, Representatives B. Anderson, Kreidt, Mitskog, O'Brien, Schobinger, Strinden were present.

Discussion Topics:

- Committee Work
- Funding
- Amendments
- Increasing rates
- Fiscal note
- Value of a study
- Assisted Living
- Skilled Care

Representative Robin Weisz, District 14, spoke in favor of SB 2283.

Committee Discussion.

11:54 AM Chairman J. Nelson closed the meeting.

Jan Kamphuis, Committee Clerk

TESTIMONY

SB 2283

Testimony on SB 2283
Senate Human Services Committee
January 24, 2023

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 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here today to ask for your support of SB 2283.

First I would like to talk to you about basic care and then go through the bill draft. Understanding basic care first will help you understand the changes proposed in SB 2283 and why they are so important.

The Basic Care Assistance Program is a key component of the long-term care continuum in North Dakota. Basic care is unique to North Dakota. In other states assisted living is more commonly used to provide this type of care. Basic care facilities provides 24 hour congregate care, but not 24 hour skilled nursing care like nursing homes. Residents need support, care, and assistance with activities of daily living. This program helps lower income individuals pay for the cost of care in this setting.

North Dakota has 65 licensed basic care facilities and 47 participate in the Basic Care Assistance Program. Another 15 basic care facilities, referred to as Adult Residential facilities, are specialized care facilities with 13 specializing in service to those with Alzheimer's, dementia, or related conditions and two specializing in the care of the head injury population. They too are licensed as basic care but have a different funding source and payment system.

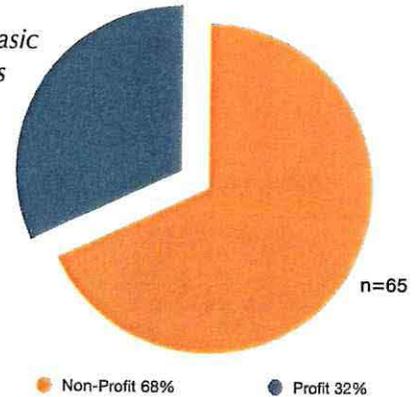
Basic Care Facts



BASIC CARE AT A GLANCE

65 licensed basic care facilities
2,105 licensed units
2022 average occupancy was **72%**

Ownership of Basic Care Facilities

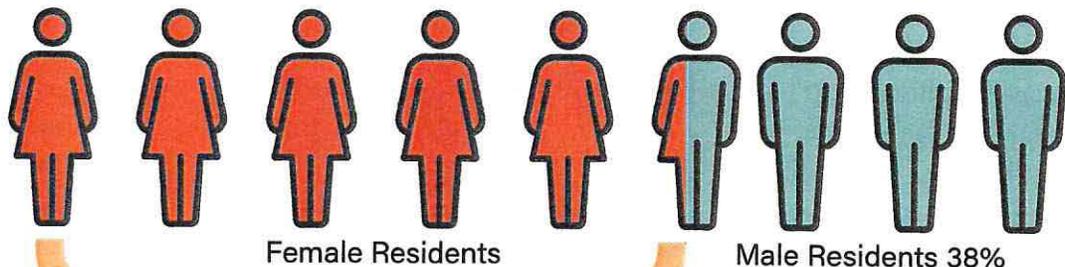


Basic Care Facts

- A basic care facility is a congregate residential setting with private and semi-private rooms, providing 24-hour staffing.
- Basic Care provides an all-inclusive rate providing room, meals, personal care services, supervision, activities, transportation, medication administration, nursing assessment, and care planning.
- Current residents range in age from 33 to 110 years old, with the average age being 81.



Gender of Basic Care Residents
n=779



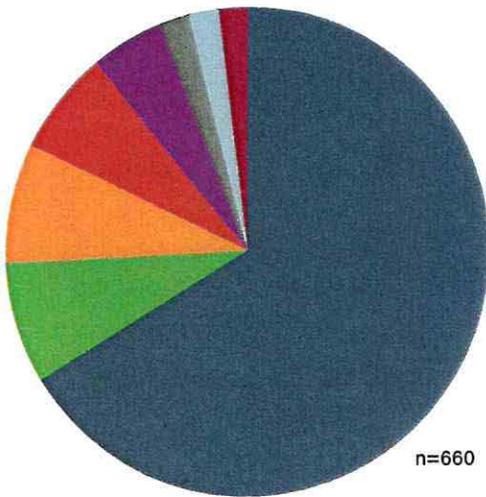
62% of tenants in North Dakota BASIC CARE are female



Basic Care Facts

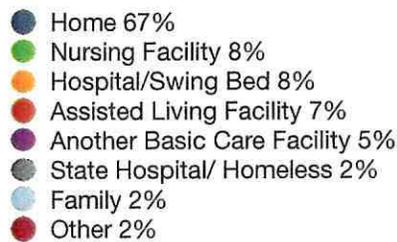
When individuals move into a basic care facility, *where do they come from?*

Moving In



Top three reasons for basic care admission:

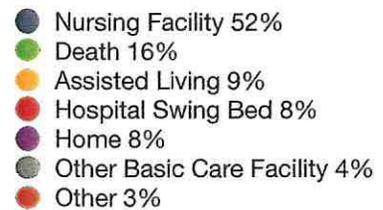
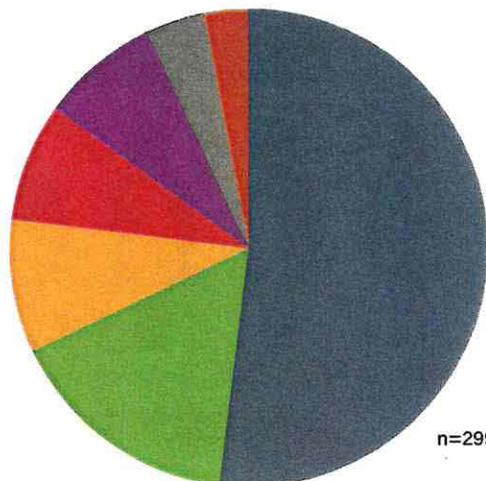
- 1) Needs assistance with daily care
- 2) Needs supervision
- 3) Confusion – early stage dementia



When individuals move out of a basic care facility, *where do they go?*

Moving On

Over half of residents discharged from a basic care facility are admitted to a skilled nursing facility. Medical needs, physical limitations, and growing cognitive issues necessitate the admission to a higher level of care.



Basic Care Facts



Care needs of basic care tenants

- 65% of residents have impaired mental status, ranging from early stage dementia to disorientation.
- 28% of residents have a mental health diagnosis.
- 98% of residents need full assistance with medication administration.
- 43% of residents receiving psychoactive drugs.
- 12.7 the number of medications the average basic care resident takes.
- 51% of residents are independent in dressing, with 6% requiring extensive assistance.
- 68% of residents are ambulatory and do not need any staff assistance, 58% use a walker or cane and 9% use a wheelchair.
- 89% of residents are independent in transferring and 75% with toileting.
- 71% of residents need assistance bathing.



Basic Care WORKFORCE



- The top issue facing basic care facilities is workforce and occupancy.
- 1,055 individuals are employed in 23 basic care facilities.
- In 2022 the midpoint CNA wage is \$18.32.
- The youngest employee is 14 years old and the oldest is 89 years old.

Age of Basic Care Workforce

n=875



AGE	≤19	20-29	30-39	40-49	50-59	60≥
	11%	21%	17%	16%	16%	17%

Basic Care Facts

Basic Care COST

Almost half of the residents living in basic care need assistance to pay for their care. The average basic care assistance rate on July 1, 2022 was \$137.56 per day. The average cost for providing care is \$146.25, so for each resident served, the facility is losing almost \$9.00 per day.

Almost half of all basic care facilities are operating at a loss, with 35% indicating they get few applicants for numerous open positions and feel they are in a continuing workforce crisis.



Does LTC Insurance pay in Basic Care Facilities? *11% of residents have LTC insurance that helps pay for their care. n=798



Continued losses of the *past 7 years* are making it almost impossible to care for the residents with B-Cap (state assistance) as a payment source.

Basic Care Average Costs and State Reimbursement Rates

\$	SFY 2016	SFY 2017	SFY 2018	SFY 2019	SFY 2020	SFY 2021	SFY 2022
Average Cost	\$116.12	\$117.26	\$121.64	\$130.52	\$124.52	\$133.92	\$146.25
Average Rate	\$107.88	\$111.60	\$117.13	\$123.80	\$122.83	\$129.12	\$137.56
Difference	-\$8.24	-\$5.66	-\$4.51	-\$6.72	-\$1.69	-\$4.80	-\$8.69

Basic Care Satisfaction Survey Results

Satisfaction	1-Poor	2-Average	3-Good	4-Very Good	5-Excellent
Overall Satisfaction (n=558)	<1%	7%	12%	42%	39%
Quality of Staff (n=558)	<1%	5%	14%	39%	42%
Quality of Care (n=558)	1%	4%	15%	39%	41%
Quality of Food (n=558)	4%	12%	17%	40%	26%

Basic Care Rates Effective July 1, 2022

Facility	City	Personal Care Rate	Room & Board Rate	Total Rate
Prairie Villa	Arthur	\$88.01	\$54.78	\$142.79
Augusta Place	Bismarck	\$86.02	\$89.72	\$175.74
Edgewood on Dominion	Bismarck	\$58.60	\$58.76	\$117.36
Edgewood Village	Bismarck	\$81.32	\$67.51	\$148.83
Prairie Pointe	Bismarck	\$61.80	\$91.42	\$153.22
Benedictine Living Community - Bismarck	Bismarck	\$77.06	\$114.42	\$191.48
The Terrace	Bismarck	\$73.83	\$64.90	\$138.73
St. Francis Residence	Cando	\$67.52	\$93.69	\$161.21
Eventide - Lake Country Manor	Devils Lake	\$45.55	\$78.13	\$123.68
Odd Fellows Home	Devils Lake	\$68.13	\$60.02	\$128.15
Evergreen Dickinson	Dickinson	\$54.52	\$77.57	\$132.09
Manor St. Joseph	Edgeley	\$81.88	\$51.15	\$133.03
Edmore Rest Home	Edmore	\$109.83	\$31.17	\$141.00
Dakota Hill Housing	Elgin	\$78.56	\$51.95	\$130.51
Evergreen Place	Ellendale	\$71.35	\$55.92	\$127.27
Bethany Towers	Fargo	\$74.74	\$68.19	\$142.93
Edgewood Fargo Senior Living	Fargo	\$70.84	\$56.18	\$127.02
Evergreens of Fargo - 1401	Fargo	\$105.52	\$40.22	\$145.74
Evergreens of Fargo - 1411	Fargo	\$106.52	\$47.07	\$153.59
Good Samaritan Society - Fargo	Fargo	\$56.99	\$79.63	\$136.62
Gackle Care Center	Gackle	\$76.01	\$61.05	\$137.06
St. Anne's Guest Home	Grand Forks	\$77.16	\$62.18	\$139.34
Tufte Manor	Grand Forks	\$66.84	\$68.28	\$135.12
Senior Suites at Sakakawea ¹	Hazen	\$116.49	\$59.39	\$175.88
Edgewood Jamestown	Jamestown	\$68.13	\$83.40	\$151.53
Rock of Ages Home, Inc.	Jamestown	\$71.92	\$58.09	\$130.01
Hill Top Home of Comfort	Killdeer	\$67.74	\$117.94	\$185.68
Good Samaritan Society - Lakota	Lakota	\$65.19	\$81.80	\$146.99
Good Samaritan Society - Larimore	Larimore	\$69.37	\$120.31	\$189.68
Parkside Lutheran Home	Lisbon	\$81.11	\$117.80	\$198.91
Maddock Memorial Home	Maddock	\$75.41	\$73.13	\$148.54
Edgewood Vista Mandan	Mandan	\$53.03	\$80.13	\$133.16
Lakewood Landing	Mandan	\$50.59	\$81.58	\$132.17
Sheridan Memorial Home	McClusky	\$71.36	\$52.67	\$124.03
Edgewood Minot Senior Living	Minot	\$44.90	\$35.47	\$80.37

Basic Care Rates Effective July 1, 2022

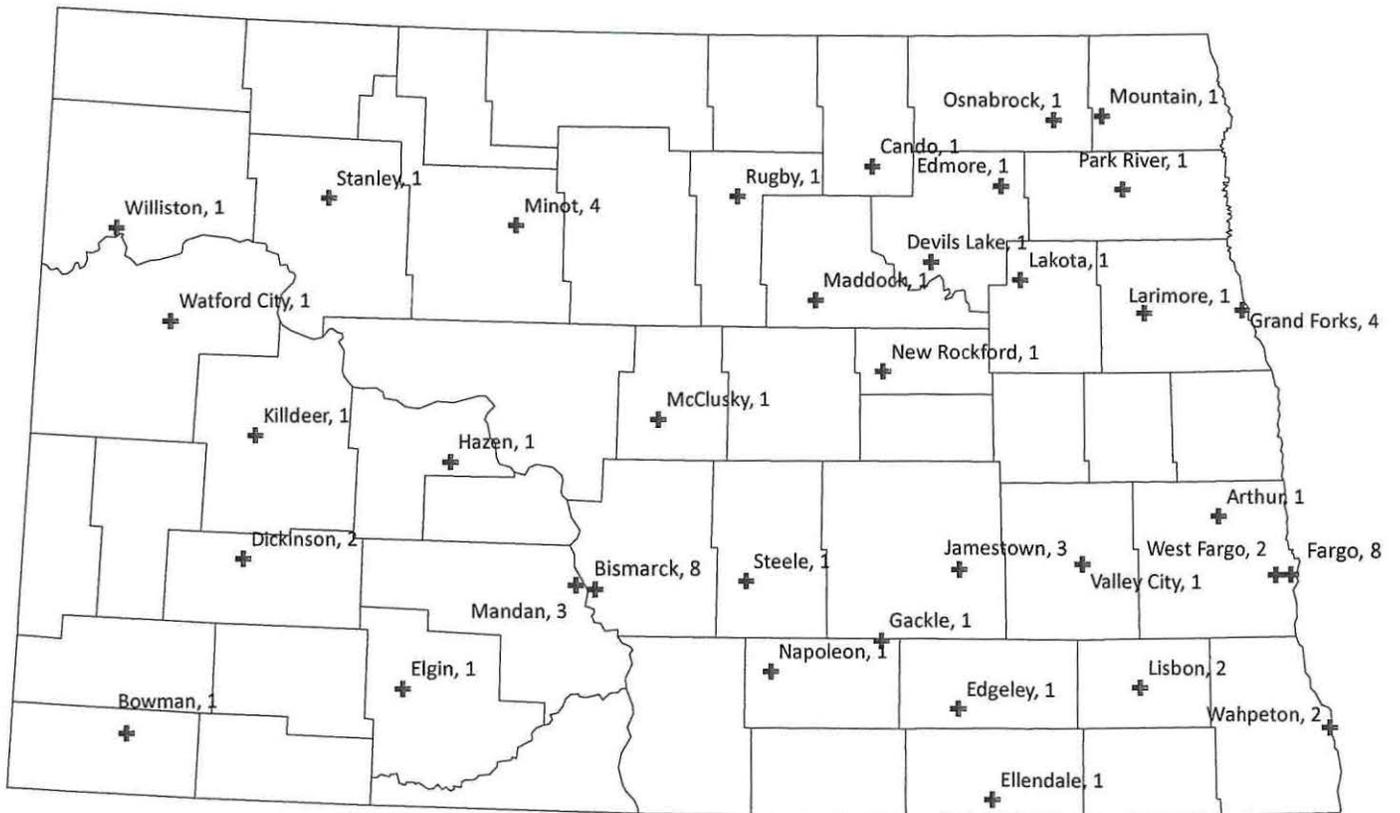
Facility	City	Personal Care Rate	Room & Board Rate	Total Rate
Borg Pioneer Memorial Home	Mountain	\$89.61	\$50.31	\$139.92
Napoleon Care Center	Napoleon	\$66.90	\$82.39	\$149.29
Lutheran Home of the Good Shepherd	New Rockford	\$103.27	\$75.08	\$178.35
Osnabrock Community Living Center	Osnabrock	\$66.17	\$43.83	\$110.00
Good Samaritan Society - Park River	Park River	\$66.46	\$85.97	\$152.43
Harold S. Haaland Home	Rugby	\$75.46	\$65.50	\$140.96
Golden Manor	Steele	\$74.74	\$62.31	\$137.05
Siena Court	Wahpeton	\$75.34	\$95.37	\$170.71
The Leach Home	Wahpeton	\$74.40	\$70.12	\$144.52
Bethel Lutheran Home	Williston	\$103.39	\$65.11	\$168.50
Redwood Village	Wilton	\$92.93	\$67.61	\$160.54

¹ effective August 1, 2022



Basic Care Map

North Dakota Basic Care Facilities, 2022



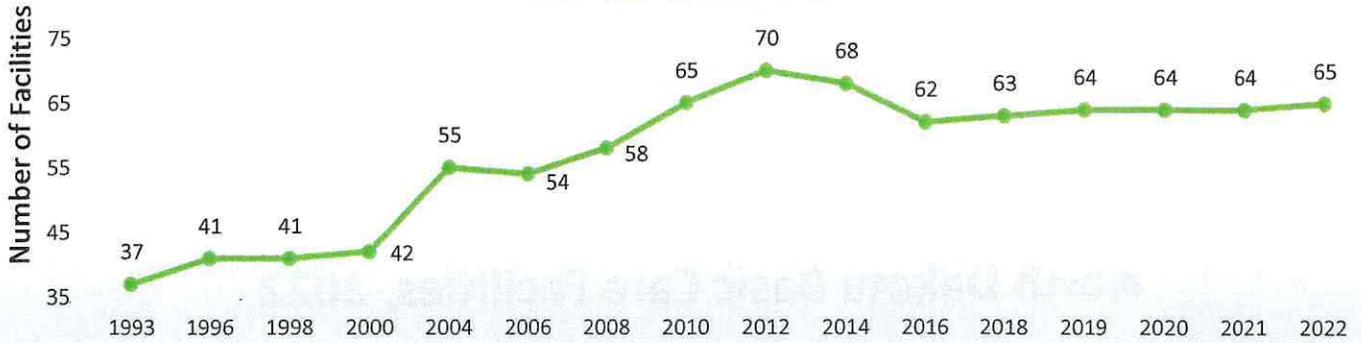
+ City (Number of Basic Care Facilities)



Source: ESRI, North Dakota Long Term Care Association Created by the North Dakota Healthcare Workforce Group on 12/19/2022

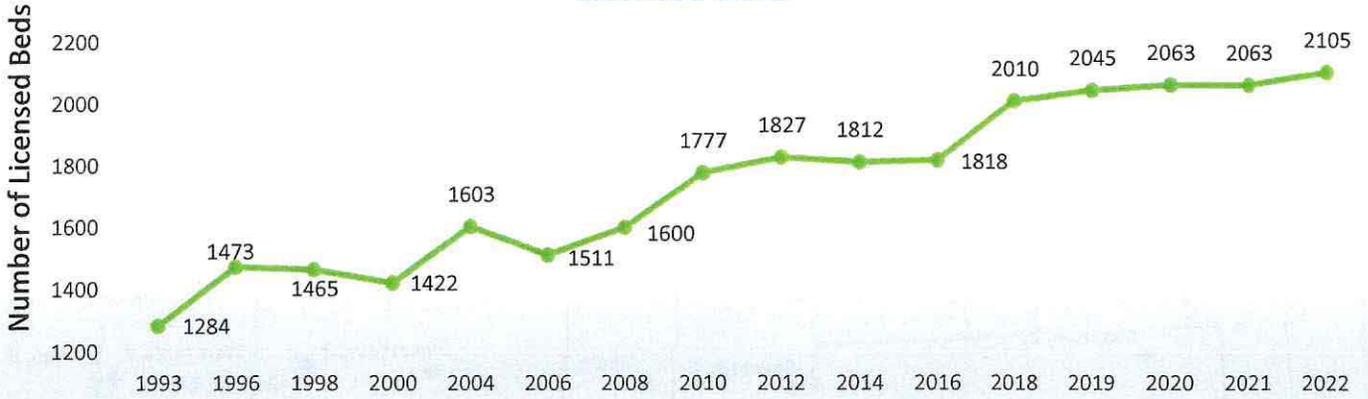
Basic Care

Number of Facilities



Basic Care

Licensed Beds



Basic Care

Occupancy



The occupancy for 2020 and 2021 is based upon HC Standard/COVID Reporting.
The Occupancy for 2010-2019 is from NDLTCA Survey.

In the 2021 legislative session you directed a study on the basic care payment system. The DHHS collaborated with our Association and providers and virtual meetings were held between November 2021 and March 2022. Topics of discussion were, how should rates and limits be established, rate methodology, levels of care, to name a few. What we quickly found out was a more extensive study is necessary. The four virtual meetings we had were good but not sufficient and thus Section 2 of the bill calls for the study to continue.

Let's talk about each section:

SECTION 1

SUBSECTION 1 establishes a new methodology for setting basic care rates and limits.

Subsection 1 says the limits shall be updated every four years beginning with July 1, 2023. That is very important as the limits have not been updated for years.

SUBSECTION 2 establishes how the limits will be set.

SUBSECTION 3 provides for inflationary increases of 6% in 2023 and 4% in 2024 on rates and limits. This is in following with the Governor's recommendation for the state employees. Currently what is in the budget for basic care is 4% and 3%. This is a recommendation from our Association and basic care providers, it was not discussed in the study.

SUBSECTION 4 provides one-time funding of ten dollars per day for 2023 and 2024 rates to help with the past seven years of losses to help facilities become financially viable. We had one basic care facility close last summer and another is considering closure. More will certainly follow if

we can't provide some immediate help. This is a recommendation from our Association and basic care providers.

SUBSECTION 5 This subsection is not new, it has been in statute since 2015 but has never been implemented. We are currently in discussion with DHHS on this issue to see if some relief for uncompensated care can be provided now.

SECTION 2 I would like you to consider an amendment. The appropriation of \$500,000 is for the study. An additional \$6 million is necessary to provide funding for all aspects of SB 2283. Attached to my testimony is an amendment for your consideration.

SECTION 2 also outlines what the next basic care study shall consider. Every item is important and was not studied in the first study just completed. The topics for study include:

- 1) Property – currently doesn't allow you any money to upgrade or invest in your facility, including necessary life safety improvements.
- 2) Uncompensated Care – currently not provided even though we care for vulnerable exploited adults with nowhere else to go. One small rural facility is currently caring for a vulnerable adult., whose child and grandchild were prosecuted and convicted for financial exploitation. That bill has grown to over \$80,000 and Medicaid has denied twice because of complicated issues surrounding the case.
- 3) Supported Housing – what is the role of basic care in addressing our homeless population?
- 4) Operating Margin – currently the rules call for a 3% operating margin but it's calculated on a small portion of the rate. This payment ranges from .78 cents a day to \$2.49. The facility getting the \$2.49 per day per resident is the one that closed last summer.

They were small, with just 16 residents, thus they received \$39.84 for a daily operating margin.

- 5) This allows for study of the payment system for the Alzheimer's and head injury facilities.
- 6) Structuring payments to provide an incentive for providers to serve individuals with behavioral health needs. Most important in this item is assuring those with behavioral health needs get the services they need if they are living in basic care.

Thank you for your favorable consideration of SB 2283 and the amendment. Without the amendment, funding may not be available to implement the key features, that are important for the viability of this service setting.

Thank you for the opportunity to testify. I would be happy to answer any questions.

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

Amendments on SB 2283:

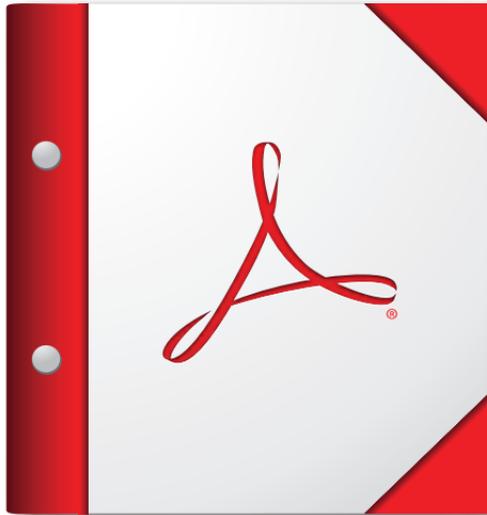
On page 2, line 14, delete \$500,000 and insert \$6,500,000.

One page 2, line 16, after studying, add and implementing.

This section would then read:

SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - STUDY OF BASIC CARE PAYMENT SYSTEM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,500,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of studying and implementing the basic care payment system, for the biennium beginning July 1, 2023, and ending June 30, 2025. The study shall consider:

1. The property component of the rate;
2. Providing an uncompensated care expense of three hundred sixty-five days;
3. The feasibility of classifying basic care as supported housing;
4. The calculation of the operation margin;
5. Rates for specialized basic care services licensed under North Dakota Administrative Code chapter 33-03-24.1; and
6. Structuring payments to provide an incentive for providers to serve individuals with behavioral health needs.



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23.0973.01000

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2283

Introduced by

Senators Lee, Dever, Hogan

Representatives Ista, Swiontek, Weisz

1 A BILL for an Act to amend and reenact section 50-24.5-02.3 of the North Dakota Century
2 Code, relating to basic care payment rates; to provide for a study; to provide an appropriation;
3 and to declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 50-24.5-02.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-24.5-02.3. Basic care payment rates.**

- 8 1. ~~The department shall establish, by rule, procedures for determining rates~~determine
9 limits for the care of residents of basic care facilities that qualify as vendors of an
10 aged, blind, and disabled persons program and for implementing provisions of this
11 chapter. ~~The procedures must be based on methods and standards that the~~
12 department finds are adequate to recognize the data demonstrating the most recent
13 costs that must be incurred for the care of residents in efficiently and economically
14 operated basic care facilities. The department shall determine the limits every four
15 years by July first, beginning with July 1, 2023.
- 16 2. ~~The department shall identify costs that are recognized for establishing payment~~
17 ratesestablish the limits by using the median rates from the most recent data available.
18 The direct care limit must be the median plus eighteen percent. The indirect care limit
19 must be the median plus twelve percent for indirect care.
- 20 3. For the rate year beginning July 1, ~~2016~~2023, the department shall ~~establish the limits~~
21 ~~by using the average of the highest and lowest rates from the 2014 rate year. The~~
22 ~~direct care limit must be ninety-five percent of the average and the indirect care limit~~
23 ~~must be ninety percent of the average. Beginning with the July 1, 2017, rate year, the~~
24 ~~department shall adjust the limits by using the cost percentage change from the prior~~

1 ~~two rate years, within the limits of legislative appropriations.~~increase rates and limits
2 ~~six percent for inflation. For the rate year beginning July 1, 2024, the department shall~~
3 ~~increase rates and limits four percent for inflation.~~

4 4. The department shall ~~provide, by rule, within the limits of legislative appropriations, for~~
5 ~~payment of rates paid by the aged, blind, and disabled persons program for a~~
6 ~~maximum of thirty days per occurrence for leave days for a resident who is in a~~
7 ~~licensed health care facility when the resident is expected to return to the~~
8 ~~facility.~~increase rates in the amount of ten dollars per day for the rate years beginning
9 ~~July 1, 2023, and July 1, 2024.~~

10 5. Within the limits of legislative appropriations, the department shall establish an
11 uncompensated care expense of one hundred eighty days.

12 **SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
13 **STUDY OF BASIC CARE PAYMENT SYSTEM.** There is appropriated out of any moneys in the

14 general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much
15 of the sum as may be necessary, to the department of health and human services for the
16 purpose of studying the basic care payment system, for the biennium beginning July 1, 2023,
17 and ending June 30, 2025. The study shall consider:

- 18 1. The property component of the rate;
- 19 2. Providing an uncompensated care expense of three hundred sixty-five days;
- 20 3. The feasibility of classifying basic care as supported housing;
- 21 4. The calculation of the operation margin;
- 22 5. Rates for specialized basic care services licensed under North Dakota Administrative
23 Code chapter 33-03-24.1; and
- 24 6. Structuring payments to provide an incentive for providers to serve individuals with
25 behavioral health needs.

26 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

23.0973.01001
Title.02000

Adopted by the Human Services Committee

February 1, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2283

Page 2, after line 11, insert:

"SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$19,118,386, or so much of the sum as may be necessary, and the sum of \$7,984,183 from special funds, to the department of health and human services for the basic care payment system, for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, line 13, replace "**PAYMENT SYSTEM**" with "**AND ASSISTED LIVING FACILITY LICENSURE AND REGULATION**"

Page 2, line 14, replace "\$500,000" with "\$600,000"

Page 2, line 16, after "system" insert "and the licensure and regulation of basic care and assisted living facilities"

Page 2, after line 21, insert:

"5. The calculation of annual inflation;"

Page 2, line 22, replace "5." with "6."

Page 2, line 24, replace "6." with "7."

Page 2, after line 25, insert:

"8. The licensure and regulation of basic care and assisted living facilities."

Renumber accordingly

Testimony on SB 2283
Senate Appropriations Committee
February 13, 2023

Good afternoon, Chairman Bekkedahl and members of the Senate Appropriations Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here today to ask for your support of SB 2283.

This legislation is one of the most important priorities for us this session. Why? Because it is so desperately needed.

The Basic Care Assistance Program is a key component of the long-term care continuum in North Dakota. Basic care is unique to North Dakota, no other state has basic care. Over 50 years ago, the program was funded by the counties in a response to help poor, older folks who needed 24 hour supervision, supported housing, and services but did not need 24 hour skilled nursing home care. Today it remains the most affordable 24 hour care option in the state. To demonstrate cost effectiveness, look at the chart labeled, "Average Annual Cost by Type of Service in LTC Continuum", (Analysis of September 2022 Claims Data)-Page 1.

Basic care facilities provides 24 hour congregate care, but not 24 hour skilled nursing care like nursing homes. Residents need support, care, and assistance with activities of daily living. This program helps lower income individuals pay for the cost of care in this setting.

So what kind of folks are talking about living in basic care? See chart labeled, Basic Care Facts – Page 2.

What is the cost, to deliver this type of 24 hour care? Look at the chart labeled, Basic Care Cost – Page 3.

As you see in the chart, for the period ending June 30, 2022, facilities on average were losing -8.69 cents per person per day.

The last six months the losses are even greater. What is happening? Last year we had record inflation averaging 9%, and we continue to have unprecedented spending because of the public health emergency. During this time of record inflation, basic care facilities received an increase in their rates of .25%, one quarter of one percent.

Basic care facilities were required to set-up a Covid unit to isolate and treat Covid-19 positive residents. Source control is used daily, gloves, gowns, face shields and face coverings. This level of personal protective equipment was new to basic care and the financial impact is still occurring. Staff with any symptoms are not allowed to work, so overtime continues to soar and the use of contract nursing is growing in basic care.

Remember, I told you basic care is unique to North Dakota. It is so unique that when the federal government provided Covid relief funds for hospitals, nursing homes, physician offices and other providers, basic care received minimal funding. The federal government doesn't even know this provider type exists.

In the 2015 legislative session, you passed legislation to help improve the basic care payment system, but it was never implemented. Today, the language remains in statute but the relief never materialized.

Today we are asking you for relief. Basic care facilities and the residents they care for need your help.

Let me walk you through the bill and tell you what is being requested and how much it will cost.

SECTION 1

SUBSECTION 1 establishes the frequency of setting basic care limits.

Subsection 1 says the limits shall be updated every four years beginning with July 1, 2023. That is very important as the limits have not been updated for years.

SUBSECTION 2 establishes how the limits will be set.

SUBSECTION 3 provides for inflationary increases of 6% in 2023 and 4% in 2024 on rates and limits. This is in following with the Governor's recommendation for the state employees. Currently what is proposed for Medicaid providers is 4% and 3%. We recognize you will determine inflation levels for everyone and appreciate Senator Dever asking for what a 4/4 would cost.

SUBSECTION 4 provides one-time funding of ten dollars per day for 2023 and continuing in 2024. This is needed to help facilities become financially viable. Since July 1, 2022, two basic care facilities are no longer operating. More will certainly follow if we can't provide some immediate help. DHHS estimates this has a fiscal impact of \$11 million dollars. See Page 4 of attachments.

SUBSECTION 5 This subsection is not new, it has been in statute since 2015 but has never been implemented. We are currently in discussion with DHHS on this issue to see if some relief for uncompensated care can be provided now.

SECTION 2 Is the necessary appropriations for basic care. I believe this should now be the revised figure of \$11,082,484,56 in total funds. This is the one-time funding of \$10 per day for the next biennium. The rebasing is in SB 2012 and so are the inflators of 4/3.

SECTION 3 Outlines continued study of basic care. Every item is important and was not studied in the first study just completed. The topics for study include:

- 1) Property – currently doesn't allow you any money to upgrade or invest in your facility, including necessary life safety improvements.
- 2) Uncompensated Care – currently not provided even though we care for vulnerable exploited adults with nowhere else to go. One small rural facility is currently caring for a vulnerable adult., whose child and grandchild were prosecuted and convicted for financial exploitation. That bill has grown to over \$80,000 and Medicaid has denied twice because of complicated issues surrounding the case.
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- 4) Operating Margin – currently the rules call for a 3% operating margin but it's calculated on a small portion of the rate. This payment ranges from .78 cents a day to \$2.49. The facility

getting the \$2.49 per day per resident is the one that closed last summer. They were small, with just 16 residents, thus they received \$39.84 for a daily operating margin.

- 5) What should inflationary adjustment be for basic care?
- 6) This allows for study of the payment system for the Dementia and head injury facilities.
- 7) Structuring payments to provide an incentive for providers to serve individuals with behavioral health needs. Most important in this item is assuring those with behavioral health needs get the services they need if they are living in basic care.

To complete the study DHHS is asking for \$600,000.

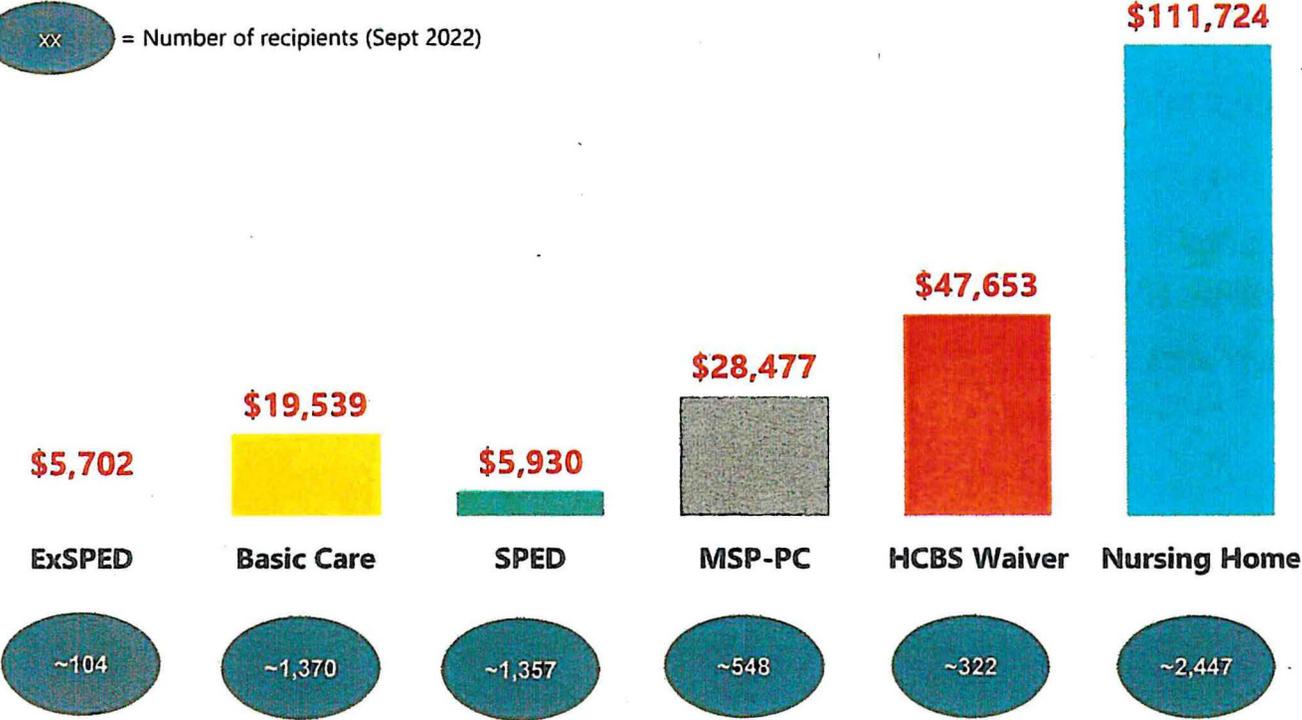
Thank you for your favorable consideration of SB 2283 and the \$11 million dollars.

Thank you for the opportunity to testify. I would be happy to answer any questions.

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

Average Annual Cost by Type of Service in LTC Continuum (Analysis of Sept 2022 claims data)

xx = Number of recipients (Sept 2022)



Eligibility criteria evaluate both a person's functional and financial needs.

- Ex-SPED is the in-home alternative to Basic Care
- HCBS waiver and MSP-PC are in-home alternatives to Nursing Homes
- SPED assists people with higher asset levels (up to \$50,000)

Basic Care Facts



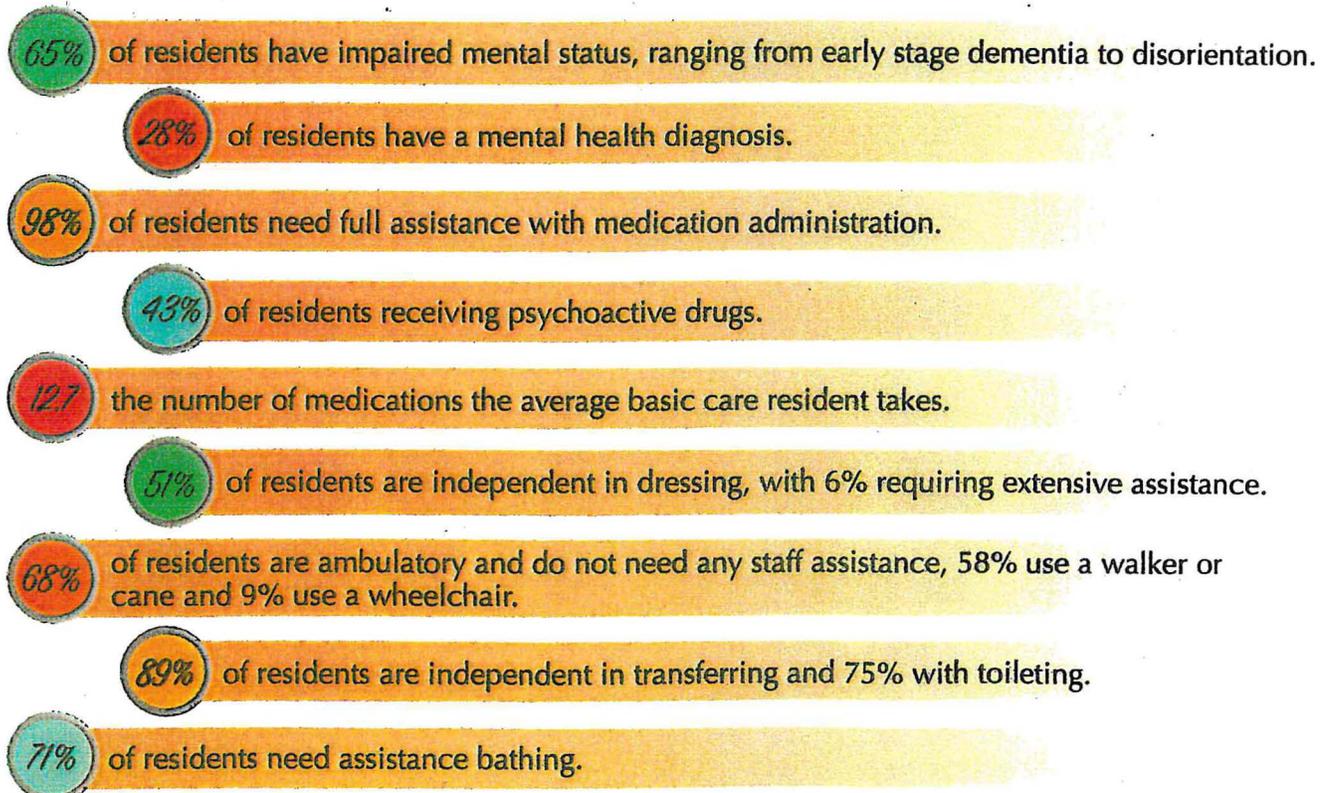
BASIC CARE AT A GLANCE

65 licensed basic care facilities
2,105 licensed units
2022 average occupancy was **72%**

Basic Care Facts

- A basic care facility is a congregate residential setting with private and semi-private rooms, providing 24-hour staffing.
- Basic Care provides an all-inclusive rate providing room, meals, personal care services, supervision, activities, transportation, medication administration, nursing assessment, and care planning.
- Current residents range in age from 33 to 110 years old, with the average age being 81.

Care needs of basic care residents



Basic Care Facts

Basic Care COST

Almost half of the residents living in basic care need assistance to pay for their care. The average basic care assistance rate on July 1, 2022 was \$137.56 per day. The average cost for providing care is \$146.25, so for each resident served, the facility is losing almost \$9.00 per day.

Almost half of all basic care facilities are operating at a loss, with 35% indicating they get few applicants for numerous open positions and feel they are in a continuing workforce crisis.



Does LTC Insurance pay in Basic Care Facilities? *11% of residents have LTC insurance that helps pay for their care. n=798



Continued losses of the *past 7 years* are making it almost impossible to care for the residents with B-Cap (state assistance) as a payment source.

Basic Care Average Costs and State Reimbursement Rates

\$	SFY 2016	SFY 2017	SFY 2018	SFY 2019	SFY 2020	SFY 2021	SFY 2022
Average Cost	\$116.12	\$117.26	\$121.64	\$130.52	\$124.52	\$133.92	\$146.25
Average Rate	\$107.88	\$111.60	\$117.13	\$123.80	\$122.83	\$129.12	\$137.56
Difference	-\$8.24	-\$5.66	-\$4.51	-\$6.72	-\$1.69	-\$4.80	-\$8.69

Shelly Peterson

From: Shelly Peterson
Sent: Tuesday, February 7, 2023 9:18 PM
To: Obrigewitch, Rhonda A.
Subject: RE: Voice Mail (59 seconds)

Thanks Rhonda, our intent was to have it added once in July 2023 and continue in the second year and then stop it. Thanks, so the impact would be your last option. Shelly

From: Obrigewitch, Rhonda A. <robrigewitch@nd.gov>
Sent: Tuesday, February 7, 2023 5:50 PM
To: Shelly Peterson <shelly@ndltca.org>
Subject: RE: Voice Mail (59 seconds)

Hi Shelly, I hope this helps.

The total for rebasing is

	<u>Total</u>	<u>General Fund</u>	<u>Federal Fund</u>
Year 1	\$2,998,908.12	\$1,938,970.00	\$1,059,938.12
Year 2	\$2,147,652.72	\$1,360,438.40	\$787,214.32
	\$5,146,560.84	\$3,299,408.40	\$1,847,152.44

Cost of the \$10 increase, if added each July (that is the assumption we made in the fiscal note)

	<u>Total</u>	<u>General Fund</u>	<u>Federal Fund</u>
Year 1	\$5,541,244.56	\$4,067,060.56	\$1,474,184.00
Year 2	\$11,082,480.00	\$8,134,111.00	\$2,948,369.00
	\$16,623,724.56	\$12,201,171.56	\$4,422,553.00

Cost of the \$10 increase, if added only once in July 2023 but continues through the second year.

Total Increase

	<u>Total</u>	<u>General Fund</u>	<u>Federal Fund</u>
Year 1	\$5,541,244.56	\$4,067,060.56	\$1,474,184.00
Year 2	\$5,541,240.00	\$4,067,056.00	\$1,474,184.00
	\$11,082,484.56	\$8,134,116.56	\$2,948,368.00

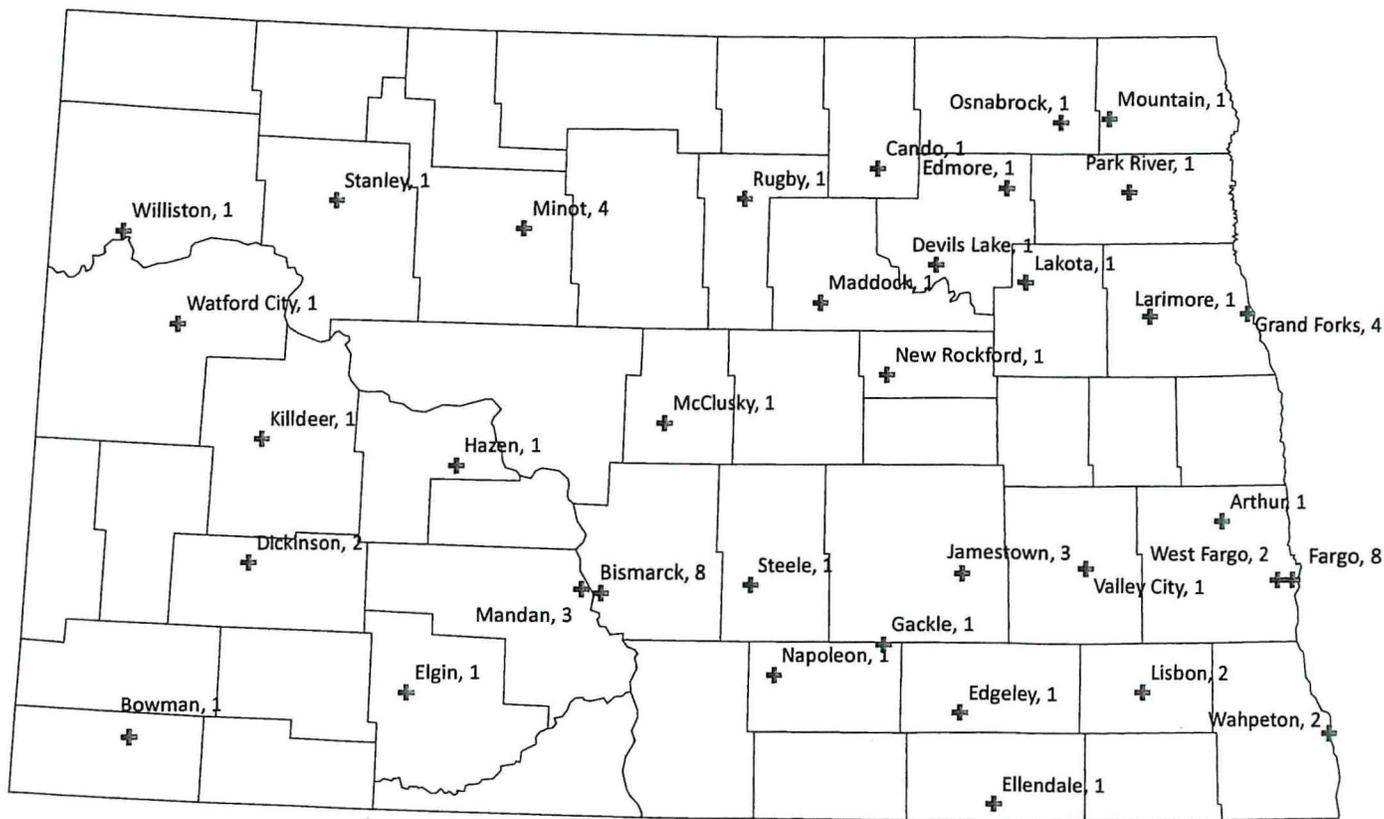
If you have questions, let us know.

Thanks.



Basic Care Map

North Dakota Basic Care Facilities, 2022



+ City (Number of Basic Care Facilities)



Source: ESRI, North Dakota Long Term Care Association Created by the North Dakota Healthcare Workforce Group on 12/19/2022

23.0973.02001
Title.

Prepared by the Legislative Council staff for
the Senate Appropriations Committee
February 13, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2283

Page 2, line 13, replace "\$19,118,386" with "\$8,134,116"

Page 2, line 14, replace "\$7,984,183" with "\$2,948,368"

Renumber accordingly

Good Morning Members of the House Human Services Committee:

My name is Kiara Tuchscherer and I am the Administrator for the Good Samaritan Society in Fargo, ND. We are one of five basic care facilities in a 5 mile radius and we are a 55 and older one-level facility that offers Basic Care and Assisted Living services with 72 apartment. We currently are serving 4 AL and 68 basic care residents.

Basic care is important in North Dakota and is a growing demand as it offers seniors who cannot live independently services to help them age in place while encouraging their independence before they would need 24 hour medical care. 51 of my residents have been with us for more than 3+ years and I have one resident who has been with us from the beginning, 15 years. I have had positive stories where residents have utilized our services to gain even more of their independence back and have been able to move out and live on their own. This shows how Basic Care is truly making a difference. I am speaking today to support Senate Bill Number Twenty Two Eighty Three for increasing rates and limits for inflation in Basic Care facilities. Today, Basic Care is losing close to \$8+ a day per resident. On average for my facility alone, that is equaling \$177,408 a year.

With the COVID-19 pandemic forcing changes and causing inflation, I think now, more than ever, is the time to act to create positive change. With my 54 employees who all play an important role in our facility offering 24/7 service, activities, 3 meals/3 snacks per day, laundry, housekeeping, and maintenance, we need to focus on what the State can do to help. As the Basic Care Director at Large for the ND Long Term Care Association, I am hearing other Basic Care facilities in agreement that there must be a increase in rates or we will not be able to continue serving these residents. Please agree to help Basic Care facilities with our income so facilities like mine can continue to provide quality care. Some facilities have already closed their doors; I am afraid if our rates continue to not be sufficient to cover costs and we continue to lose hundreds of dollars a day; we will not be able to afford serving these residents and will need to close our doors too.

Thank you



**Senate Bill 2283
House Human Services
Representative Robin Weisz, Chair
January 30, 2023**

Chairman Weisz and members of the Human Services committee, my name is Melanie Gaebe, Director of Public Policy for the Alzheimer's Association in North Dakota. Thank you for the opportunity to express the Association's support for the proposed basic care rate study in Senate Bill 2283.

Section three of SB 2283 provides for a study of the basic care payment system. The specialized basic care services in the study include those services provided to people living with Alzheimer's and dementia. There are currently an estimated 15,000 North Dakotans living with dementia and that number is expected to increase to 16,000 by 2025. While the goal of the dementia care services program is to help people continue to safely live in their homes for as long as possible, many of the residents in basic care facilities throughout the state are living with mild cognitive impairment or dementia.

We encourage the committee to move forward with this study as it is essential to ensure facilities are getting a rate commensurate with the exceptional care they provide to North Dakota residents.

Thank you for your time and consideration.

Testimony on SB 2283
House Human Services Committee
March 8, 2023

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 192 assisted living, basic care, and skilled nursing facilities in North Dakota. I am here today to ask for your support of SB 2283.

This legislation is one of the most important priorities for us this session. Why? Because it is so desperately needed.

The Basic Care Assistance Program is a key component of the long-term care continuum in North Dakota. Basic care is unique to North Dakota, no other state has basic care. Over 50 years ago, the program was funded by the counties in a response to help poor, older folks who needed 24 hour supervision, supported housing , and services but did not need 24 hour skilled nursing home care. Today it remains the most affordable 24 hour care option in the state. To demonstrate cost effectiveness, look at the chart labeled, "Average Annual Cost by Type of Service in LTC Continuum", (Analysis of September 2022 Claims Data)-Page 1.

Basic care facilities provides 24 hour congregate care, but not 24 hour skilled nursing care like nursing homes. Residents need support, care, and assistance with activities of daily living. This program helps lower income individuals pay for the cost of care in this setting.

So what kind of folks are talking about living in basic care? See chart labeled, Basic Care Facts – Page 2.

What is the cost, to deliver this type of 24 hour care? Look at the chart labeled, Basic Care Cost – Page 3.

As you see in the chart, for the period ending June 30, 2022, facilities on average were losing -8.69 cents per person per day.

The last six months the losses are even greater. What is happening? Last year we had record inflation averaging 9%, and we continue to have unprecedented spending because of the public health emergency. During this time of record inflation, basic care facilities received an increase in their rates of .25%, one quarter of one percent.

Basic care facilities were required to set-up a Covid unit to isolate and treat Covid-19 positive residents. Source control is used daily, gloves, gowns, face shields and face coverings. This level of personal protective equipment was new to basic care and the financial impact is still occurring. Staff with any symptoms are not allowed to work, so overtime continues to soar and the use of contract nursing is growing in basic care.

Remember, I told you basic care is unique to North Dakota. It is so unique that when the federal government provided Covid relief funds for hospitals, nursing homes, physician offices and other providers, basic care received minimal funding. The federal government doesn't even know this provider type exists.

In the 2015 legislative session, you passed legislation to help improve the basic care payment system, but it was never implemented. Today, the language remains in statute but the relief never materialized.

Today we are asking you for relief. Basic care facilities and the residents they care for need your help.

Let me walk you through the bill and tell you what is being requested.

SECTION 1

SUBSECTION 1 establishes the frequency of updating basic care limits.

Subsection 1 says the limits shall be updated every four years beginning with July 1, 2023. That is very important as the limits have not been updated for years. Without this it is like telling facilities you need to operate with what we gave you 10 years ago.

SUBSECTION 2 establishes how the limits will be set. This methodology is fair and reasonable and facilities will strive to operate under the limits. This methodology was created to be budget neutral.

SUBSECTION 3 provides for inflationary increases of 6% in 2023 and 4% in 2024 on rates and limits. The Senate provided inflation adjustments of 4% and 4% for providers, except for DD which received 7/4 and basic care which received 6/4.

SUBSECTION 4 provides one-time funding of ten dollars per day for 2023 and continuing in 2024. This is needed to cover the cost of care. In the last 7 months, two basic care facilities have closed. More will certainly follow if we can't provide some immediate help.

SECTION 2 Is the necessary appropriations for basic care to cover the \$10 per day, rebasing and inflationary adjustments.

SECTION 3 Outlines continued study of basic care. Every item is important and was not studied in the first study just completed. The topics for study include:

- 1) Property – currently doesn't allow you any money to upgrade or invest in your facility, including necessary life safety improvements.
- 2) Uncompensated Care – currently not provided even though we care for vulnerable exploited adults with nowhere else to go. One small rural facility is currently caring for a vulnerable adult., whose child and grandchild were prosecuted and convicted for financial exploitation. That bill has grown to over \$80,000 and Medicaid has denied twice because of complicated issues surrounding the case.
- 3) Supported Housing – what is the role of basic care in addressing our homeless population?
- 4) Operating Margin – currently the rules call for a 3% operating margin but it's calculated on a small portion of the rate. This payment ranges from .78 cents a day to \$2.49. The facility getting the \$2.49 per day per resident is the one that closed last summer. They were small, with just 16 residents, thus they received \$39.84 for a daily operating margin.
- 5) What should inflationary adjustment be for basic care?
- 6) This allows for study of the payment system for the Dementia and head injury facilities.

- 7) Structuring payments to provide an incentive for providers to serve individuals with behavioral health needs. Most important in this item is assuring those with behavioral health needs get the services they need if they are living in basic care.
- 8) This looks at and compares the licensure and regulation of basic care and assisted living – should changes to each be made?

To complete the study DHHS is asking for \$600,000. DHHS is anticipating this study will be outsourced and will be a collaborative approach with everyone at the table.

The final item I need to address is the emergency clause. This is necessary to implement the revised payment system on 7-1-23. Without this important provision we won't be able to update their rates on July 1st.

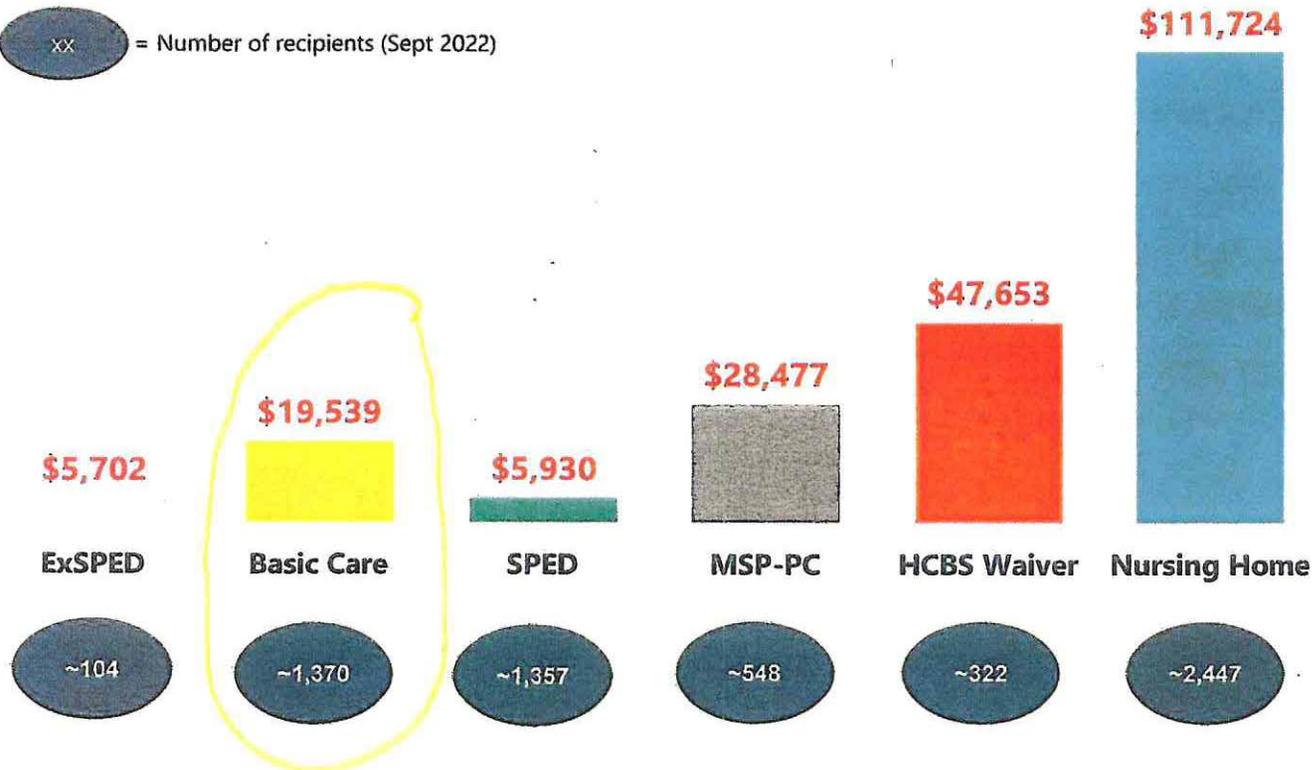
We ask for your support of SB 2283. The program is a great affordable option, but the current rate structure is not sufficient. I would be happy to answer any questions you may have.

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

Average Annual Cost by Type of Service in LTC Continuum

(Analysis of Sept 2022 claims data)

xx = Number of recipients (Sept 2022)



24 Hour Care

Eligibility criteria evaluate both a person's functional and financial needs.

- Ex-SPED is the in-home alternative to Basic Care
- HCBS waiver and MSP-PC are in-home alternatives to Nursing Homes
- SPED assists people with higher asset levels (up to \$50,000)

Basic Care Facts

BASIC CARE AT A GLANCE

65 licensed basic care facilities

2,105 licensed units

2022 average occupancy was **72%**

Basic Care Facts

- A basic care facility is a congregate residential setting with private and semi-private rooms, providing 24-hour staffing.
- Basic Care provides an all-inclusive rate providing room, meals, personal care services, supervision, activities, transportation, medication administration, nursing assessment, and care planning.
- Current residents range in age from 33 to 110 years old, with the average age being 81.

Care needs of basic care residents

65% of residents have impaired mental status, ranging from early stage dementia to disorientation.

28% of residents have a mental health diagnosis.

98% of residents need full assistance with medication administration.

43% of residents receiving psychoactive drugs.

12.7 the number of medications the average basic care resident takes.

51% of residents are independent in dressing, with 6% requiring extensive assistance.

68% of residents are ambulatory and do not need any staff assistance, 58% use a walker or cane and 9% use a wheelchair.

89% of residents are independent in transferring and 75% with toileting.

71% of residents need assistance bathing.

Basic Care Facts

Basic Care COST

Almost half of the residents living in basic care need assistance to pay for their care. The average basic care assistance rate on July 1, 2022 was \$137.56 per day. The average cost for providing care is \$146.25, so for each resident served, the facility is losing almost \$9.00 per day.

Almost half of all basic care facilities are operating at a loss, with 35% indicating they get few applicants for numerous open positions and feel they are in a continuing workforce crisis.



Does LTC Insurance Facilities? *11% of residents have LTC insurance that helps pay for their care. n=798



Continued losses of the *past 7 years* are making it almost impossible to care for the residents with B-Cap (state assistance) as a payment source.

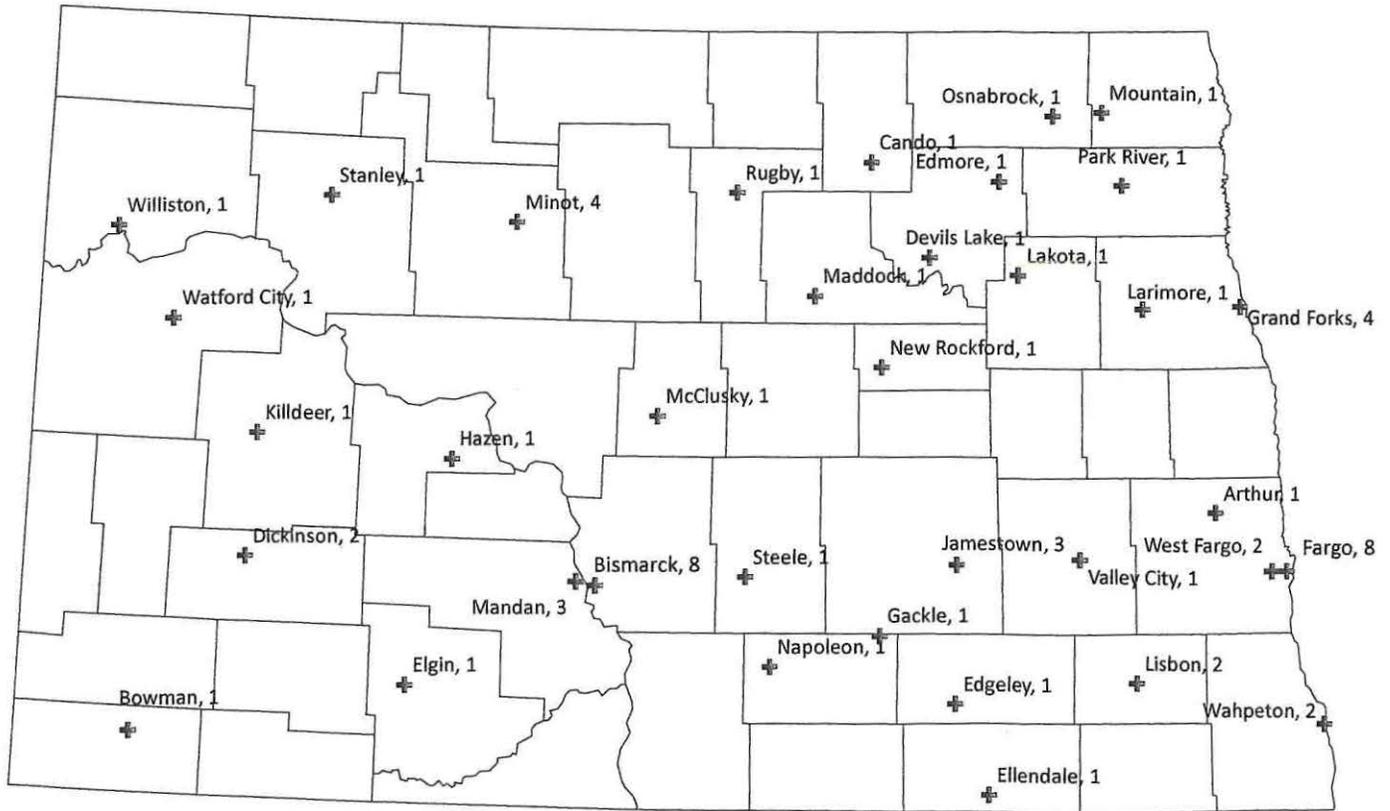
Basic Care Average Costs and State Reimbursement Rates

\$	SFY 2016	SFY 2017	SFY 2018	SFY 2019	SFY 2020	SFY 2021	SFY 2022
Average Cost	\$116.12	\$117.26	\$121.64	\$130.52	\$124.52	\$133.92	\$146.25
Average Rate	\$107.88	\$111.60	\$117.13	\$123.80	\$122.83	\$129.12	\$137.56
Difference	-\$8.24	-\$5.66	-\$4.51	-\$6.72	-\$1.69	-\$4.80	-\$8.69



Basic Care Map

North Dakota Basic Care Facilities, 2022



+ City (Number of Basic Care Facilities)

Source: ESRI, North Dakota Long Term Care Association Created by the North Dakota Healthcare Workforce Group on 12/19/2022