

2025 SENATE HUMAN SERVICES

SB 2271

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2271
1/28/2025

Relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; and to provide an appropriation.

10:44 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

- Funding of facilities
- Established rates
- Qualified residents

10:46 a.m. Senator Hogan, District 21, introduced the bill.

10:47 a.m. Nikki Wegner, President of North Dakota Long Term Care Association, testified in favor and submitted testimony #31496.

10:49 a.m. Senator Cleary testified in favor and submitted testimony #31808.

11:04 a.m. Shelly Peterson, ND Long Term Care Association, answered committee questions.

11:09 a.m. Sarah Aker, Executive Director of ND Department of Health and Human Services, testified in neutral.

11:13 a.m. Lana Charvat, Director, Maple View Memory Care Community, testified in favor and submitted testimony #31893.

11:19 a.m. Rebecca Quinn, Associate Director, Center for Rural Health, testified in favor and submitted testimony #32001.

11:32 a.m. Chairman Lee closed the hearing.

Andrew Ficek, Committee Clerk

**Testimony on Solutions for Financial Challenges in
Adult Residential/Specialized Basic Care
Senate Human Services Committee
January 28, 2025
SB 2271**

Chair Lee and members of the Senate Human Services Committee. My name is Nikki Wegner, President of the North Dakota Long Term Care Association. We represent 10 of North Dakota's 18 specialized basic care facilities, also known as adult residential facilities. Thank you for the opportunity to testify on the financial challenges these providers face and the proposed solutions to address these disparities. These facilities are a critical part of the care continuum, offering essential support to individuals living with dementia and acquired brain injuries in a cost-effective setting with specially trained staff.

Adult Residential Care provides 24-hour support for individuals with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairments. These programs offer assistance with:

- **Activities of Daily Living:** Tasks like toileting, dressing, and bathing.
- **Instrumental Activities of Daily Living:** Managing finances, medications, and transportation.
- **Enrichment Activities:** Therapeutic, social, and recreational programming to enhance quality of life.

To qualify for adult residential care, individuals must screen in need for skilled nursing care. This service is a cost-effective alternative to placement in a nursing facility, where the cost of care would be significantly higher. The average cost to Medicaid for an individual in nursing facility care is **\$135,686** per year versus **\$29,333** per individual per year in adult residential. By providing a structured yet less intensive medical environment, adult residential care not only reduces financial burdens but also fosters the individual's independence and quality of life. It is specifically designed to maintain or improve the recipient's functional abilities while ensuring their unique medical, emotional, and social needs are met. This being said,

the \$29,333 is not adequate to provide the complex care that these individuals require.

Financial Challenges and Proposed Solutions

Adult residential facilities have long faced financial disparities due to historical rate compression, rising operational costs, and limited opportunities to invest in their services. In the slide below, shared by ND Department of Health and Human Services, you can see the disparity between the adult residential program versus other similar services that provide complex care for individuals who screen in need for nursing facility level of care.

Cost driver #1

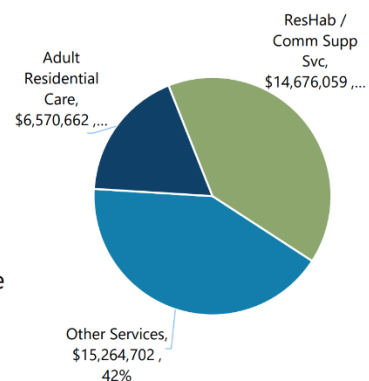
24-hour delivery of complex cares

Adult Residential Care

- 24-hour residential services for individual with memory impairment or traumatic brain injury.
- Individuals have a daily need for a safe supervised structured environment, personal care, and medication supports.
- In SFY 24 **29% (224) of waiver participants** were enrolled in this service.
- Average cost per person per year = **\$29,333**

Residential Habilitation and Community Support Svcs

- Up to 24-hour all inclusive supports for individuals who meet a nursing facility level of care and require daily services.
- Service requires providers to have a nurse and a care coordinator with a minimum of a 4-year degree.
- In SFY 24 **16% (121)** of waiver participants are enrolled in this service.
- Average cost per person per year = **\$121,290**



16% of waiver participants account for 40% of the cost of care

NORTH Dakota | Health & Human Services
Be Legendary.

Shared by Nancy Nikolas-Maier in House Appropriations-Human Resource Division 1-23-25

The proposed multi-step solution offers a comprehensive approach to stabilizing and strengthening this essential care model:

1. Proposed Inflation Effective July 1, 2025

The first step in addressing these disparities is to apply a 4% inflator to adult residential rates beginning July 1, 2025. This adjustment will ensure rates reflect rising costs, providing immediate relief to facilities that have struggled under static reimbursement structures.

2. **Reimbursement to Current Costs Starting January 1, 2026**

Next, effective January 1, 2026, facilities to be reimbursed their current costs, based on simplified cost reports submitted by providers to the North Dakota Department of Health and Human Services (ND DHHS). This approach ensures reimbursement aligns with real operating expenses, creating a fairer and more sustainable financial foundation.

3. **5% Margin to Address Historical Challenges**

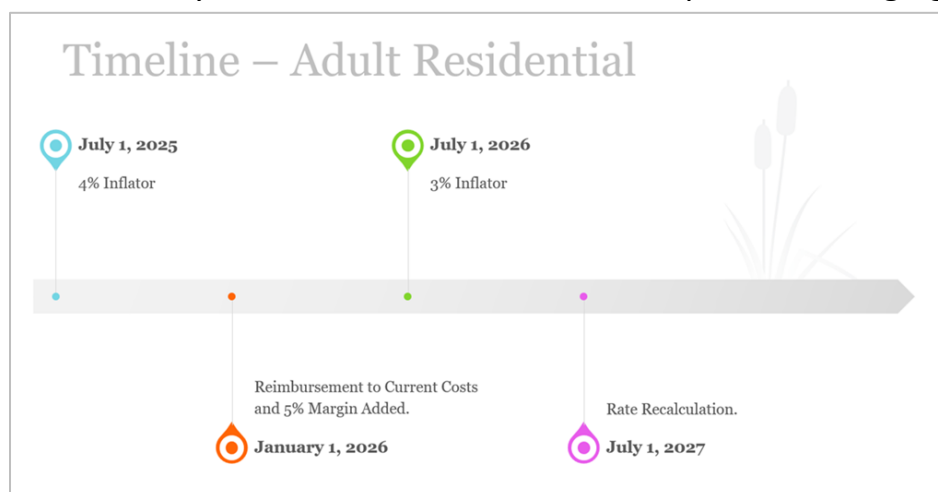
Then add a 5% margin on top of rates provides much-needed relief and acknowledges the financial constraints these facilities have faced. Many providers have not been able to invest adequately in their facilities due to rate compression and escalating costs. The 5% margin, translating to an approximately \$10/day add-on based on the current average rate of \$202, offers additional financial stability and flexibility.

4. **Inflator Effective July 1, 2026**

To keep pace with ongoing cost pressures, the proposal includes another 3% inflator effective July 1, 2026. This ensures that rates continue to reflect current financial realities and support the sustainability of these facilities.

5. **Rate Recalculation for July 1, 2027 Implementation**

The final step involves ND DHHS gathering simplified cost reports from providers by December 31, 2026. These reports will inform a comprehensive rate recalculation to be implemented on July 1, 2027, ensuring the reimbursement system remains accurate and adaptive to changing needs.



Closing

This multi-step proposal provides a thoughtful and structured approach to addressing the financial disparities in adult residential care. By aligning rates with real costs, adding a margin for relief, implementing inflators that reflect true costs, and a rate recalculation, we can ensure that these facilities remain a viable and sustainable option for North Dakotans who are in need of this level of care when they are living with dementia or acquired brain injury.

Chair Lee and members of the committee, I urge you to support this proposal to safeguard the future of adult residential care in North Dakota and ensure these providers can continue serving their communities effectively. Thank you for your time and consideration, and I am happy to answer any questions.

Nikki Wegner MS, OTR/L, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660
nikki@ndltca.org

From: Senator Sean Cleary, District 35 — Bismarck, Bill Sponsor

To: Chairwoman Lee and Members of the Senate Committee on Human Services

Date: January 28, 2025

Subject: Testimony in Support of SB 2271: Addressing Financial Challenges for Adult Residential Care Facilities

Dear Chair Lee and Members of the Committee,

Thank you for the opportunity to present SB 2271, which addresses funding challenges for Adult Residential Care (ARC) facilities in North Dakota.

Purpose of the Bill -- This bill provides financial relief and establishes a long-term plan to sustain ARC facilities that deliver specialized care for individuals with dementia and brain injuries—offering a cost-effective option to skilled nursing services.

Current System and Challenges -- Current ARC rates do not reflect today's costs. Providers struggle to cover rising expenses for care, staffing, food, and regulatory compliance. They face growing financial strain with fewer private-pay residents available to offset funding gaps. According to the Longterm Care Association, on average, care costs \$202.80 per resident per day, while the reimbursement rate from the state is only \$162.04.

Proposed Solution

This bill uses a multi-step approach to address funding disparities and ensure sustainability:

1. Across-the-Board Rate Increases:

- 4% increase on July 1, 2025.
- 3% increase on July 1, 2026.

2. Mid-Year Rate Recalculation:

- ARC providers submit simplified cost reports by October 31, 2025.
- DHHS recalculates rates, adding a 5% operating margin, with new rates implemented January 1, 2026.

3. Comprehensive Rate Review:

- Providers submit cost reports by December 31, 2026.
- DHHS recalculates rates for implementation on July 1, 2027, as part of the 2027-2029 biennial budget.

Anticipated Impact

This proposal will help ARC providers to pay competitive wages, comply with regulations, and meet rising costs. Immediate relief combined with planned reviews will sustainably fund these services for North Dakota's elderly and disabled populations.

Conclusion

Thank you for your time and consideration. I respectfully request a "Do-Pass" recommendation for this bill. I am happy to answer any questions or provide additional information. Representatives from the Longterm Care Association are here as well to provide further supportive testimony.

Sincerely,

Sean

Sean Cleary
State Senator
District 35 — Bismarck
C: (701) 426-4618

Testimony on SB 2271
Senate Human Services Committee
January 28, 2025

Good afternoon, Chair Lee and members of the committee. Thank you for your time today. My name is Lana Charvat, I am the director of Maple View Memory Care Community located here in Bismarck. I am here on behalf of all 4 Maple View Communities here in ND as well as on behalf of all 14 Adult Residential Care facilities that provide care to individuals with Alzheimer's and other dementia related cognitive impairments.

Adult Residential Care facilities are licensed as Basic Care and operate under a Home and Community Based Waiver as specialized memory care facilities. We are also approved QSP agency providers.

We are proud of the specialized care we provide and the work we do to serve those suffering from Alzheimer's and other dementia-related illnesses. Being a waiver program participant, our Medicaid funding falls under Home and Community Based Services (HCBS). Upon enrollment into the HCBS program, our rates are established. Many of us providers have been in the program for 20+ years. Once the provider's rate is established, there is not a process in place to allow for adjustment through cost reporting or other means. Outside of some small inflationary adjustments allowed throughout the years, providers are locked into their original rate. With the continual overall growing costs of care and inflation, this continues to cause great hardship for those of us who want to provide this valuable service to individuals in our care who qualify for Medicaid.

In addition to the daily established rate, a room and board (R & B) fee is charged directly to the resident. Unfortunately, over time, we are also seeing more and more of these Medicaid eligible residents not being able to afford their R & B rate. Currently in our 4 Maple View facilities, of the 52 Medicaid eligible residents we care for, 7 of them are unable to pay this rate and unfortunately, this number seems to be increasing.

We take great pride in the valuable service we provide our residents. They become part of our family and when they “spend down” their funds and need to apply for Medicaid, we want to be able to afford to continue to care for them and to not have to discharge them to a skilled nursing facility. If this happens, the state would end up paying an even higher rate for their care as the Medicaid reimbursement for that level of care can be more than double what we are reimbursed. Unfortunately, more and more residents are “spending down” at a higher rate and due to that, we are struggling with being able to keep them at our facilities, in their home. We are asking for your support of Senate Bill 2271 which will allow for those of us providing this specialized care a rate increase which in turn will allow us to continue to serve this vulnerable population and provide the care they need and deserve.

Of the 144 residents residing in our 4 Maple View facilities in North Dakota, 36% are currently on Medicaid. This number has increased over the past few years and will likely continue to do so. We ask for your support of this much needed bill so that we are able to keep serving these residents currently on Medicaid services and to be able to keep others who are private pay in our facilities when they spend down to need Medicaid.

All residents in our facilities screen in need of skilled care but, under our specialized license, we are able to provide that care in a more independent setting without the need for transfer to a skilled facility. This option is much more cost effective than having them be placed in a skilled nursing care facility until they reach that point of their disease process in which they no longer benefit from our level of care. If we are no longer able to provide Medicaid, then these individuals would indeed need to be placed in a skilled care facility.

In 2024 the average skilled nursing facility rate is \$403.19 per day. Thus, everyone would save money by us being able to keep them in our care. We continue to offer a service that is in demand and likely will be in the foreseeable future. According to statistics from the Alzheimer’s Association, Alzheimer’s is the fourth leading cause of death in North Dakota, currently

14,000 people aged 65 and older are living with Alzheimer's in North Dakota and 8.1% of people aged 45 and older have subjective cognitive decline. We as providers, want to continue to care for these individuals regardless of their payment source. We hope that you will help us by supporting this bill.

Thank you for your time and consideration.

Lana Charvat, Director

Maple View Memory Care Community

4217 Montreal Street

Bismarck, ND 58503

(701) 223-4133



1301 N Columbia Rd Stop 9037
Grand Forks, ND 58202
855.866.1884 | www.ndbin.org

Senate Human Services Committee

January 8, 2025

Senate Bill 2271

Financial Challenges in Adult Residential/Specialized Basic Care

Chair Lee and members of the Senate Human Services Committee, my name is Rebecca Quinn, and I serve as the associate director for behavioral health at the Center for Rural Health at the University of North Dakota School of Medicine and Health Sciences. My testimony today is on behalf of all the individuals and families impacted by brain injury in North Dakota.

North Dakota has two 10 bed adult residential facilities serving individuals with brain injuries. These are Dakota Point in Mandan and HI Soaring Eagle in Valley City. There currently is not a waiting list for these facilities, but only because a waiting list is not practical due to shifting needs and the timely need for the services. Do not think this is because these facilities are not in high demand because they are. At least a few times a month we at the North Dakota Brain Injury network will receive a call needing these services. It has been this way since I become director of NDBIN in 2007.

With this level of demand, I have asked many times if the two agencies running the existing facilities would please open another. I have been told that it is just not cost effective. Since the current facilities run in the negative there is no incentive to open any more. Regrettably, this means that many individuals are going without care or receiving care in inappropriate placements.

An additional factor impacted by the current rate methodology is there is no avenue for advancement or improvement of services. Research regarding brain injury and effective care has drastically changed in the last 20 years. Unfortunately, 25 years ago during the 56th legislative session that Senate Bill 2036 established Dakota Point. Twenty-five years later individuals with brain injury deserve to have services that have the ability to adapt and be responsive to current treatment trends.



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We have made strides in expanding the continuum of care available for individuals with brain injury by developing new services such as residential habilitation and community supports. Despite this there is still the need for adult residential services for individuals needing those services. Ensuring their viability will safeguard that this level continues to be an option. Please support this proposal as an avenue to move how North Dakota provides services for this unique population into the 21st century.

Thank you for your consideration,

Rebecca Quinn; LMSW, CBIST
Center for Rural Health
1301 N Columbia Road, Stop 9037
Grand Forks, ND 58202-9037

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2271
2/4/2025

Relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; and to provide an appropriation.

3:45 p.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

- Licensure standards
- Funding models
- Access to care
- Reports during interim

3:45 p.m. Sarah Aker, Executive Director of ND Department of Health and Human Services, testified in neutral #34772 and #34774.

4:09 p.m. Nancy Nikolas-Maier, Director at State of North Dakota, answered committee questions.

4:16 p.m. Chairman Lee closed the hearing.

Andrew Ficek, Committee Clerk

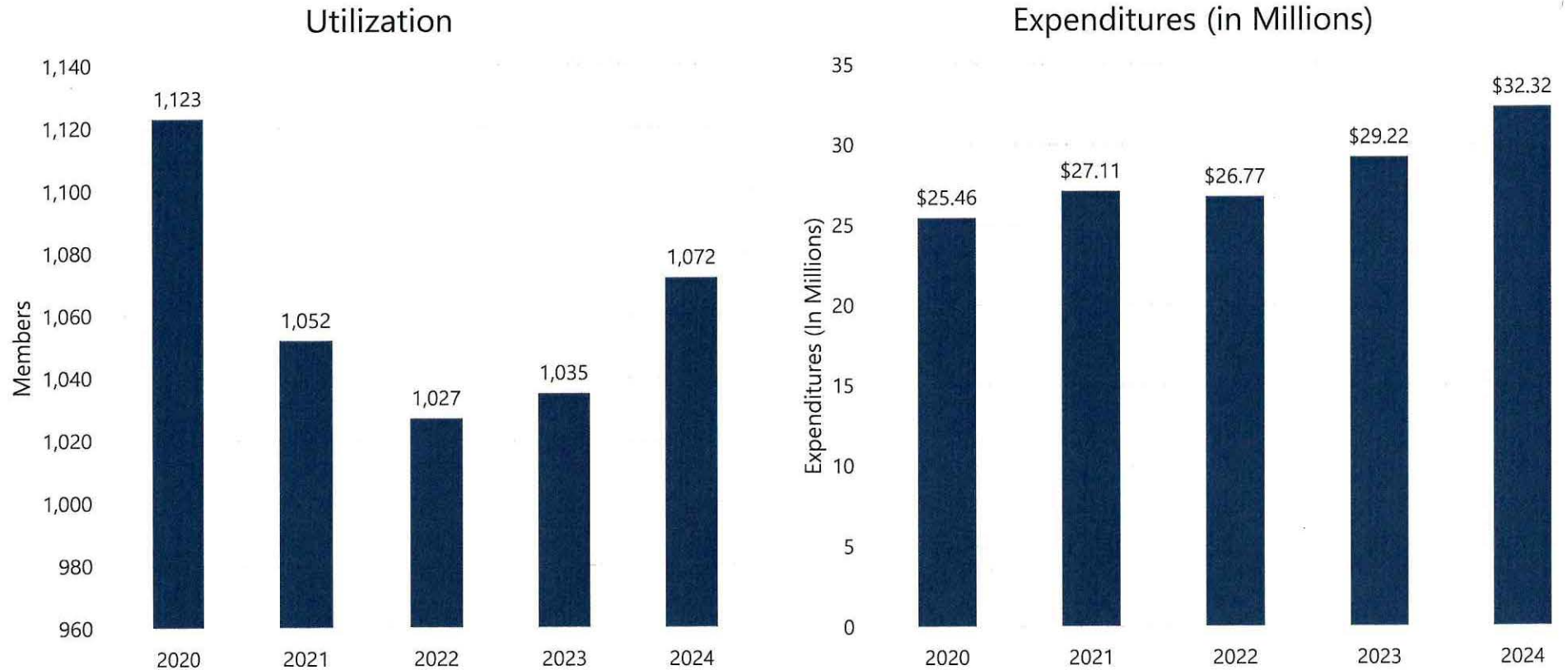


Senate Bill 2271

Senate Human Services | Senator Lee, Chair

Basic Care Study Recommendations | Sarah Aker
February 4, 2025

Basic Care Utilization & Expenditures



Note: Basic Care Expenditures include both Basic Care Personal Care and Room and Board

Basic Care, Assisted Living & Adult Residential Concerns

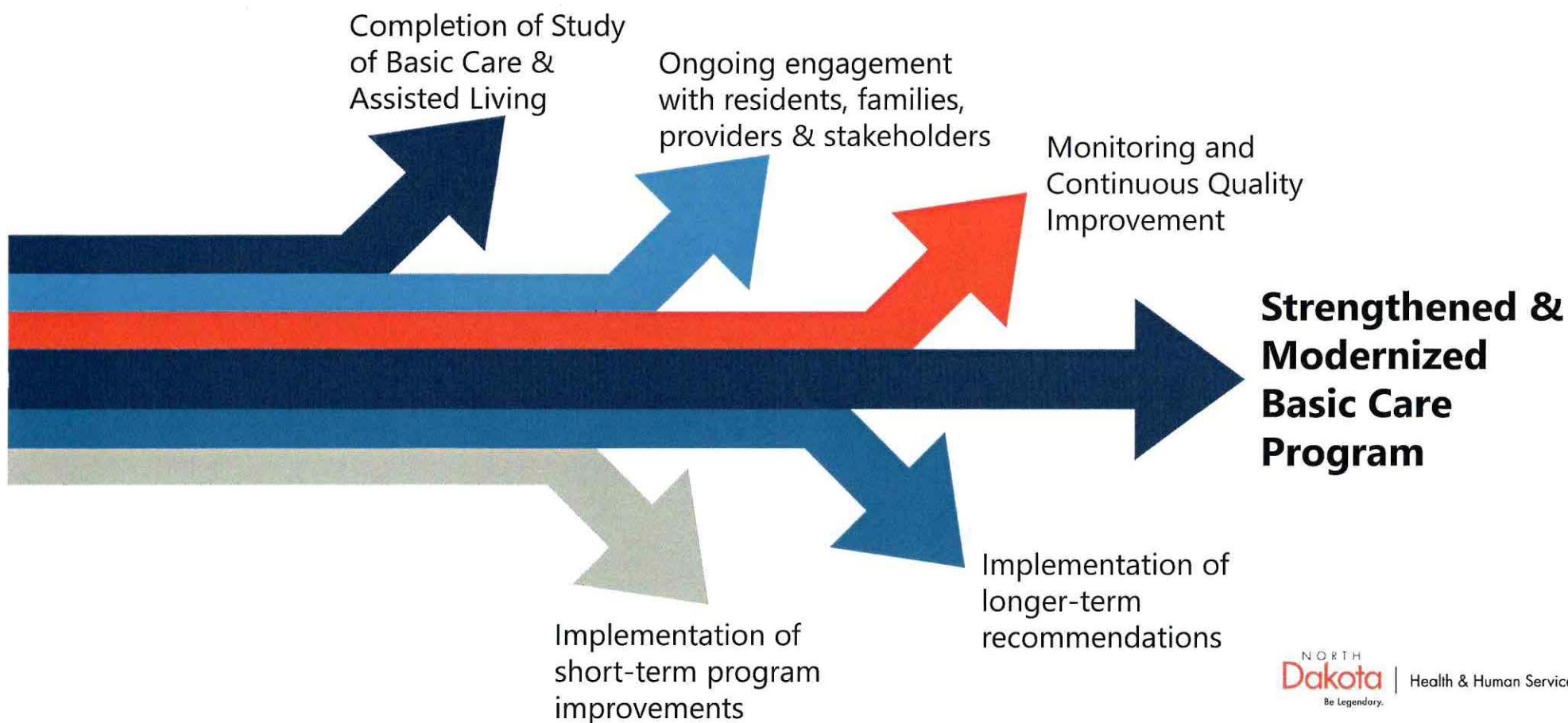
Top Health Response Section Concerns

- Infrequent Basic Care Facility Surveys (33-year inspection cycle)
- Lack of Assisted Living Licensure Standards

Top Medical Services Division Concerns

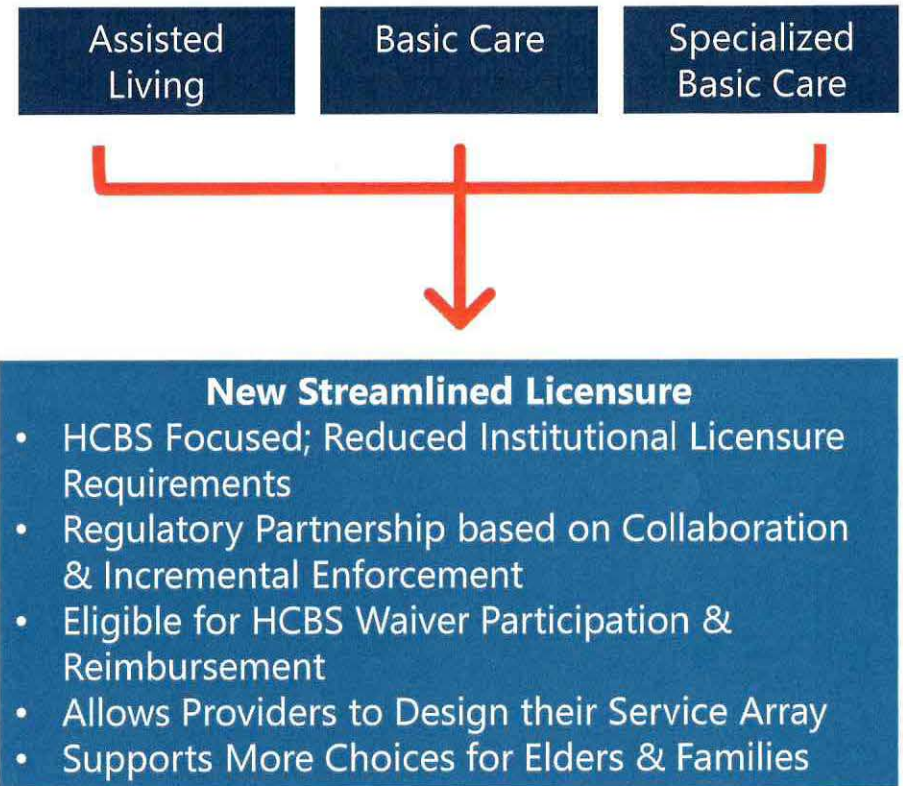
- Family Confusion
- Licensure Based on Payer Source
- Federal Funding Risk
- HCBS Settings Rule Compliance
- Department of Justice Risk

Basic Care Strategy



Basic Care Study Recommendations

1. Streamline licensing by creating a new single licensure type to cover both assisted living and Basic Care facilities.
2. Strengthen existing assisted living and Basic Care policy and create additional policies to reflect current requirements within the program, incorporate best practices, and align with State and federal requirements, as applicable.
3. Develop and implement State-led universal assisted living and Basic Care training and materials to educate all stakeholders.
4. Adopt strategies to improve and expand the current service and programmatic array within Basic Care to integrate residents more comprehensively into the community.
5. Update regulatory oversight process based on implementation of recommendations.



Basic Care Study Recommendations

6. Implement quality improvement initiative requirements for Basic Care facilities to improve quality of care and align facilities with best practices.
7. Update regulations to use publicly available indexes for cost trending to align more consistently with observed trends in provider costs.
8. Implement a Fair Rental Value (FRV) methodology to reimburse Basic Care provider property costs.
9. Implement tiered add-on payments for residents with increased ADLs care need and align reimbursement methodologies.

Related Bills:

House Bill 1550 | Relating to a nursing and basic care facility loan guarantee program
House Bill 1619 | Relating to a long-term care facility infrastructure loan fund

New Streamlined Licensure

- HCBS Focused; Reduced Institutional Licensure Requirements
- Regulatory Partnership based on Collaboration & Incremental Enforcement
- Eligible for HCBS Waiver Participation & Reimbursement
- Allows Providers to Design their Service Array
- Supports More Choices for Elders & Families



Person-Centered Sustainable
Funding Model
Incentivizing Continued Improvement & Innovation

PROPOSED AMENDMENT FOR SENATE BILL NO. 2271

SECTION 1. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Adult residential facility" means a licensed basic care facility that meets the program and provider requirements of the Medicaid 1915(c) home and community-based services aged and disabled waiver, specializing in the care of individuals eligible for services under a medical assistance home and community-based waiver or similar program with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairment, which provides therapeutic, social, and recreational programming and assistance with activities of daily living and instrumental activities of daily living.
2. "Aged" means at least sixty-five years of age.
- ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
- ~~4-5.~~ "Department" means the department of health and human services.
- ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
 - (2) Is at least eighteen years of age and is disabled or blind;
 - b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving

benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or

- (2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;

- c. Meets the requirements of section 23-09.3-08.1;
- d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
- e. Is determined to be eligible pursuant to rules adopted by the department.

~~7.8.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.

~~9.10.~~ "Living independently" includes living in congregate housing. The term does not include living in an institution.

~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.

~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and management of a facility.

~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

43.14. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 2. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Adult residential facility payment rates - Report .

1. ~~The department shall determine rates for the care of residents of adult residential facilities which are sufficient to assure there are enough providers available to meet demand.~~
2. The department shall increase rates for inflation for the year beginning:
 - a. July 1, 2025, by four percent; and
 - b. July 1, 2026, by three percent.
- 3.2. The department shall require an adult residential facility to submit ~~simplified~~ cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facility its current costs beginning January 1, 2026 .
- 4.3. Beginning January 1, 2026, a five percent operating margin must be included on the direct services in adult residential facility rates.
- 5.4. The department shall require adult residential facilities to submit ~~simplified~~ cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2271
2/5/2025

Relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; and to provide an appropriation.

10:26 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Lee, Vice-Chairman Weston, Senator Van Oosting, Senator Clemens, Senator Hogan, Senator Roers.

Discussion Topics:

- Fiscal impact
- Funding possibilities
- Dementia facilities
- Asset limit

10:28 a.m. Sarah Aker, Executive Director of ND Department of Health and Human Services, answered committee questions and submitted testimony in neutral #35338.

10:30 a.m. Shelly Peterson, Consultant with Long Term Care Association, answered committee questions.

10:47 a.m. Lana Chauvat, ND Long Term Care Association, answered committee questions.

10:55 a.m. Senator Roers moved amendment LC#25.1225.01001.

10:55 a.m. Senator Van Oosting seconded the motion.

Senators	Vote
Senator Judy Lee	Y
Senator Kent Weston	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	N
Senator Kristin Roers	Y
Senator Desiree Van Oosting	Y

Motion passed 5-1-0.

10:58 a.m. Senator Roers moved Do Pass as Amended and Rerefer to Appropriations.

10:58 a.m. Senator Van Oosting seconded the motion.

Senators	Vote
Senator Judy Lee	Y
Senator Kent Weston	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Desiree Van Oosting	Y

Motion passed 6-0-0.

Senator Roers will carry the bill.

11:00 a.m. Chairman Lee closed the hearing.

Andrew Ficek, Committee Clerk

February 5, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

2-5-25

SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

fb 10/4

1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

50-24.5-01. Definitions.

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

JB 20/4

- 1 ~~2.3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3.4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4.5.~~ "Department" means the department of health and human services.
- 7 ~~5.6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6.7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

AB 3004

7.8. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

8.9. "Institution" means a facility licensed under chapter 23-09.3.

9.10. "Living independently" includes living in congregate housing. The term does not include living in an institution.

10.11. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.

11.12. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.

12.13. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

13.14. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 2. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Adult residential facility payment rates - Report.

1. ~~The department shall determine rates for the care of residents of adult residential facilities which are sufficient to assure there are enough providers available to meet demand.~~

2. ~~The department shall increase rates for inflation for the year beginning:~~

a. July 1, 2025, by four percent; and

b. July 1, 2026, by three percent.

3.2. The department shall require an adult residential facility to submit simplified cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facility its current costs beginning January 1, 2026.

Ag 4 of 4

1 4.3. Beginning January 1, 2026, a five percent operating margin must be included in adult
2 residential facility rates.

3 5.4. The department shall require adult residential facilities to submit simplified-cost reports
4 and supplemental information by December 31, 2026, which the department shall use
5 to provide a rate recalculation beginning July 1, 2027.

6 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

7 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
8 and human services shall submit a report to the legislative management by January 31, 2026,
9 and August 31, 2026, regarding progress on the basic care study recommendations addressing
10 the adult residential facility and basic care payment systems, and review the asset limit for
11 home and community-based services aged and disabled waiver.

12 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
13 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
14 moneys in the general fund in the state treasury, not otherwise appropriated, and from special
15 funds derived from federal funds and other income, the sum of \$2,200,000, or so much of the
16 sum as may be necessary, to the department of health and human services for the purpose of
17 administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending
18 June 30, 2027.

**REPORT OF STANDING COMMITTEE
SB 2271**

Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS** ([25.1225.01001](#)) and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2271 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

PROPOSED AMENDMENT FOR SENATE BILL NO. 2271

A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; ~~and~~ to provide an appropriation; and to provide for a legislative management report.

SECTION 1. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Adult residential facility" means a licensed basic care facility that meets the program and provider requirements of the Medicaid 1915(c) home and community-based services aged and disabled waiver, specializing in the care of individuals eligible for services under a medical assistance home and community-based waiver or similar program with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairment, which provides therapeutic, social, and recreational programming and assistance with activities of daily living and instrumental activities of daily living.
2. "Aged" means at least sixty-five years of age.
- ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
- ~~4-5.~~ "Department" means the department of health and human services.
- ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program

under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].

6-7. "Eligible beneficiary" means a resident of this state who:

- a. (1) Is aged; or
- (2) Is at least eighteen years of age and is disabled or blind;
- b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or
- (2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;
- c. Meets the requirements of section 23-09.3-08.1;
- d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
- e. Is determined to be eligible pursuant to rules adopted by the department.

7-8. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

8-9. "Institution" means a facility licensed under chapter 23-09.3.

- 9-10. "Living independently" includes living in congregate housing. The term does not include living in an institution.
- 40-11. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.
- 44-12. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.
- 42-13. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
- 43-14. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 2. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Adult residential facility payment rates - Report .

1. ~~The department shall determine rates for the care of residents of adult residential facilities which are sufficient to assure there are enough providers available to meet demand.~~
2. The department shall increase rates for inflation for the year beginning:
 - a. July 1, 2025, by four percent; and
 - b. July 1, 2026, by three percent.
- 3-2. The department shall require an adult residential facility to submit ~~simplified~~ cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facility its current costs beginning January 1, 2026 .
- 4-3. Beginning January 1, 2026, a five percent operating margin must be included on the direct services in adult residential facility rates.

5.4. The department shall require adult residential facilities to submit ~~simplified~~ cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

SECTION 3. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, the sum of \$2,200,000~~2,000,000~~2,005,152, or so much of the sum as may be necessary, to the department of health and human services for the purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 4. LEGISLATIVE MANAGEMENT REPORT. The department of health and human services shall submit a report to the legislative management by January 31, 2026, and August 31, 2026, regarding progress on the basic care study recommendations.

2025 SENATE APPROPRIATIONS

SB 2271

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2271 1015 AM
2/12/2025

Relating to adult residential facility payment rates; relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

10:15 a.m. Chairman Dever opened the hearing.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum and Mathern

Discussion Topics:

- Specialized Basic Care Nursing Facilities
- Dementia & Brain Injury Care
- Payment Rates
- Reimbursement

10:16 a.m. Senator Cleary introduced the bill, and submitted testimony #37325.

10:20 a.m. Levi Kinnischtzke, Senior Fiscal Analyst, LC, testified neutral.

10:24 a.m. Nikki Wegner, President, ND Long-Term Care Association, (NDLTCA) testified in favor and submitted testimony #37413, #37414.

10:34 a.m. Ashley Brandt-Duda, CPA, Partner, Eide Bailly LLP, Fargo, ND, testified neutral and submitted testimony #37415.

10:45 a.m. Nikki Wegner, President, NDLTCA, testified neutral.

10:49 a.m. Sarah Aker, Executive Director, Medical Services Division, ND Department of Health & Human Services (ND DHHS), testified neutral.

10:55 a.m. Shelly Peterson, Consultant, NDLTCA, testified in favor.

11:00 a.m. Sarah Aker, Executive Director, Medical Services Division, Department, ND DHHS, testified neutral.

11:05 a.m. Chairman Dever closed the hearing.

Joan Bares, Committee Clerk

25.1225.01001
Title.02000

Adopted by the Human Services
Committee

February 5, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
- 18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7.8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13.14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. ~~The department shall determine rates for the care of residents of adult residential-~~
24 ~~facilities which are sufficient to assure there are enough providers available to meet~~
25 ~~demand.~~

26 ~~2.~~ The department shall increase rates for inflation for the year beginning:

- 27 a. July 1, 2025, by four percent; and
28 b. July 1, 2026, by three percent.

- 29 ~~3.2.~~ The department shall require an adult residential facility to submit ~~simplified cost~~
30 reports and supplemental information by October 31, 2025, which the department shall
31 use to pay the facility its current costs beginning January 1, 2026.

1 4.3. Beginning January 1, 2026, a five percent operating margin must be included in adult
2 residential facility rates.

3 5.4. The department shall require adult residential facilities to submit ~~simplified~~-cost reports
4 and supplemental information by December 31, 2026, which the department shall use
5 to provide a rate recalculation beginning July 1, 2027.

6 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

7 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
8 and human services shall submit a report to the legislative management by January 31, 2026,
9 and August 31, 2026, regarding progress on the basic care study recommendations addressing
10 the adult residential facility and basic care payment systems, and review the asset limit for
11 home and community-based services aged and disabled waiver.

12 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
13 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
14 moneys in the general fund in the state treasury, not otherwise appropriated, and from special
15 funds derived from federal funds and other income, the sum of \$2,200,000, or so much of the
16 sum as may be necessary, to the department of health and human services for the purpose of
17 administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending
18 June 30, 2027.

SB 2271
2-12-25

**Testimony on Solutions for Financial Challenges in
Adult Residential Care
Senate Appropriations Human Resources Division Committee
February 12, 2025
SB 2271**

Chairman Dever and members of the Senate Appropriations Human Resources Division Committee. My name is Nikki Wegner, President of the North Dakota Long Term Care Association. We represent 11 of North Dakota's 18 adult residential facilities, also known as specialized basic care facilities. Thank you for the opportunity to testify on the financial challenges these providers face and the proposed solutions to address these disparities. These facilities are a critical part of the care continuum, offering essential support to individuals living with dementia and acquired brain injuries in a cost-effective setting with specially trained staff.

Adult Residential Care provides 24-hour support for individuals with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairments. These programs offer assistance with:

- **Activities of Daily Living:** Tasks like toileting, dressing, and bathing.
- **Instrumental Activities of Daily Living:** Managing finances, medications, and transportation.
- **Enrichment Activities:** Therapeutic, social, and recreational programming to enhance quality of life.

To qualify for adult residential care, individuals must screen in need for skilled nursing care, typically due to their cognitive impairment. The adult residential care service is a cost-effective alternative to placement in a nursing facility, where the cost of care would be significantly higher. The average cost to Medicaid for an individual in nursing facility care is **\$135,686** per year versus **\$29,333** per individual per year in adult residential. By providing a structured yet less intensive medical environment, adult residential care not only reduces financial burdens but also fosters the individual's independence and quality of life. It is specifically designed to maintain or improve the recipient's functional abilities while ensuring their unique

medical, emotional, and social needs are met. This being said, the \$29,333 is not adequate to provide the complex care that these individuals require.

North Dakota has long recognized the value of alternative models for dementia and brain injury care. In 1997, the Legislative Assembly directed the Department of Human Services to establish a pilot project for individuals with Alzheimer's and related dementias. In 1998, DHS selected a 14-bed facility at the Baptist Home of Kenmare, funding the project at a daily rate of \$79.37—**7.07% lower** than the average nursing facility cost of \$85.41 per day. This pilot demonstrated that a specialized dementia setting not only provided effective care but also reduced costs. The success of this project led to the establishment of a statewide model under the Medicaid waiver program, ensuring that individuals who screened in need of nursing facility care could be served in a more appropriate and cost-efficient setting.

North Dakota currently has **16 adult residential dementia facilities** and **two serving individuals with head injuries**, providing **high-quality, home-like care** at a fraction of the cost of a nursing facility. However, the financial gap between these services and nursing facility rates has widened significantly.

Today, the **average daily rate** for an adult residential dementia facility is **\$162.04—59.8% lower** than the **\$403.13** average nursing facility rate. This is a stark contrast to **1997**, when the difference was just **7%**. While the intent was always for this service to remain more affordable than skilled nursing care, the current disparity has become **unsustainable**, putting access to these programs for Medicaid beneficiaries **at serious risk**.

Financial Challenges in Adult Residential Care

The funding structure that supported the original pilot project is no longer sufficient. Facilities today lose an average of **\$45.77 per day per Medicaid resident** due to stagnant reimbursement rates. The Baptist Home of Kenmare, once a model for dementia care, ultimately closed because its rate could not keep pace with costs. Of the 16 licensed adult residential dementia facilities still operating, two do not accept Medicaid residents—not because they don't want to, but because they simply **cannot operate at a loss**. Without payment relief, others may be forced to follow suit, limiting access to critical care for Medicaid beneficiaries.

One of the primary issues is that rates are **determined at the time a provider agreement is signed**, with limited adjustments over time. Some agreements were signed **over 20 years ago**, and while providers occasionally received inflationary

increases, these were inconsistent. Rates were recalculated only once in **2019**, yet today, we find ourselves **\$46 per day behind actual costs**.

Nancy Nikolas-Maier compared 24-hour complex care programs for the House Appropriations Human Resource Division on January 23, 2025 (see a copy of the slide included). Adult residential care provides **24-hour** services for individuals with memory impairment or traumatic brain injuries, ensuring a safe, supervised environment with personal care and medication support. Despite this high level of care, it operates at a significantly lower reimbursement rate compared to Residential Habilitation and Community Support Services, which provide **up to 24-hour** care. The disparity is evident in the funding: Adult Residential Care serves 29% (224) of waiver participants at an average annual cost of **\$29,333** per person, while Residential Habilitation and Community Support Services serve only 16% (121) but receive an average of **\$121,290** per person. This reflects a substantial difference in funding between programs that provide complex care, despite the intensive support required in each.

Proposed multi-step solution offers a comprehensive approach to stabilizing and strengthening adult residential care, an essential care model:

1. Apply a 4% Inflator Effective July 1, 2025

An initial 4% inflator will help offset rising costs, providing immediate relief to facilities struggling with outdated reimbursement structures.

2. Reimburse to Current Costs Starting January 1, 2026

Starting in 2026, facilities should be reimbursed based on **actual operating costs**, using cost reports submitted to the North Dakota Department of Health and Human Services (ND DHHS). This ensures rates align with real expenses.

3. 5% Margin to Address Historical Challenges

Then add a 5% margin on top of rates provides much-needed relief and acknowledges the financial constraints these facilities have faced. Many providers have not been able to invest adequately in their facilities due to rate compression and escalating costs. The 5% margin, translating to an approximately \$9/day add-on based on the current average rate of \$202,

offers additional financial stability and flexibility.

4. Implement a 3% Inflator on July 1, 2026

A subsequent **3% inflator** will ensure that rates keep pace with inflation and cost pressures.

5. Rate Recalculation for Implementation on July 1, 2027

The final step involves ND DHHS gathering cost reports from providers by December 31, 2026. These reports will inform a rate recalculation to be implemented on July 1, 2027, ensuring the reimbursement system remains accurate and adaptive to changing needs.

Closing

SB 2271 presents a viable and fiscally responsible solution to these funding shortfalls. The proposed \$2.2 million investment is far less than the cost of caring for these individuals in a nursing facility at \$403.13 per day. Without action, we risk losing access to a proven, cost-effective care model that allows individuals to remain in a home-like, therapeutic environment.

We know that many North Dakotans living with dementia or brain injury could be served as private-pay residents, but all individuals deserve access to this level of care, regardless of their ability to pay. We urge you to support this funding proposal to ensure that those who depend on Medicaid can continue receiving care in these settings.

Thank you for your time and consideration, and I am happy to answer any questions.

Nikki Wegner MS, OTR/L, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660
nikki@ndltca.org

ADULT RESIDENTIAL

Specialized Basic Care

Licensed as Basic Care and funded through the HCBS Waiver, these providers support individuals who screen in need of skilled nursing care and who are living with dementia or brain injuries.



Brain Injury Care

HI Soaring Eagle Ranch
HIT Inc, Dakota Pointe

Valley City
Mandan

Licensed beds

10
10

Memory Care

Edgewood Dominion
Edgewood Fargo
Edgewood Jamestown
Edgewood Mandan
Edgewood Minot Senior Living
Edgewood Village Bismarck
Evergreens of Fargo
Fargo Maplevue
Lakewood Landing
Maple View Grand Forks
Maple View Memory Care
Maple View Bismarck
New Perspective
Roseadele
Touchmark Bismarck
Touchmark Fargo

Bismarck
Fargo
Jamestown
Mandan
Minot
Bismarck
Fargo
Fargo
Mandan
Grand Forks
Minot
Bismarck
West Fargo
Jamestown
Bismarck
Fargo

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18 FACILITIES
533 BEDS

Private Pay Only
Private Pay only

Cost driver #1

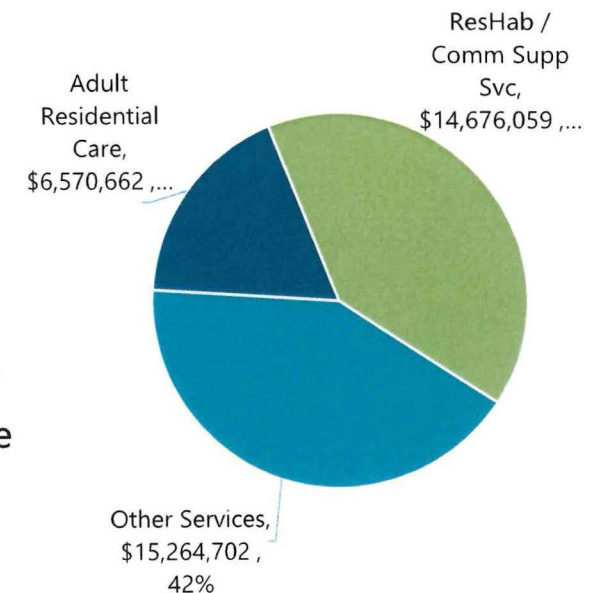
24-hour delivery of complex cares

Adult Residential Care

- 24-hour residential services for individual with memory impairment or traumatic brain injury.
- Individuals have a daily need for a safe supervised structured environment, personal care, and medication supports.
- In SFY 24 **29%** (224) **of waiver participants** were enrolled in this service.
- Average cost per person per year = **\$29,333**

Residential Habilitation and Community Support Svcs

- Up to 24-hour all inclusive supports for individuals who meet a nursing facility level of care and require daily services.
- Service requires providers to have a nurse and a care coordinator with a minimum of a 4-year degree.
- In SFY 24 **16%** (121) of waiver participants are enrolled in this service.
- Average cost per person per year = **\$121,290**



16% of waiver participants account for 40% of the cost of care



SB 2271
2-12-25

Adult Residential

February 12, 2025

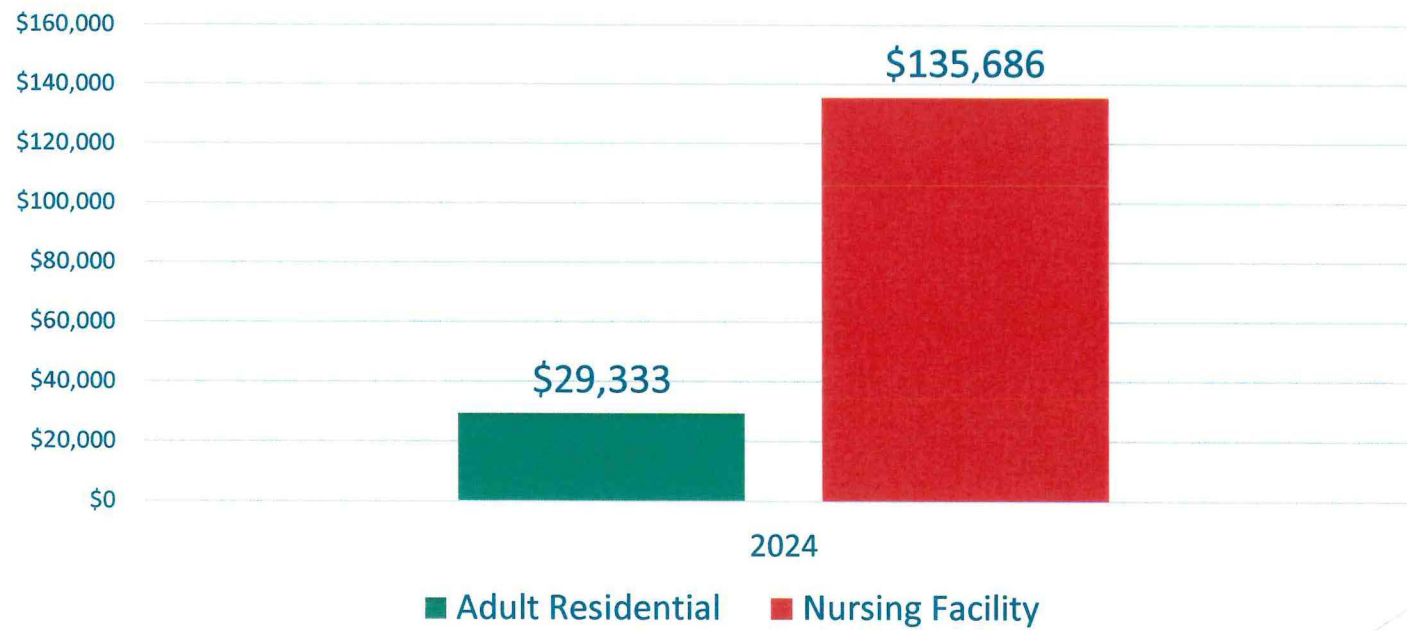
Senate Appropriations, Human Resource Division

Presented by Nikki Wegner, President, ND Long Term Care Association

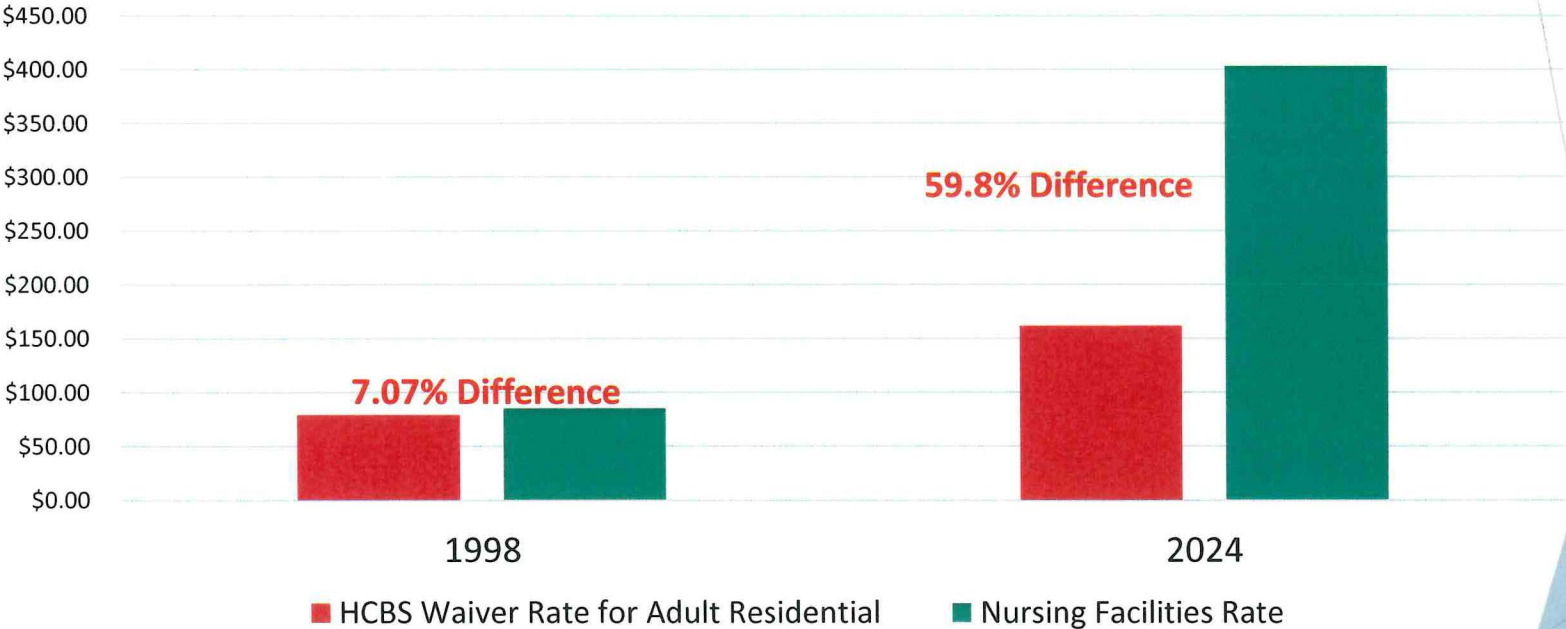
Testimony in Support of SB 2271



Average Cost per Person



Rising Disparity: Adult Residential vs. Nursing Facilities (1998 and Present)



Financial Challenges in Adult Residential Care

\$212 Average cost

— \$166 Average ND DHHS rate

~\$46 Loss per resident per day

Cost driver #1

24-hour delivery of complex cares

Adult Residential Care

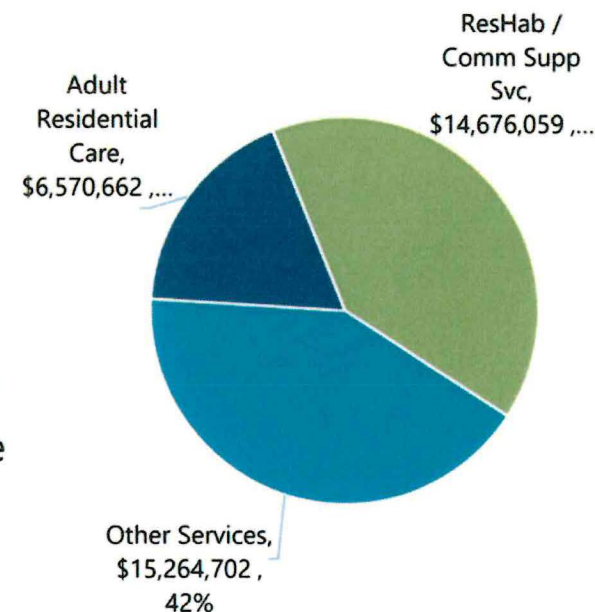
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- Individuals have a daily need for a safe supervised structured environment, personal care, and medication supports.
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• Average cost per person per year = **\$29,333**

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- Service requires providers to have a nurse and a care coordinator with a minimum of a 4-year degree.
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• Average cost per person per year = **\$121,290**



16% of waiver participants account for **40%** of the cost of care

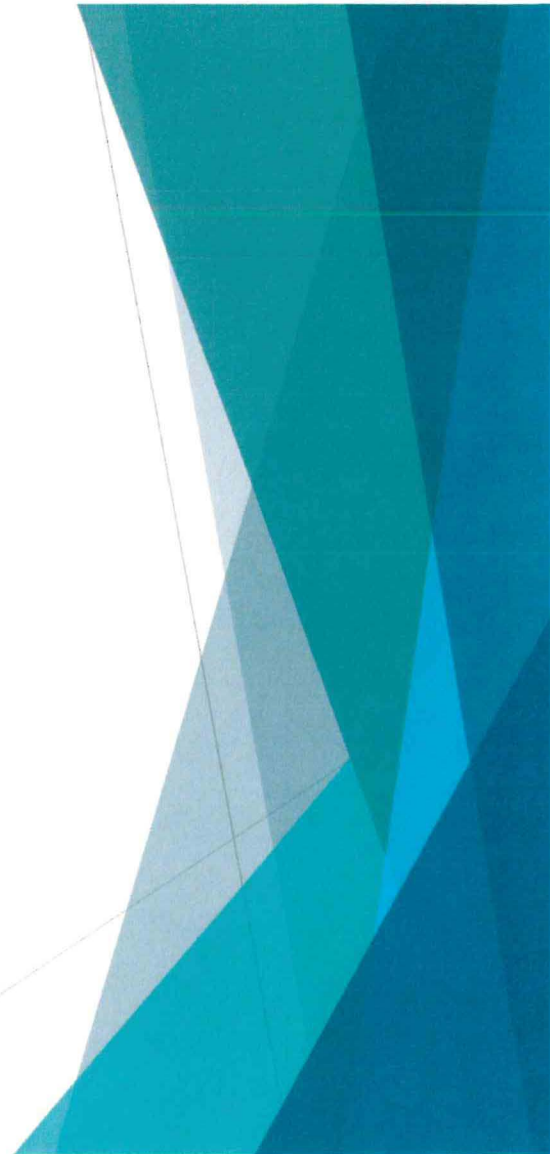


NORTH
Dakota
Be Legendary

Health & Human Services

Shared by Nancy Nikolas-Maier in House Appropriations-Human Resource Division 1-23-25

NDLTCA Proposed Solution



Multi-Step Solution



July 1, 2025

Apply a 4% Inflator.



July 1, 2026

Implement a 3% Inflator.

Total for the biennium: \$ 2.2 million



January 1, 2026

Reimbursement to Current Costs
and 5% Margin to Address Historical
Challenges.



July 1, 2027

Rate Recalculation.

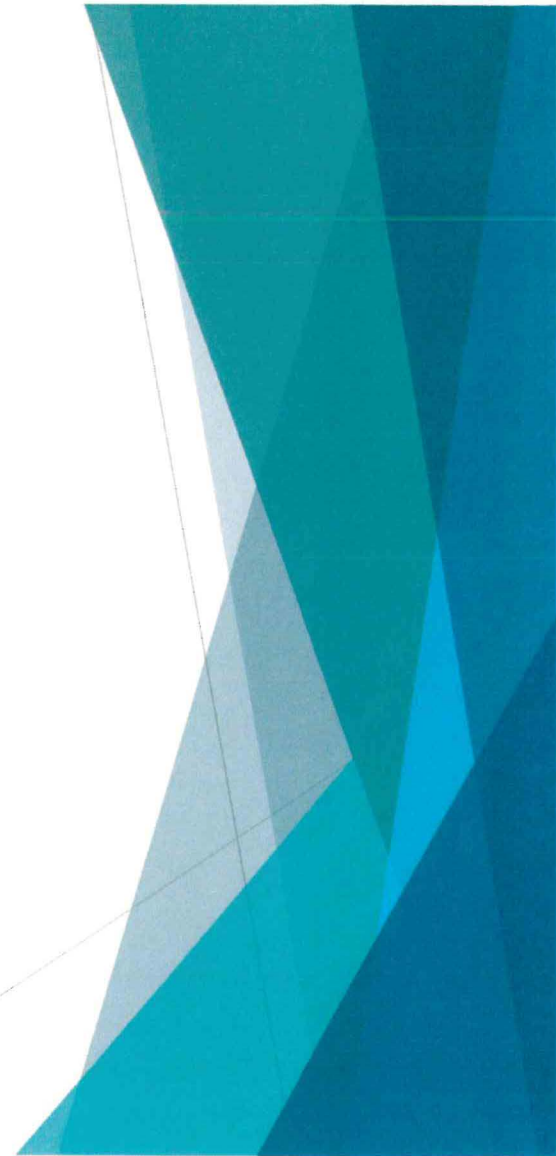
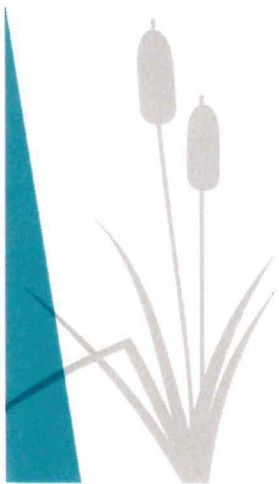


Thank you

Nikki Wegner, ND Long Term Care Association

nikki@ndltca.org

701.354.9773



SB 2071
2-12-25

ND Adult Residential Waivered Services
Facility Impact Support Calculations
Based on 2023 Fiscal Year Data

1. Estimated impact of a Legislative approved inflation factor for 7/1/2025 through 12/31/2025 of:

4%

Facility	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
4% of 2023 Total Waivered Service Daily Rate	\$ 7.64	\$ 4.52	\$ 5.28	\$ 5.14	\$ 5.24	\$ 7.14	\$ 5.51	\$ 4.44	\$ 4.72	\$ 4.35	\$ 5.29	\$ 4.56	\$ 6.02	\$ 7.05	\$ 5.49 -Average
Additional Revenue	\$ 3,911	\$ 3,655	\$ 13,328	\$ 7,539	\$ 7,505	\$ 1,470	\$ 4,291	\$ 5,497	\$ 10,303	\$ 4,403	\$ 13,786	\$ 15,034	\$ 7,438	\$ 12,733	\$ 110,893 -Six months impact
2026 and 2027 State Fiscal Impact	\$ 110,893														
State Impact at 50% FMAP	\$ 55,447														

2. Estimated Impact of increasing rates on 1/1/2026 through 6/30/27 to cover unreimbursed costs as of June 30, 2025 (Based on 2023 Data)

Facility	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
2023 Adult Residential Waivered Loss Due to Payment Deficit	\$ -	\$ (98,443.13)	\$ (229,203.58)	\$ (98,748.89)	\$ (121,463.15)	\$ (5,215.07)	\$ (79,116.52)	\$ (158,225.36)	\$ (258,673.02)	\$ (130,033.94)	\$ (140,119.27)	\$ (292,119.82)	\$ (237,646.26)	\$ (145,177.39)	\$ (1,994,185)
2023 Adult Residential Waivered Rate Deficit Per Day	\$ -	\$ (60.80)	\$ (45.44)	\$ (33.69)	\$ (42.40)	\$ (12.66)	\$ (50.81)	\$ (63.85)	\$ (59.27)	\$ (64.21)	\$ (26.89)	\$ (44.31)	\$ (96.17)	\$ (40.20)	\$ (45,77) -Average
Additional Revenue per Facility	\$ -	\$ 98,443	\$ 229,204	\$ 98,749	\$ 121,463	\$ 5,215	\$ 79,117	\$ 158,225	\$ 258,673	\$ 130,034	\$ 140,119	\$ 292,120	\$ 237,646	\$ 145,177	\$ 1,994,185 -Annual impact
2026 and 2027 State Fiscal Impact	\$ 2,991,278														
State Impact at 50% FMAP	\$ 1,495,639														

3. Estimated Impact of providing a 5% margin on operating portion of the rates at after cost adjustment for 1/1/2026 to 6/30/2027

Facility	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
2023 Total Facility Cost per Day Less R&B Rate	\$ 218.01 29.47	\$ 201.62 29.47	\$ 205.48 29.47	\$ 190.23 29.47	\$ 201.30 29.47	\$ 218.99 29.47	\$ 216.54 29.47	\$ 202.69 29.47	\$ 205.25 29.47	\$ 200.85 29.47	\$ 187.12 29.47	\$ 186.27 29.47	\$ 274.60 29.47	\$ 244.64 29.47	
Operating Rate Only	\$ 188.54	\$ 172.15	\$ 176.02	\$ 160.76	\$ 171.83	\$ 189.52	\$ 187.08	\$ 173.23	\$ 175.78	\$ 171.38	\$ 157.65	\$ 156.80	\$ 245.13	\$ 215.17	
5% Margin	\$ 9.43	\$ 8.61	\$ 8.80	\$ 8.04	\$ 8.59	\$ 9.48	\$ 9.35	\$ 8.66	\$ 8.79	\$ 8.57	\$ 7.88	\$ 7.84	\$ 12.26	\$ 10.76	\$ 9.08 -Average
Additional Revenue per Facility	\$ 9,653	\$ 13,936	\$ 44,392	\$ 23,560	\$ 24,614	\$ 3,904	\$ 14,564	\$ 21,463	\$ 38,356	\$ 17,353	\$ 41,069	\$ 51,682	\$ 30,286	\$ 38,850	\$ 373,681
2026 and 2027 State Fiscal Impact	\$ 560,522														
State Impact at 50% FMAP	\$ 280,261														

4. Estimated impact of providing a 3% Inflation effective 7/1/2026

3%

Facility	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total
3% of 1/1/26 Rate	\$ 7.10	\$ 6.49	\$ 6.63	\$ 6.15	\$ 6.50	\$ 7.11	\$ 6.99	\$ 6.52	\$ 6.61	\$ 6.46	\$ 6.05	\$ 6.00	\$ 8.83	\$ 7.92	\$ 6.81 -Average
	\$ 7,267	\$ 10,502	\$ 33,448	\$ 18,015	\$ 18,617	\$ 2,930	\$ 10,878	\$ 16,151	\$ 28,833	\$ 13,076	\$ 31,536	\$ 39,581	\$ 21,820	\$ 28,591	\$ 281,245
2026 and 2027 State Fiscal Impact	\$ 281,245														
State Impact at 50% FMAP	\$ 140,623														

Total Estimated Cost for the Biennium for the 14 Facilities Above \$ 1,971,969

Total Estimated Cost for the Biennium for all 16 Facilities \$ 2,253,679

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2271 021225 11:12 AM
2/12/2025

Relating to adult residential facility payment rates; relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

11:12 a.m. Chairman Dever opened the hearing.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum & Mathern

Discussion Topics:

- Adult Residential Basic Care Facilities
- Inflation Adjustment Rates
- Private Payment Rates
- Medicaid Payment Rates
- Federal Funding Match

11:17 a.m. Senator Davison moved a Do Not Pass.

11:17 a.m. Senator Magrum seconded the motion.

Senators	Vote
Senator Dick Dever	N
Senator Sean Cleary	N
Senator Kyle Davison	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	N

Motion Failed 2-3-0.

11:18 a.m. Chairman Dever recommended amendments to this bill.

11:24 a.m. Levi Kinnischtzke, Senior Fiscal Analyst, LC, testified neutral.

11:27 a.m. Chairman Dever adjourned the meeting.

Joan Bares, Committee Clerk

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Harvest Room, State Capitol

SB 2271
2/14/2025

Relating to adult residential facility payment rates; relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

8:41 a.m. Chairman Dever opened the hearing.

Members Present: Chairman Dever, Senators Cleary, Davison, Magrum, Mathern

Discussion Topics:

- Required Cost Reports
- Required Rate Recalculation

8:41 a.m. Senator Cleary introduced the bill and submitted testimony #37724.

8:44 a.m. Senator Cleary moved amendment 25.1225.02001.

8:44 a.m. Senator Magrum seconded the motion.

8:45 a.m. Voice Vote - Motion passed.

8:45 a.m. Senator Cleary moved a Do Pass as Amended.

8:45 a.m. Senator Davison seconded the motion.

Senators	Vote
Senator Dick Dever	Y
Senator Sean Cleary	Y
Senator Kyle Davison	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y

Motion passed 5-0-0.

Senator Cleary carried the bill.

8:46 a.m. Chairman Dever closed the hearing.

Joan Bares, Committee Clerk

2-14-25
Cleary

25.1225.02001
Title.

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 12, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
- 2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
- 3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
- 4 facility; to provide for a legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
- 7 amended and reenacted as follows:

8 50-24.5-01. Definitions.

- 9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
- 11 and provider requirements of the Medicaid 1915(c) home and community-based
- 12 services aged and disabled waiver, specializing in the care of individuals eligible for
- 13 services under a medical assistance home and community-based waiver or similar
- 14 program with chronic moderate to severe memory loss or significant emotional,
- 15 behavioral, or cognitive impairment, which provides therapeutic, social, and
- 16 recreational programming and assistance with activities of daily living and instrumental
- 17 activities of daily living.
- 18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
30 e. Is determined to be eligible pursuant to rules adopted by the department.

Sixty-ninth
Legislative Assembly

- 1 ~~7-8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9-10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11-12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. ~~The department shall increase rates for inflation for the year beginning:~~
24 ~~a. July 1, 2025, by four percent; and~~
25 ~~b. July 1, 2026, by three percent.~~
- 26 ~~2. The department shall require an adult residential facility to submit cost reports and~~
27 ~~supplemental information by October 31, 2025, which the department shall use to pay~~
28 ~~the facility its current costs beginning January 1, 2026.~~
- 29 ~~3. Beginning January 1, 2026, a five percent operating margin must be included in adult~~
30 ~~residential facility rates.~~

1 4.2. The department shall require adult residential facilities to submit cost reports and
2 supplemental information by December 31, 2026, which the department shall use to
3 provide a rate recalculation beginning July 1, 2027.

4 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

5 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
6 and human services shall submit a report to the legislative management by January 31, 2026,
7 and August 31, 2026, regarding progress on the basic care study recommendations addressing
8 the adult residential facility and basic care payment systems, and review the asset limit for
9 home and community-based services aged and disabled waiver.

10 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**

11 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
12 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
13 \$1,709,302, or so much of the sum as may be necessary. and from ~~special~~other funds derived
14 from federal and special funds ~~and other income~~, the sum of ~~\$2,200,000~~\$1,709,302, or so much
15 of the sum as may be necessary, to the department of health and human services for the
16 purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025,
17 and ending June 30, 2027.

2025 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2271
2/17/2025

A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

3:20 p.m. Chairman Bekkedahl opened the hearing.

Members Present: Chairman Bekkedahl, Vice-Chairman Erbele, and Senators Burckhard, Cleary, Conley, Davison, Dever, Dwyer, Magrum, Mathern, Meyer, Schaible, Sorvaag, Thomas, Wanzek.

Members Absent: Senator Sickler.

Discussion Topics:

- Federal Match Continuation
- Committee Action

3:21 p.m. Senator Cleary introduced the bill.

3:23 p.m. Senator Cleary moved amendment LC 25.1225.02001, testimony #37914.

3:23 p.m. Senator Davison seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	A
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 15-0-1.

3:27 p.m. Senator Cleary moved a Do Pass as Amended.

3:27 p.m. Senator Davison seconded the motion.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Robert Erbele	Y
Senator Randy A. Burckhard	Y
Senator Sean Cleary	Y
Senator Cole Conley	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Jeffery J. Magrum	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Donald Schaible	Y
Senator Jonathan Sickler	A
Senator Ronald Sorvaag	Y
Senator Paul J. Thomas	Y
Senator Terry M. Wanzek	Y

Motion Passed 15-0-1.

Senator Cleary will carry the bill.

3:29 p.m. Chairman Bekkedahl closed the hearing.

Elizabeth Reiten, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

2-17-25

JMZ 1064

1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7.8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13.14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. ~~The department shall increase rates for inflation for the year beginning:~~
24 ~~a. July 1, 2025, by four percent; and~~
25 ~~b. July 1, 2026, by three percent.~~
- 26 ~~2.~~ The department shall require an adult residential facility to submit cost reports and
27 supplemental information by October 31, 2025, which the department shall use to pay
28 the facility its current costs beginning January 1, 2026.
- 29 ~~3. Beginning January 1, 2026, a five percent operating margin must be included in adult~~
30 ~~residential facility rates.~~

4 of 4

4.2. The department shall require adult residential facilities to submit cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT. The department of health and human services shall submit a report to the legislative management by January 31, 2026, and August 31, 2026, regarding progress on the basic care study recommendations addressing the adult residential facility and basic care payment systems, and review the asset limit for home and community-based services aged and disabled waiver.

SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,709,302, or so much of the sum as may be necessary, and from ~~special~~other funds derived from federal and special funds ~~and other income~~, the sum of ~~\$2,200,000~~\$1,709,302, or so much of the sum as may be necessary, to the department of health and human services for the purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2271**

Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS** ([25.1225.02001](#)) and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2271 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

2-17-25

25.1225.02001
Title.

Prepared by the Legislative Council
staff for Senate Appropriations - Human
Resources Division Committee
February 12, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

- 6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

Sixty-ninth
Legislative Assembly

- 1 ~~2.3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3.4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4.5.~~ "Department" means the department of health and human services.
- 7 ~~5.6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6.7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

Sixty-ninth
Legislative Assembly

- 1 ~~7-8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9-10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11-12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. ~~The department shall increase rates for inflation for the year beginning:~~
24 ~~a. July 1, 2025, by four percent; and~~
25 ~~b. July 1, 2026, by three percent.~~
- 26 ~~2. The department shall require an adult residential facility to submit cost reports and~~
27 ~~supplemental information by October 31, 2025, which the department shall use to pay~~
28 ~~the facility its current costs beginning January 1, 2026.~~
- 29 ~~3. Beginning January 1, 2026, a five percent operating margin must be included in adult~~
30 ~~residential facility rates.~~

1 4.2. The department shall require adult residential facilities to submit cost reports and
2 supplemental information by December 31, 2026, which the department shall use to
3 provide a rate recalculation beginning July 1, 2027.

4 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

5 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
6 and human services shall submit a report to the legislative management by January 31, 2026,
7 and August 31, 2026, regarding progress on the basic care study recommendations addressing
8 the adult residential facility and basic care payment systems, and review the asset limit for
9 home and community-based services aged and disabled waiver.

10 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**

11 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
12 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
13 \$1,709,302, or so much of the sum as may be necessary. and from ~~special~~other funds derived
14 from federal and special funds ~~and other income~~, the sum of ~~\$2,200,000~~\$1,709,302, or so much
15 of the sum as may be necessary, to the department of health and human services for the
16 purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025,
17 and ending June 30, 2027.

2025 HOUSE HUMAN SERVICES

SB 2271

2025 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2271
3/18/2025

Relating to adult residential facility payment rates; relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

9:37 a.m. Chairman M. Ruby opened the hearing.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Davis, Dobervich, Fegley, Holle, Kiefert, Rios, Rohr
Members Absent: Representative Hendrix,

Discussion Topics:

- Cost effective care
- Rate calculations
- Cost reimbursements

9:38 a.m. Senator Cleary, District 35, introduced the bill.

9:44 a.m. Nikki Wegner, President of the ND Long Term Care Association, testified in favor and submitted testimony, #42483.

9:54 a.m. Lana Charvat, Maple View Facility Director, testified in favor and submitted testimony, #42481.

9:59 a.m. Chairman M. Ruby closed the hearing.

Jackson Toman, Committee Clerk

Testimony on Adult Residential SB 2271

House Human Services Committee

March 18, 2025

Good morning, Chair Ruby and members of the committee. Thank you for your time today. My name is Lana Charvat, I am the director of Maple View Memory Care Community located here in Bismarck. I am here on behalf of all 4 Maple View Communities here in ND as well as on behalf of all 14 Adult Residential Care facilities that provide care to individuals with Alzheimer's and other dementia related cognitive impairments.

Adult Residential Care facilities are licensed as Basic Care and operate under a Home and Community Based Waiver as specialized memory care facilities. We are also approved QSP agency providers.

We are proud of the specialized care we provide and the work we do to serve those suffering from Alzheimer's and other dementia-related illnesses. Being a waiver program participant, our Medicaid funding falls under Home and Community Based Services (HCBS). Upon enrollment into the HCBS program, our rates are established. Many of us providers have been in the program for 20+ years. Once the provider's rate is established, there is not a process in place to allow for adjustment through cost reporting or other means. Outside of some small inflationary adjustments allowed throughout the years, providers are locked into their original rate. With the continual overall growing costs of care and inflation, this continues to cause great hardship for those of us who want to provide this valuable service to individuals in our care who qualify for Medicaid.

In addition to the daily established rate, a room and board (R & B) fee is charged directly to the resident. Unfortunately, over time, we are also seeing more and more of these Medicaid eligible residents not being able to afford their R & B rate. Currently in our 4 Maple View facilities, of the 52 Medicaid eligible residents we care for, 7 of them are unable to pay this rate and unfortunately, this number seems to be increasing.

We take great pride in the valuable service we provide our residents. They become part of our family and when they “spend down” their funds and need to apply for Medicaid, we want to be able to afford to continue to care for them and to not have to discharge them to a skilled nursing facility. If this happens, the state will end up paying an even higher rate for their care as the Medicaid reimbursement for that level of care can be more than double what we are reimbursed in the Adult Residential program. Unfortunately, more and more residents are “spending down” at a higher rate and due to that, we are struggling with being able to keep them at our facilities, in their home. We are asking for your support of Senate Bill 2271 which will allow for those of us providing this specialized care a rate increase which in turn will allow us to continue to serve this vulnerable population and provide the care they need and deserve.

Of the 144 residents residing in our 4 Maple View facilities in North Dakota, 36% are currently on Medicaid. This number has increased over the past few years and will likely continue to do so. We ask for your support of this much needed bill so that we are able to keep serving these residents currently on Medicaid services and to be able to keep others who are private pay in our facilities when they spend down to need Medicaid.

All residents in our facilities screen in need of skilled care but, under our specialized license, we are able to provide that care in a more independent setting without the need for transfer to a skilled facility. This option is much more cost effective than having them be placed in a skilled nursing care facility until they reach that point of their disease process in which they no longer benefit from our level of care. If we are no longer able to provide Medicaid, then these individuals would indeed need to be placed in a skilled care facility.

In 2024 the average skilled nursing facility rate is \$403.19 per day. Thus, everyone would save money by us being able to keep them in our care. We continue to offer a service that is in demand and likely will be in the foreseeable future. According to statistics from the Alzheimer’s Association,

Alzheimer's is the fourth leading cause of death in North Dakota, currently 14,000 people aged 65 and older are living with Alzheimer's in North Dakota and 8.1% of people aged 45 and older have subjective cognitive decline. We as providers, want to continue to care for these individuals regardless of their payment source. We hope that you will help us by supporting this bill.

Thank you for your time and consideration.

Lana Charvat, Director

Maple View Memory Care Community

4217 Montreal Street

Bismarck, ND 58503

(701) 223-4133

**Testimony on Solutions for Financial Challenges in
Adult Residential Care
House Human Services Committee
March 17, 2025
SB 2271**

Chairman Ruby and members of the House Human Services Committee. My name is Nikki Wegner, President of the North Dakota Long Term Care Association. I represent 12 of North Dakota's 20 adult residential facilities, formerly called specialized basic care. Thank you for the opportunity to testify in support of the second engrossed SB 2271. While the bill may make these facilities appear new, they have actually existed for over 20 years but were never formally recognized in state code until now. As a result, they have often been overlooked in rate enhancements resulting in compounding shortfalls.

Adult residential facilities play a vital role in the care continuum, providing specialized support for individuals with dementia and acquired brain injuries in a cost-effective setting with trained staff. We urge your support for the proposed solution in this bill to address funding disparities and ensure their sustainability.

These facilities provide 24-hour support for individuals with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairments. Services include assistance with:

- **Activities of Daily Living:** Tasks like toileting, dressing, and bathing.
- **Instrumental Activities of Daily Living:** Managing finances, medications, and transportation.
- **Enrichment Activities:** Therapeutic, social, and recreational programming to enhance quality of life.

To qualify for adult residential care, individuals must screen in need for skilled nursing care. Adult Residential care is a cost-effective alternative to placement in a nursing facility, where the cost of care would be significantly higher. The average cost to Medicaid for an individual in nursing facility care is **\$135,686** per year versus **\$29,333** per individual per year in adult residential. By providing a structured yet less

intensive medical environment, adult residential care not only reduces financial burdens but also fosters the individual's independence and quality of life. It is specifically designed to maintain or improve the recipient's functional abilities while ensuring their unique medical, emotional, and social needs are met. This being said, the \$29,333 is not adequate to provide the complex care that these individuals require.

Financial Challenges and Proposed Solutions

Adult residential facilities have long faced financial disparities due to historical rate compression, rising operational costs, and limited opportunities to invest in their services. In the slide below, shared by ND Department of Health and Human Services, you can see the disparity between the adult residential program versus other similar services that provide complex care for individuals who screen in need for nursing facility level of care.

Cost driver #1

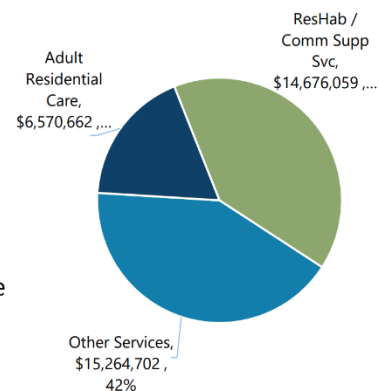
24-hour delivery of complex cares

Adult Residential Care

- 24-hour residential services for individual with memory impairment or traumatic brain injury.
- Individuals have a daily need for a safe supervised structured environment, personal care, and medication supports.
- In SFY 24 **29%** (224) **of waiver participants** were enrolled in this service.
- Average cost per person per year = **\$29,333**

Residential Habilitation and Community Support Svcs

- Up to 24-hour all inclusive supports for individuals who meet a nursing facility level of care and require daily services.
- Service requires providers to have a nurse and a care coordinator with a minimum of a 4-year degree.
- In SFY 24 **16%** (121) of waiver participants are enrolled in this service.
- Average cost per person per year = **\$121,290**



16% of waiver participants account for 40% of the cost of care

NORTH Dakota | Health & Human Services
Be Legendary.

Shared by Nancy Nikolas-Maier in House Appropriations-Human Resource Division 1-23-25

Second engrossed SB 2271 offers a solution to help stabilize and strengthen this essential care model:

1. Reimburse to Current Costs Starting January 1, 2026

The department shall require adult residential facilities to submit cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facilities their current costs beginning January 1, 2026.

2. Rate Recalculation for July 1, 2027 Implementation

The department shall require adult residential facilities to submit cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

Closing

This proposal provides a thoughtful approach to addressing the financial disparities in adult residential care. By aligning rates with real costs and rate recalculation, we can ensure that these facilities remain a viable and sustainable option for North Dakotans who are in need of this level of care when they are living with dementia or acquired brain injury.

Chairman Ruby and members of the committee, I urge you to support this proposal to safeguard the future of adult residential care in North Dakota and ensure these providers can continue serving their communities effectively. Thank you for your time and consideration, and I am happy to answer any questions.

Nikki Wegner MS, OTR/L, President
North Dakota Long Term Care Association
1900 North 11th Street
Bismarck, ND 58501
(701) 222-0660
nikki@ndltca.org

ADULT RESIDENTIAL

24 hr care for those living with dementia and brain injury

SB 2271 Sponsors

Introduced by Sen. Cleary, Rep. Beltz, Sen. Dever, Rep. Ista, Sen. Lee, Rep. McLeod



THE PROBLEM

- Adult Residential Care (ARC) facilities are **losing** an average of **\$45.77** per Medicaid resident per day due to outdated rates.
- Some of these rates were set over 20 years ago and have only been recalculated once (2019).
- Facilities are having to make tough decisions to not take Medicaid residents, and more may follow.

THE AVERAGE COST PER INDIVIDUAL PER YEAR COMPARISON

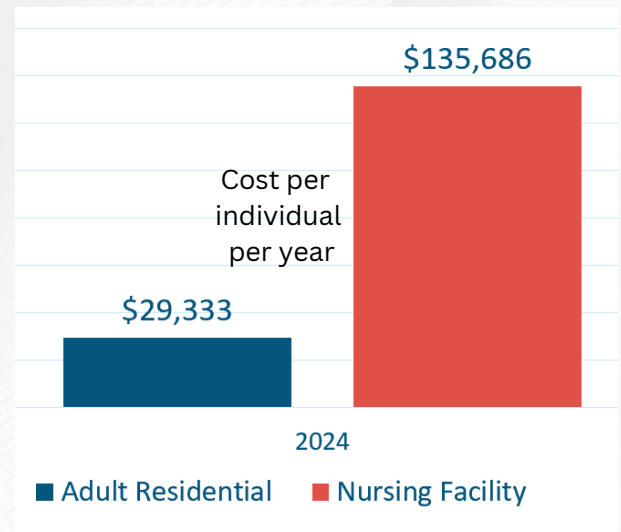
All individuals in the Adult Residential Care setting meet the criteria for nursing facility care but select this alternative model of care at a fraction of the cost of nursing facility care. Care in a NF is over \$106,000 more annually.

WHY IT MATTERS

- Adult Residential Care (ARC) provides 24-hour support for individuals with dementia and brain injuries in a home-like setting at a much lower cost than a nursing facility (NF) and other complex care programs.
- Without additional funding, Medicaid residents may lose access, causing them to have to move into higher-cost care options.

THE SOLUTION – SB 2271

- Provides necessary funding for dementia and brain injury facilities that provide care to the Medicaid population.
- **State General Fund Impact \$1,700,000**
- Saves taxpayer dollars – Keeping residents in ARC saves \$106,000 per person annually vs. NF care.
- Prevents facility closures – Ensures Medicaid residents continue to have access to care.
- Supports a proven care model – ARC has provided quality, cost-effective care for over 25 years.



We ask for your support on SB 2271 to keep care affordable, accessible, and sustainable for those with dementia or a head injury.

QUESTIONS?

Nikki Wegner
nikki@ndltca.org; 701-354-9773

PLEASE SUPPORT SB 2271

ADULT RESIDENTIAL

Specialized Basic Care

Licensed as Basic Care and funded through the HCBS Waiver, these providers support individuals who screen in need of skilled nursing care and who are living with dementia or brain injuries.



Brain Injury Care

HI Soaring Eagle Ranch
HIT Inc, Dakota Pointe

Valley City
Mandan

Licensed beds

10
10

Memory Care

CountryHouse
Edgewood Dominion
Edgewood Fargo
Edgewood Grand Forks
Edgewood Jamestown
Edgewood Mandan
Edgewood Minot Senior Living
Edgewood Village Bismarck
Evergreens of Fargo
Fargo Maplevue
Lakewood Landing
Maple View Grand Forks
Maple View Memory Care
Maple View Bismarck
New Perspective
Roseadele
Touchmark Bismarck
Touchmark Fargo

Dickinson
Bismarck
Fargo
Grand Forks
Jamestown
Mandan
Minot
Bismarck
Fargo
Fargo
Mandan
Grand Forks
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Bismarck
West Fargo
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Private Pay Only

20 FACILITIES
621 BEDS

Private Pay Only
Private Pay only

2025 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2271
3/19/2025

Relating to adult residential facility payment rates; relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

10:42 a.m. Chairman M. Ruby opened the meeting.

Members Present: Chairman M. Ruby, Vice-Chairman Frelich, Representatives K. Anderson, Beltz, Bolinske, Dobervich, Fegley, Hendrix, Holle, Kiefert, Rohr
Members Absent: Representatives Davis, Rios

Discussion Topics:

- Committee action

10:43 a.m. Representative Holle moved a Do Pass and rerefer to appropriations.

10:43 a.m. Representative K. Anderson seconded the motion.

Representatives	Vote
Representative Matthew Ruby	Y
Representative Kathy Frelich	Y
Representative Karen Anderson	Y
Representative Mike Beltz	Y
Representative Macy Bolinske	Y
Representative Jayme Davis	AB
Representative Gretchen Dobervich	Y
Representative Cleyton Fegley	Y
Representative Jared Hendrix	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Nico Rios	AB
Representative Karen Rohr	N

10:45 a.m. Motion passed 10-1-2.

Representative Beltz will carry the bill.

10:45 a.m. Chairman M. Ruby closed the meeting.

Jackson Toman, Committee Clerk

REPORT OF STANDING COMMITTEE
REENGROSSED SB 2271 ([25.1225.03000](#))

Human Services Committee (Rep. M. Ruby, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 1 NAY, 2 ABSENT OR EXCUSED AND NOT VOTING). SB 2271 was rereferred to the **Appropriations Committee**.

2025 HOUSE APPROPRIATIONS

SB 2271

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2271
4/3/2025

A BILL for an Act to amend and reenact section 54-10-01, subsection 5 of section 54-10-14, and sections 54-10-22 and 54-10-27 of the North Dakota Century Code, relating to audits conducted by the state auditor and charges for audits.

8:36 a.m. Chairman Vigesaa called the meeting to order.

Members present: Chairman Vigesaa, Representatives Anderson, Bosch, Brandenburg, Fisher, Hanson, Louser, Martinson, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Wagner

Members absent: Vice Chairman Kempenich, Representatives: Berg, Swiontek

Discussion Topics:

- Memory Care Units
- Specialized Basic Care
- Adult Residential Facilities

8:38 a.m. Representative M. Ruby introduced the bill.

8:50 a.m. Sarah Aker, Executive Director, Medical Services Division of Department of Health and Human Services, answered questions.

8:54 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Roughrider Room, State Capitol

SB 2271
4/3/2025

A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

3:22 p.m. Chairman J. Nelson called the meeting to order.

Members Present: Chairman J. Nelson, Vice Chairman Stemen, Representatives B. Anderson, Berg, Mitskog, Murphy, O'Brien, Wagner.

Discussion Topics:

- Basic Care Rates
- Committee Action

3:25 p.m. Erica Cermak, Vice President of Government Relations, North Dakota Long Term Care Association testified and presented testimony #44650.

3:26 p.m. Lana Charvat, Director, Maple View Memory Care, Bismarck, stood for questions.

3:36 p.m. Sarah Akers, Executive Director, Medical Services, ND Health and Human Services, stood for questions.

3:37 p.m. Nancy Nicholas-Maier, Adult Services, ND Health and Human Services, stood for questions.

3:44 p.m. Representative Murphy moved a Do Pass SB 2271.

3:44 p.m. Representative Mitskog seconded the motion.

3:46 p.m. Sarah Aker, Executive Director, Medical Services, ND Health and Human Services, stood for questions.

3:53 p.m. Erica Cermak, Vice President of Government Relations, North Dakota Long Term Care Association, stood for questions.

3:55 p.m. Representative Mitskog retracted the seconded.

3:55 p.m. Representative Murphy retracted the motion.

3:55 p.m. Grant Gader, Fiscal Analyst, ND Legislative Council, commented on amendment preparation.

4:02 p.m. Chairman J. Nelson adjourned the meeting.

Jan Kamphuis, Committee Clerk

ADULT RESIDENTIAL

24 hr care for those living with dementia and brain injury

SB 2271 Sponsors

Introduced by Sen. Cleary, Rep. Beltz, Sen. Dever, Rep. Ista, Sen. Lee, Rep. McLeod

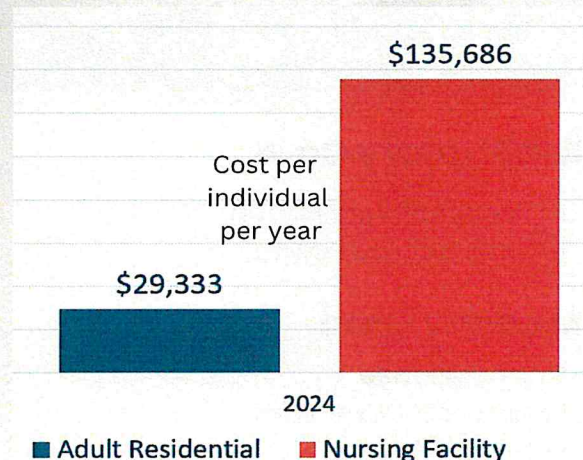


THE PROBLEM

- Adult Residential Care (ARC) facilities are **losing** an average of **\$45.77** per Medicaid resident per day due to outdated rates.
- Some of these rates were set over 20 years ago and have only been recalculated once (2019).
- Facilities are having to make tough decisions to not take Medicaid residents, and more may follow.

THE AVERAGE COST PER INDIVIDUAL PER YEAR COMPARISON

All individuals in the Adult Residential Care setting meet the criteria for nursing facility care but select this alternative model of care at a fraction of the cost of nursing facility care. Care in a NF is over \$106,000 more annually.



WHY IT MATTERS

- Adult Residential Care (ARC) provides 24-hour support for individuals with dementia and brain injuries in a home-like setting at a much lower cost than a nursing facility (NF) and other complex care programs.
- Without additional funding, Medicaid residents may lose access, causing them to have to move into higher-cost care options.

THE SOLUTION – SB 2271

- Provides necessary funding for dementia and brain injury facilities that provide care to the Medicaid population.
- **State General Fund Impact \$1,700,000**
- Saves taxpayer dollars – Keeping residents in ARC saves \$106,000 per person annually vs. NF care.
- Prevents facility closures – Ensures Medicaid residents continue to have access to care.
- Supports a proven care model – ARC has provided quality, cost-effective care for over 25 years.

PLEASE SUPPORT SB 2271

We ask for your support on SB 2271 to keep care affordable, accessible, and sustainable for those with dementia or a head injury.

QUESTIONS?

Nikki Wegner
nikki@ndltca.org; 701-354-9773

ADULT RESIDENTIAL

Specialized Basic Care

Licensed as Basic Care and funded through the HCBS Waiver, these providers support individuals who screen in need of skilled nursing care and who are living with dementia or brain injuries.



Brain Injury Care

HI Soaring Eagle Ranch
HIT Inc, Dakota Pointe

Valley City
Mandan

Licensed beds

10
10

Memory Care

CountryHouse
Edgewood Dominion
Edgewood Fargo
Edgewood Grand Forks
Edgewood Jamestown
Edgewood Mandan
Edgewood Minot Senior Living
Edgewood Village Bismarck
Evergreens of Fargo
Fargo Mapleview
Lakewood Landing
Maple View Grand Forks
Maple View Memory Care
Maple View Bismarck
New Perspective
Roseadele
Touchmark Bismarck
Touchmark Fargo

Dickinson
Bismarck
Fargo
Grand Forks
Jamestown
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Private Pay Only

20 FACILITIES
621 BEDS

Private Pay Only
Private Pay only

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations - Human Resources Division Roughrider Room, State Capitol

SB 2271
4/4/2025

A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

9:01 a.m. Chairman J. Nelson called the meeting to order.

Members Present: Chairman J. Nelson, Vice Chairman Stemen, Representatives B. Anderson, Berg, Mitskog, Murphy, O' Brien, Wagner.

Discussion Topics:

- Committee Action

9:39 a.m. Representative Mitskog introduced proposed amendment.

9:41 a.m. Brady Larson, Legislative Budget Analyst and Auditor, ND Legislative Council, spoke to language included in the amendment #44996.

9:44 a.m. Representative Mitskog moved proposed amendment SB 2271, LC 25.1225.03001, #44996.

9:44 a.m. Representative Murphy seconded the motion.

Roll Call Vote:

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Gregory Stemen	Y
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Alisa Mitskog	Y
Representative Eric J. Murphy	Y
Representative Emily O'Brien	Y
Representative Scott Wagner	Y

Motion passed 8-0-0.

9:45 a.m. Representative Murphy moved a DO PASS as amended reengrossed SB 2271, LC 25.1225.03001, #44996.

9:45 a.m. Representative Mitskog seconded the motion.
Roll Call Vote:

Representatives	Vote
Representative Jon O. Nelson	Y
Representative Gregory Stemen	Y
Representative Bert Anderson	N
Representative Mike Berg	Y
Representative Alisa Mitskog	Y
Representative Eric J. Murphy	Y
Representative Emily O'Brien	Y
Representative Scott Wagner	Y

Motion passed 7-1-0.

9:56 a.m. Chairman J. Nelson closed the meeting.

Jan Kamphuis, Committee Clerk

25.1225.03001
Title.04000

Prepared by the Legislative Council
staff for House Appropriations - Human
Resources Division Committee
April 4, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
30 e. Is determined to be eligible pursuant to rules adopted by the department.

1 ~~7-8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.

4 ~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.

5 ~~9-10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.

7 ~~10-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.

9 ~~11-12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.

11 ~~12-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.

14 ~~13-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

23 ~~1.~~ The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.

26 ~~2.~~ The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

and August 31, 2026, regarding progress on the basic care study recommendations addressing the adult residential facility and basic care payment systems, and review the asset limit for home and community-based services aged and disabled waiver.

**SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE
PAYMENT SYSTEM STUDY - LEGISLATIVE MANAGEMENT REPORT.**

1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the department of health and human services shall study the basic care payment system in collaboration with basic care providers and any association representing the providers. The study must review:
 - a. Appropriate methods for reimbursing property costs;
 - b. Options to calculate operating margin;
 - c. The methodology for applying annual inflationary adjustments, including whether an independent inflation index should be utilized; and
 - d. Rate determination for specialized basic care services provided to individuals with a dementia-related diagnosis or head injury.
2. The department must provide periodic updates as well as a final report to the legislative management. The final report must include recommendations identified in the study including the estimated costs to implement the recommendations.

**SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -
ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary, to the department of health and human services for the purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

2025 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2271
4/9/2025

A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

8:57 a.m. Chairman Vigesaa opened the meeting.

Members present: Chairman Vigesaa, Vice Chairman Kempenich, Representatives Anderson, Berg, Bosch, Brandenburg, Fisher, Hanson, Louser, Meier, Mitskog, Monson, Murphy, Nathe, Nelson, O'Brien, Pyle, Richter, Sanford, Stemen, Wagner

Members absent: Martinson, Swiontek

Discussion Topics:

- Committee Action

8:57 a.m. Representative J. Nelson introduced the amendment LC #25.1225.03001, #44834.

9:09 a.m. Representative J. Nelson moved to adopt amendment LC #25.1225.03001.

9:09 a.m. Representative Mitskog seconded the motion.

9:09 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	Y
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y
Representative Scott Louser	Y
Representative Bob Martinson	AB
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y

Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	AB
Representative Scott Wagner	Y

9:09 a.m. Motion passed 21-0-2.

9:10 a.m. Representative J. Nelson moved Do Pass as Amended.

9:10 a.m. Representative Mitskog seconded the motion.

9:10 a.m. Roll Call Vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	N
Representative Mike Berg	Y
Representative Glenn Bosch	Y
Representative Mike Brandenburg	Y
Representative Jay Fisher	Y
Representative Karla Rose Hanson	Y
Representative Scott Louser	Y
Representative Bob Martinson	AB
Representative Lisa Meier	Y
Representative Alisa Mitskog	Y
Representative David Monson	Y
Representative Eric J. Murphy	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy L. Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Gregory Stemen	Y
Representative Steve Swiontek	AB
Representative Scott Wagner	Y

9:10 a.m. Motion passed 20-1-2.

9:10 a.m. Representative Mitskog will carry the bill.

9:11 a.m. Chairman Vigesaa closed the meeting.

Krystal Eberle, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

VG 4/9/25
1 of 4

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7.8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13.14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.
- 26 2. The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**
5 **PAYMENT SYSTEM STUDY - LEGISLATIVE MANAGEMENT REPORT.**

- 6 1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the
7 department of health and human services shall study the basic care payment system
8 in collaboration with basic care providers and any association representing the
9 providers. The study must review:
- 10 a. Appropriate methods for reimbursing property costs;
 - 11 b. Options to calculate operating margin;
 - 12 c. The methodology for applying annual inflationary adjustments, including whether
13 an independent inflation index should be utilized; and
 - 14 d. Rate determination for specialized basic care services provided to individuals
15 with a dementia-related diagnosis or head injury.
- 16 2. The department must provide periodic updates as well as a final report to the
17 legislative management. The final report must include recommendations identified in
18 the study including the estimated costs to implement the recommendations.

19 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
20 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
21 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
22 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
23 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
24 to the department of health and human services for the purpose of administering adult
25 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

**REPORT OF STANDING COMMITTEE
REENGROSSED SB 2271**

Appropriations Committee (Rep. Vigesaa, Chairman) recommends **AMENDMENTS** ([25.1225.03001](#)) and when so amended, recommends **DO PASS** (20 YEAS, 1 NAY, 2 ABSENT OR EXCUSED AND NOT VOTING). Reengrossed SB 2271 was placed on the Sixth order on the calendar.

25.1225.03001
Title.

Prepared by the Legislative Council
staff for House Appropriations - Human
Resources Division Committee
April 4, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 50-24.5-01. Definitions.

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
- 18 2. "Aged" means at least sixty-five years of age.

Sixty-ninth
Legislative Assembly

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7-8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9-10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11-12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.
- 26 2. The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - STUDY - BASIC**
5 **CARE PAYMENT SYSTEM - LEGISLATIVE MANAGEMENT REPORT.** During the biennium
6 beginning July 1, 2025, and ending June 30, 2027, the department of health and human
7 services shall study the basic care payment system in collaboration with basic care providers
8 and any association representing the providers. The study must review:

- 9 1. Appropriate methods for reimbursing property costs;
- 10 2. Options to calculate operating margin;
- 11 3. The methodology for applying annual inflationary adjustments, including whether an
12 independent inflation index should be utilized; and
- 13 4. Rate determination for specialized basic care services provided to individuals with a
14 dementia-related diagnosis or head injury.

15 The department must provide periodic updates as well as a final report to the legislative
16 management. The final report must include recommendations identified in the study including
17 the estimated costs to implement the recommendations.

18 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
19 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
20 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
21 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
22 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
23 to the department of health and human services for the purpose of administering adult
24 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

2025 CONFERENCE COMMITTEE

SB 2271

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2271
4/18/2025
Conference Committee

Relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.
--

9:30 a.m. Chairman Roers opened the hearing.

Members Present: Chairman Roers, Senator Van Oosting, Senator Hogan, Representative Beltz, Representative Murphy, Representative Rohr.

Discussion Topics:

- Legislative history
- Impacted agencies
- Reimbursement model

9:31 a.m. Representative Rohr opened discussion on previous legislative study.

9:31 a.m. Senator Hogan discussed submitted testimony #45081 and #45193.

9:35 a.m. Nikki Wegner, President of the North Dakota Long Term Care Association, answered committee questions.

9:48 a.m. Sarah Akers, Executive Director of Medical Services with the Department of Health and Human Services, answered committee questions.

9:57 a.m. Chairman Roers closed the hearing.

Andrew Ficek, Committee Clerk

25.1225.03002
Title.

Prepared by the Legislative Council
staff for Senator Hogan
April 17, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

In place of amendment (25.1225.03001) adopted by the House, Reengrossed Senate Bill No. 2271 is amended by amendment (25.1225.03002) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
- 2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
- 3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
- 4 facility; to provide for a legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

- 6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
- 7 amended and reenacted as follows:

8 50-24.5-01. Definitions.

- 9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
- 11 and provider requirements of the Medicaid 1915(c) home and community-based
- 12 services aged and disabled waiver, specializing in the care of individuals eligible for
- 13 services under a medical assistance home and community-based waiver or similar
- 14 program with chronic moderate to severe memory loss or significant emotional,
- 15 behavioral, or cognitive impairment, which provides therapeutic, social, and
- 16 recreational programming and assistance with activities of daily living and instrumental
- 17 activities of daily living.
- 18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2-3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3-4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4-5.~~ "Department" means the department of health and human services.
- 7 ~~5-6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6-7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
- 26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
- 28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
- 30 e. Is determined to be eligible pursuant to rules adopted by the department.

- 1 ~~7.8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
- 7 ~~10.11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.
- 9 ~~11.12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
- 14 ~~13.14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.
- 26 2. The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - PAYMENT MODEL**
5 **CONTINUUM RECOMMENDATIONS - LEGISLATIVE MANAGEMENT REPORT.**

- 6 1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the
7 department of health and human services shall make recommendations for the
8 development of a basic care, assisted living, and adult residential payment model
9 continuum. The recommendations must include:
- 10 a. Appropriate methods for reimbursing property costs;
 - 11 b. Options to calculate operating margin;
 - 12 c. The methodology for applying annual inflationary adjustments, including whether
13 an independent inflation index should be utilized;
 - 14 d. Rate determination for specialized basic care services provided to individuals
15 with a dementia-related diagnosis or head injury; and
 - 16 f. A new licensing structure that includes assisted living, basic care, and adult
17 residential under once license.
- 18 2. The department of health and human services shall report the recommendations to the
19 the legislative management by August 30, 2026.

20 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
21 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
22 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
23 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
24 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
25 to the department of health and human services for the purpose of administering adult
26 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

25.1225.03003
Title.

Prepared by the Legislative Council
staff for Senator Hogan
April 18, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

In place of amendment (25.1225.03001) adopted by the House, Reengrossed Senate Bill No. 2271 is amended by amendment (25.1225.03003) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
- 2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
- 3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
- 4 facility; to provide for a legislative management report; and to provide an appropriation.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 50-24.5-01. Definitions.

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
- 18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2.3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3.4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4.5.~~ "Department" means the department of health and human services.
- 7 ~~5.6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6.7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
26 (1) Has health, welfare, or safety needs, including a need for supervision or a
27 structured environment; or
28 (2) Is impaired in three of the following four instrumental activities of daily living:
29 preparing meals, doing housework, taking medicine, and doing laundry; and
30 e. Is determined to be eligible pursuant to rules adopted by the department.

1 ~~7-8.~~ "Human service zone" means a county or consolidated group of counties
2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.

4 ~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.

5 ~~9-10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.

7 ~~10-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to
8 cover the costs of clothing and other personal needs.

9 ~~11-12.~~ "Proprietor" means an individual responsible for day-to-day administration and
10 management of a facility.

11 ~~12-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.

14 ~~13-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an
15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
21 and enacted as follows:

22 **Adult residential facility payment rates - Report.**

- 23 1. The department shall require an adult residential facility to submit cost reports and
24 supplemental information by October 31, 2025, which the department shall use to pay
25 the facility its current costs beginning January 1, 2026.
26 2. The department shall require adult residential facilities to submit cost reports and
27 supplemental information by December 31, 2026, which the department shall use to
28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**
30 **STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT.** The department of health
31 and human services shall submit a report to the legislative management by January 31, 2026,

1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - PAYMENT MODEL**
5 **CONTINUUM RECOMMENDATIONS - LEGISLATIVE MANAGEMENT REPORT.**

- 6 1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the
7 department of health and human services shall make recommendations for the
8 development of a basic care, assisted living, and adult residential facilities payment
9 model continuum. The recommendations must include:
- 10 a. Appropriate methods for reimbursing property costs;
 - 11 b. Options to calculate operating margin;
 - 12 c. The methodology for applying annual inflationary adjustments, including whether
13 an independent inflation index should be utilized;
 - 14 d. Rate determination for specialized basic care services provided to individuals
15 with a dementia-related diagnosis or head injury; and
 - 16 f. A new licensing structure that includes assisted living, basic care, and adult
17 residential facilities under one license.
- 18 2. The department of health and human services shall collaborate with providers and key
19 stakeholders to develop the recommendations.
- 20 3. The department of health and human services shall report the recommendations to the
21 the legislative management by August 30, 2026.

22 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
23 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
24 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
25 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
26 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
27 to the department of health and human services for the purpose of administering adult
28 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

2025 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Fort Lincoln Room, State Capitol

SB 2271
4/21/2025
Conference Committee

Relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.
--

11:30 a.m. Chairman Lee opened the hearing.

Members Present: Chairman Roers, Senator Van Oosting Senator Hogan, Representative Beltz, Representative Murphy, Representative Rohr.

Discussion Topics:

- Licensing pathways

11:30 a.m. Senator Hogan opened discussion on proposed amendment testimony #45102.

11:35 a.m. Senator Hogan moved in place of the amendment LC#25.1225.03001 adopted by the House, the bill is amended by the conference committee amendment LC#25.1225.03004.

11:35 a.m. Senator Van Oosting seconded the motion.

Motion passed 6-0-0.

Senator Roers will carry the bill.

Representative Beltz will carry the bill.

11:37 a.m. Chairman Roers closed the hearing.

Andrew Ficek, Committee Clerk

April 21, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
SECOND ENGROSSMENT**

VC 4/21/25
1 of 4

REENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Cleary, Dever, Lee

Representatives Beltz, Ista, McLeod

In place of amendment (25.1225.03001) adopted by the House, Reengrossed Senate Bill No. 2271 is amended by amendment (25.1225.03004) as follows:

- 1 A BILL for an Act to create and enact a new section to chapter 50-24.5 of the North Dakota
2 Century Code, relating to adult residential facility payment rates; to amend and reenact section
3 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential
4 facility; to provide for a legislative management report; and to provide an appropriation.

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

6 **SECTION 1. AMENDMENT.** Section 50-24.5-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **50-24.5-01. Definitions.**

9 In this chapter, unless the context otherwise requires:

- 10 1. "Adult residential facility" means a licensed basic care facility that meets the program
11 and provider requirements of the Medicaid 1915(c) home and community-based
12 services aged and disabled waiver, specializing in the care of individuals eligible for
13 services under a medical assistance home and community-based waiver or similar
14 program with chronic moderate to severe memory loss or significant emotional,
15 behavioral, or cognitive impairment, which provides therapeutic, social, and
16 recreational programming and assistance with activities of daily living and instrumental
17 activities of daily living.
18 2. "Aged" means at least sixty-five years of age.

- 1 ~~2.3.~~ "Blind" has the same meaning as the term has when used by the social security
2 administration in the supplemental security income program under titles II and XVI of
3 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 4 ~~3.4.~~ "Congregate housing" means housing shared by two or more individuals not related to
5 each other which is not provided in an institution.
- 6 ~~4.5.~~ "Department" means the department of health and human services.
- 7 ~~5.6.~~ "Disabled" has the same meaning as the term has when used by the social security
8 administration in the supplemental security income program under titles II and XVI of
9 the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 10 ~~6.7.~~ "Eligible beneficiary" means a resident of this state who:
- 11 a. (1) Is aged; or
- 12 (2) Is at least eighteen years of age and is disabled or blind;
- 13 b. (1) Has applied for and is eligible to receive and receives benefits under title
14 XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied
15 for and is receiving benefits, if the individual is eligible to receive benefits,
16 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
17 42 U.S.C. 1381 et seq.]; or
- 18 (2) Has applied for and is eligible to receive and receives benefits under section
19 50-24.1-37 for long-term services and supports pursuant to an asset test
20 established under title XIX of the Social Security Act [42 U.S.C. 1396
21 et seq.] and section 50-24.1-02;
- 22 c. Meets the requirements of section 23-09.3-08.1;
- 23 d. Based on a functional assessment, is not severely impaired in any of the
24 activities of daily living of toileting, transferring to or from a bed or chair, or eating
25 and:
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27 structured environment; or
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2 administering human services within a designated area in accordance with an
3 agreement or plan approved by the department.
- 4 ~~8.9.~~ "Institution" means a facility licensed under chapter 23-09.3.
- 5 ~~9.10.~~ "Living independently" includes living in congregate housing. The term does not
6 include living in an institution.
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8 cover the costs of clothing and other personal needs.
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10 management of a facility.
- 11 ~~12.13.~~ "Remedial care" means services that produce the maximum reduction of an eligible
12 beneficiary's physical or mental disability and the restoration of an eligible beneficiary
13 to the beneficiary's best possible functional level.
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15 individual whose countable income, less the cost of necessary remedial care that may
16 be provided under this chapter, does not exceed an amount equal to the cash benefit
17 under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and
18 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no
19 income, plus the amount allowed as the personal needs allowance.

20 **SECTION 2.** A new section to chapter 50-24.5 of the North Dakota Century Code is created
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25 the facility its current costs beginning January 1, 2026.
- 26 2. The department shall require adult residential facilities to submit cost reports and
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28 provide a rate recalculation beginning July 1, 2027.

29 **SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE**

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1 and August 31, 2026, regarding progress on the basic care study recommendations addressing
2 the adult residential facility and basic care payment systems, and review the asset limit for
3 home and community-based services aged and disabled waiver.

4 **SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - PAYMENT MODEL**
5 **CONTINUUM RECOMMENDATIONS - LEGISLATIVE MANAGEMENT REPORT.**

- 6 1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the
7 department of health and human services shall make recommendations for the
8 development of a basic care, assisted living, and adult residential facilities payment
9 model continuum. The recommendations must include:
- 10 a. Appropriate methods for reimbursing property costs;
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 - 14 d. Rate determination for specialized basic care services provided to individuals
15 with a dementia-related diagnosis or head injury; and
 - 16 e. A new licensing structure that includes assisted living, basic care, and adult
17 residential facilities.
- 18 2. The department of health and human services shall collaborate with providers and key
19 stakeholders to develop the recommendations.
- 20 3. The department of health and human services shall report the recommendations to the
21 the legislative management by August 30, 2026.

22 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
23 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
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26 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
27 to the department of health and human services for the purpose of administering adult
28 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

SB 2271 042125 1136 AM Roll Call Vote

Final Recommendation

SB 2271

Date Submitted: April 21, 2025, 11:36 a.m.

Recommendation: In Place Of

Amendment LC #: 25.1225.03004

Engrossed LC #: N/A

Description:

Motioned By: Hogan, Kathy

Seconded By: Van Oosting, Desiree

House Carrier: Beltz, Mike

Senate Carrier: Roers, Kristin

Emergency Clause: None

Vote Results: 6 - 0 - 0

Sen. Roers, Kristin	Yea
Sen. Hogan, Kathy	Yea
Sen. Van Oosting, Desiree	Yea
Rep. Beltz, Mike	Yea
Rep. Murphy, Eric	Yea
Rep. Rohr, Karen M.	Yea

**REPORT OF CONFERENCE COMMITTEE
REENGROSSED SB 2271**

Your conference committee (Sens. Roers, Hogan, Van Oosting and Reps. Beltz, Murphy, Rohr) recommends that in place of amendment [25.1225.03001](#) adopted by the House, Reengrossed SB 2271 is amended by amendment [25.1225.03004](#).

Reengrossed SB 2271 was placed on the Seventh order of business on the calendar.

25.1225.03003
Title.

Prepared by the Legislative Council
staff for Senator Hogan
April 18, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO SECOND ENGROSSMENT

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Introduced by

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 - 14 d. Rate determination for specialized basic care services provided to individuals
15 with a dementia-related diagnosis or head injury; and
 - 16 f. A new licensing structure that includes assisted living, basic care, and adult
17 residential facilities under one license.
- 18 2. The department of health and human services shall collaborate with providers and key
19 stakeholders to develop the recommendations.
- 20 3. The department of health and human services shall report the recommendations to the
21 the legislative management by August 30, 2026.

22 **SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**
23 **ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION.** There is appropriated out of any
24 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of
25 \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from
26 federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary,
27 to the department of health and human services for the purpose of administering adult
28 residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.