

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2139

2005 SENATE HUMAN SERVICES

SB 2139

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2139

Senate Human Services Committee

Conference Committee

Hearing Date January 5, 2005

Tape Number	Side A	Side B	Meter #
1	x		3,440-5770
Committee Clerk Signature <i>Bothy Shinsal</i>			

Minutes: Chairman Lee called the hearing to order

All members were present.

Testimony in favor of bill.

David Zentner, Director of Medical Services for the Department of Human Services.

Zentner: Basically, this is a cleanup bill.

See Attachment 1

Chairman Lee: Mr. Zentner, would you like to talk about the section that is being repealed to let us know what 50-24.4-30 is?

Zentner: It was the section that established how the pool was created and how the payments be made into the trust fund. And since we no longer have an opportunity to do that anymore, we thought it appropriate to remove it from the NDCC.

Sen. Warner: Can you tell me what the current balance of the health care trust fund is and what the amount of money included in the Governor's budget, the draw down is, for this planning?

Zentner: I don't have it on the tip of my tongue. We'll get back to you.

Chairman Lee: Rep. Devlin, who along with Rep. Solberg, was very involved with setting up the intergovernmental transfer had also chaired a bill which was identical to what is being present here on behalf of the Department. But he had also put into his bill and had asked to be considered to have a section or subsection added that says that "the department shall continue to access intergovernmental transfer program if permitted by the federal government in its use of this program is found to be beneficial." The idea being that if the federal rules change then we could access those IGT dollars again, that we wouldn't have to come back to the Legislature in order to reimplement; that it would be able to continue.

No one saw a problem with that and Chairman Lee suggested it be proposed as an amendment. This shouldn't affect the repeal.

Zentner: There is some possibility of using the upper payment limit process, the issue becomes when you want to transfer the money is when the Feds really get sticky about it. So there are some potential there that we could look at. With equalized rates and a few other things that affect that aspect of it that, the private pay raise and those kind of things too. I think the language is sufficient enough to give us enough flexibility to take a look at it and see if it would be feasible and also beneficial.

Shelly Peterson, President of the North Dakota Long Term Care Association.

See Attachment 2

Chairman Lee: Would you just for a little review for our committee give us a nutshell of IGT and the two nursing homes through which the money flows so we can understand the setup a little bit?

Peterson: The first enabling legislation was 1999 and we have two governmental nursing facilities in North Dakota. The way you could access the funds, and there were probably 25 states that have accessed the money, the only requirement was that you have to have governmental nursing homes. We have two governmental nursing homes, which means they're owned by the government; by either the county commission or the city commission. Those two community owned nursing homes are owned by the political subdivision nursing homes are Dunseith and Maxville. Because of these two nursing facilities, North Dakota has access to almost \$100 million. Originally, when the legislation was put into place, it was to develop assisted living facilities, alternatives to nursing facilities, to expand services beyond the structure of the nursing facility. That was in 1999, in 2001 it was expanded greatly to fund a variety of programs in North Dakota. It funded the SPED program which is home and community based services, it funded the salary enhancement to nursing home staff and basic care staff. It increased the personal needs allowance for developmentally disabled individuals, nursing home residents, and basic care residents, so they could have more personal money to spend each month if they're on the Medicaid program. It also was a low interest loan program for nursing facilities to borrow money to renovate their facilities to expand into assisted living. We have about \$14 million out in loans. That means there is money loaned out to organizations and they will, over a 20 year time, pay back that loan back into the Departments trust fund. So technically the North Dakota Health Care Trust Fund could go on in North Dakota because of those facilities paying back that money. About two years ago the government closed the program or the way they were manipulating the program. They found that there were states were abusing the program, because once the money was coming to the state, virtually the states could use it for any purpose and they

found through a GAO report, that a few states, not North Dakota, were using the money inappropriately. Supposedly they were using it for bridges, roads, etc., whereas it was the position of the federal government that these were Medicaid dollars and should be used for Medicaid programs. North Dakota used it primarily for Medicaid programs, however, when we spent money on SPED and EXPAND a SPED, that was state general fund money. But we felt that the purpose was still met because nursing homes generated it was used on the long term care continuum. So I don't think they had a problem with the way North Dakota was spending the money, but technically it was supposedly a Medicaid expenditure to be used for Medicaid providers. The program has been very beneficial, almost accessing a net value of \$100 million and we're sorry to see it go. The city of Manville is here. When you talk about intergovernmental transfer, the money would come into the state, they would drive the checks to those two governmental nursing homes, give them the money, go into their account and write a check to the state. So there was that transfer between political subdivisions. It was kind of a manipulation of the money, just to get more federal money. And it worked. We spent a lot of money and did a lot of good things.

Jim Opdahl, County Health Systems, Maxville, North Dakota

Opdahl: The intergovernmental transfer program has been a lifesaver for our organization. Nelson County's Health System is the largest rural health care system servicing the oldest community in North Dakota. We received \$750,000 from the fund which greatly helped the community. It has been a very positive thing for us. It helps sustain our organization as a whole. Working with the long-term care association, Rep. Devlin, Sen. Solberg and others made a lot of things possible for us. Otherwise, we would not have our nursing home there or our hospital and

a number of people would go without essential health care services. It has been quite a challenge. The IGT funding pool all the nursing facilities can no longer be included in determining that amount of money. However, it's still there for the two government-owned nursing homes. Whether or not there are funds that are available that can be accessed through that program, I guess remains to be seen. I understand its the difference between what Medicare pays you on a per diem basis than what you're Medicaid rate is times your number of days. If the dollars are there, I hope the Department will access those dollars and these two communities can continue to benefit from them. Without question, we wouldn't be there today without that program. We hope this is a viable option for us in the future. We needed to survive and this was a great way to purchase the nursing home; a way to generate dollars to accomplish our mission in that community. I strongly encourage the program to continue and every effort would be made to allow these two communities to benefit from this program and any other communities in the future who will find it useful.

Chairman Lee closed the public hearing.

FISCAL NOTE
Requested by Legislative Council
12/23/2004

Bill/Resolution No.: SB 2139

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill would reenact and amend NDCC section 50-30-02 relating to the health care trust fund and repeal NDCC section 50-24.4-30 relating to the government nursing facility funding pool. The bill has no fiscal impact.

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

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

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

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

Name:	Brenda M. Weisz	Agency:	Human Services
Phone Number:	328-2397	Date Prepared:	01/04/2005

Date: 1/5/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2139

Senate Human Services Committee

Check here for Conference Committee

X Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Seconded By _____

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment na

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

Date: 1-5-05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2139

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number 58199.0101 Title .0200

Action Taken Do Pass

Motion Made By Sen. Brown Seconded By Sen. Warner

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. Dever

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

REPORT OF STANDING COMMITTEE

SB 2139: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2139 was placed on the Sixth order on the calendar for immediate second reading.

Page 1, line 8, after the boldfaced period insert:

"1."

Page 1, line 15, overstrike "1." and insert immediately thereafter "a."

Page 1, line 17, overstrike "2." and insert immediately thereafter "b."

Page 1, line 19, overstrike "3." and insert immediately thereafter "c."

Page 1, after line 21, insert:

"2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial."

Renumber accordingly

2005 HOUSE HUMAN SERVICES

SB 2139

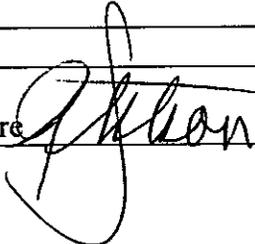
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2139a

House Human Services Committee

Conference Committee

Hearing Date February 8, 2005

Tape Number	Side A	Side B	Meter #
1	x		10-413
Committee Clerk Signature 			

Minutes:

Chairman Price opened hearing on SB 2139.

Dave Zentner, Director of Medical Services, Dept. of Human Services.

See Attached Testimony.

Chairman Price: Any questions for Mr. Zentner?

Chairman Price closed the hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2139

House Human Services Committee

Conference Committee

Hearing Date March 21, 2005

Tape Number	Side A	Side B	Meter #
1	x		2131-2245
Committee Clerk Signature 			

Minutes:

Chairman Price opened the discussion on SB 2139. She indicated that the Senate passed HB 1204 and this is essentially the same language, so this bill is not necessary.

Rep. Porter: Move a Do Not Pass.

Rep. Damschen: Second

Vote: 12-0-0. **Carrier:** Rep. Kreidt

Date: 3/21/05

Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. ~~HB~~ 2139

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep Porter Seconded By Rep Damschen

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

Total () 12 No 0

Absent 0

Floor Assignment Rep Kreidt

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

REPORT OF STANDING COMMITTEE (410)
March 22, 2005 1:12 p.m.

Module No: HR-52-5731
Carrier: Kreidt
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2139, as engrossed: Human Services Committee (Rep. Price, Chairman)
recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2139 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2139

TESTIMONY BEFORE THE SENATE HUMAN SERVICES COMMITTEE

REGARDING SENATE BILL 2139

JANUARY 5, 2005

Chairman Lee, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services, I appear before you to provide information and support this bill.

The Legislature authorized the Department of Human Services to establish the Health Care Trust Fund beginning in 1999. The trust fund was created as a depository for money that was transferred from two community-owned nursing facilities. Through an approved state plan amendment the Department was able to pay these facilities an additional amount of money based on the difference between the aggregate amount that could have been paid had we used the Medicare upper payment limit process and the actual payments made to all nursing facilities that participate in the Medicaid Program.

The additional payment minus a fee paid to the two nursing facilities was then returned to the state through an intergovernmental transfer. The general funds used to generate the payments were returned, and the remaining funds that were no longer identified as federal funds were then deposited into the trust fund.

The federal government changed the regulations beginning with payments generated in 2002, which gradually eliminated our ability to claim these additional dollars. Our last transfer occurred in July 2004. During the six years we were able to use this process a total of \$98.2 million was deposited into the trust fund through the intergovernmental transfer process.

This bill proposes to remove language relating to the generation of the funds through the intergovernmental transfer process. The language is no longer needed because the federal government no longer permits us to generate funds through this mechanism.

The bill will continue to permit the Department to maintain the North Dakota Health Care Trust Fund while repealing the language that established the manner in which funds were obtained through the intergovernmental transfer process from community owned nursing facilities.

The Department supports this bill and recommends that you consider a do pass for this proposed legislation.

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

Health Care Trust Fund Status Statement

	2003-05	2005-07
Beginning Balance	\$33,153,183	\$19,379,478
Revenue:		
Net interest earnings / (loss)	2,019,756	870,019
July 2003 pool payment	13,646,405	
July 2004 pool payment	6,349,417	
Principal and interest repayments	915,867	963,185
Total Revenue	22,931,445	1,833,204
Expenditures:		
Transfers to State General Fund	(35,990,650)	(16,900,000)
Quick response unit pilot project	(225,000) /1	(225,000) /1
Nursing student loan repayment	(489,500) /1	(489,500) /1
Total Expenditures	(36,705,150)	(17,614,500)
Ending Balance	\$19,379,478	\$3,598,182

/1 The Quick Response unit pilot project and nursing student loan repayment are appropriated to the Health Department.

Note:

Estimate of interest income for 2005-07 is based upon transferring \$8.5 million to the state general fund on June 1, 2006, and \$8.4 million on June 1, 2007.

Testimony on SB 2139
Senate Human Services Committee
January 5, 2005

Chairman Lee and members of the Senate Human Services Committee, thank you for the opportunity to testify on SB 2139. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. I am here today to provide information on SB 2139 and offer an amendment for your consideration.

At the initial request of the Department of Human Services we will have almost identical legislation originating in the House. Representative Devlin is the primary sponsor and he is securing co-sponsors prior to filing of the legislation.

I would like to share with you the rationale and background on why we would like you to consider adding one sentence to the bill before you. The amendment is attached for your consideration. The sentence we are proposing to be added reads:

The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.

North Dakota has been on a five year phase-out of our intergovernmental transfer program. Our last transfer was received last summer. A few of the major states are on an eight year phase-out and will be financially devastated when the transfer program ends. It is believed by some, that with pressure from a few large financially devastated states, the program may come back to life.

We can not predict what the federal government will do. The language we are asking you to consider will allow North Dakota to benefit from the intergovernmental transfer program should the federal government change their position on this "program."

Thank you for your consideration of this amendment. I would be happy to answer any questions you may have.

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

Amendment to SB 2139

Line 22, insert a number 4.

4. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

REGARDING SENATE BILL 2139

FEBRUARY 8, 2005

Chairman Price, members of the committee, I am David Zentner, Director of Medical Services for the Department of Human Services, I appear before you to provide information and support this bill.

The Legislature authorized the Department of Human Services to establish the Health Care Trust Fund beginning in 1999. The trust fund was created as a depository for money that was transferred from two community-owned nursing facilities. Through an approved state plan amendment the Department was able to pay these facilities an additional amount of money based on the difference between the aggregate amount that could have been paid had we used the Medicare upper payment limit process and the actual payments made to all nursing facilities that participate in the Medicaid Program.

The additional payment minus a fee paid to the two nursing facilities was then returned to the state through an intergovernmental transfer. The general funds used to generate the payments were returned, and the remaining funds that were no longer identified as federal funds were then deposited into the trust fund.

The federal government changed the regulations beginning with payments generated in 2002, which gradually eliminated our ability to claim these additional dollars. Our last transfer occurred in July 2004. During the six years we were able to use this process a total of \$98.2 million was deposited into the trust fund through the intergovernmental transfer process.

This bill proposes to remove language relating to the generation of the funds through the intergovernmental transfer process. The language is no longer needed because the federal government no longer permits us to generate funds through this mechanism.

The bill will continue to permit the Department to maintain the North Dakota Health Care Trust Fund while repealing the language that established the manner in which funds were obtained through the intergovernmental transfer process from community owned nursing facilities. The amended bill would also permit us to use the intergovernmental transfer process if permitted by the federal government and if it is beneficial to North Dakota.

The Department supports this bill and recommends that you consider a do pass for this proposed legislation.

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